

LAWS
OF THE
STATE OF DELAWARE

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

On Tuesday, January 14, A.D.
1997

SECOND SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 13, A.D.
1998

VOLUME LXXI
Part I

9942

CHAPTER 1

FORMERLY

SENATE BILL NO. 12

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE AND VOLUME 70, CHAPTER 425 OF THE DELAWARE LAWS RELATING TO THE SALARY OF THE GOVERNOR.

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

Section 1. Amend § 2101, Title 29, Delaware Code to replace "\$70,000" with "\$107,000".

Section 2. The salary provided for by Section 1 shall become effective upon the inauguration of a Governor on January 21, 1997 and shall supersede the salary for the Governor set forth in Section 10, at Budget Unit (10-01-01), of 70 Delaware Laws, Chapter 425 (the "FY '97 Budget Act"). The Budget Director, with the concurrence of the Controller General, shall transfer sufficient funds as necessary from contingencies contained in (10-02-04) of the FY '97 Budget Act to fund said salary adjustment as contained in this Act for the remainder of the fiscal year ending June 30, 1997.

Approved January 18, 1997

CHAPTER 2

FORMERLY

HOUSE BILL NO. 41

AN ACT TO WAIVE THE STATUTORY PROVISIONS OF CHAPTER 66, TITLE 16, OF THE DELAWARE CODE RELATING TO THE APPOINTMENT BY THE GOVERNOR OF THE IMMEDIATE PAST PRESIDENT OF THE STATE VOLUNTEER FIREFIGHTERS' ASSOCIATION TO THE STATE FIRE PREVENTION COMMISSION.

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

Section 1. Governor Thomas R. Carper is hereby exempted from the provisions of 16 Del. C. §6601(A) which state that the Governor shall appoint the immediate past President of the State Volunteer Firefighters' Association as the seventh member of the State Fire Prevention Commission; and Governor Thomas R. Carper is hereby authorized to appoint a prior past President of the State Volunteer Firefighters' Association other than the immediate past President as the seventh member of the State Fire Prevention Commission.

Section 2. The authority herein granted to the Governor shall expire on September 16, 1997.

Approved January 23, 1997

CHAPTER 3

FORMERLY

SENATE BILL NO. 13

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO LIMITATION
ON AMOUNT OF BONDS THAT MAY BE ISSUED.

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

Section 1. Amend §2107, Title 14 of the Delaware Code by adding at the end of said
section the following:

"or in the case of Sussex County school districts, 10% of 50% of the full market value of
real estate, in Kent County school districts, 10% of 60% of the full market value of real
estate; and in New Castle County school districts, 10% of 100% of the full market value
of real estate, whichever is greater. For purposes of this section, the full market value of
real estate shall be determined by the Assessment to Sales Ratio Study conducted
annually by the State Budget Office."

Approved February 10, 1997

CHAPTER 4

FORMERLY

SENATE BILL NO. 15
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO STATE
PROCUREMENT.

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

Section 1. Amend Title 29, § 6902(1) by striking the words "but shall not include agencies" and substituting in lieu thereof the words "but shall not include any local government unit or agency".

Section 2. Amend §6903(d), Title 29, Delaware Code by inserting after the words "contract and" and before the words "is paid" the words "in connection therewith".

Section 3. Amend §6903(f), Title 29, Delaware Code by inserting after the words "to pay" and before the words "or is" the words "to an agency official, representative or employee."

Section 4. Amend Title 29, § 6903(b) of the Delaware Code by striking said subsection in its entirety and redesignating § 6903(c) through (h) as § 6903(b) through (g) of Title 29.

Section 5. Amend Title 29, § 6904(f) of the Delaware Code by striking the words "public works" as they appear therein.

Section 6. Amend Title 29, § 6923(c)(3) of the Delaware Code by striking the words "a contract has been awarded" and substituting in lieu thereof the words "receipt of a fully executed contract".

Section 7. Amend Title 29, § 6923(j)(4) of the Delaware Code by striking the words "contract award" as they appear in the first sentence therein and substituting in lieu thereof the words "receipt of a fully executed contract".

Section 8. Amend Title 29, § 6924(j)(3) of the Delaware Code by striking the words "contract award" as they appear therein and substituting in lieu thereof the words "receipt of a fully executed contract".

Section 9. Amend Title 29, § 6906(a) and Title 29, § 6906(b) of the Delaware Code by striking the words "§ 6903" as they appear therein and substituting in lieu thereof the words "the provisions".

Section 10. Amend Title 29, § 6980 of the Delaware Code by striking the words "§ 6983(e)" as they appear therein and substituting in lieu thereof the words "§§ 6983, 6984, 6985 and 6986".

Section 11. Amend §6980, Title 29, Delaware Code by striking the words "will be subject to the provisions of §6983(e) and §6985 of this title, but" as they appear therein.

Section 12. This Act shall become effective upon enactment.

Approved February 10, 1997

CHAPTER 5

FORMERLY

SENATE BILL NO. 25

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE
DETENTION AND CONFINEMENT OF YOUTH.

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

Section 1. Amend § 2103A, Title 11, Delaware Code by deleting said section in its entirety and in inserting in lieu thereof the following:

"When a child has reached his or her 16th birthday and has been found to be nonamenable to the rehabilitative processes of the Family Court or has been charged with an offense in Superior Court and thereafter made application for transfer of said charges to Family Court pursuant to § 1011 of Title 10 and is denied or fails to make application pursuant to § 1011 of Title 10 within the required time and therefore was held over for trial in Superior Court, there shall be a joint placement decision made by the Commissioner of the Department of Corrections ("the Commissioner") or his or her designee and the Secretary of the Department of Services for Children, Youth and Their Families ("the Secretary") or his or her designee to confine the child in the Young Criminal Offender Program within the Department of Corrections until the child reaches his or 18th birthday. The Commissioner and the Secretary shall have exclusive authority to determine such placement decisions. For any child who is currently confined in a juvenile correctional facility and who has reached their 16th birthday and has been found to be nonamenable to the rehabilitative processes of the Family Court or has been charged with an offense in Superior Court and thereafter has made application for transfer of said charges to Family Court pursuant to § 1011 of Title 10 and was denied or failed to make application pursuant to § 1011 of Title 10 within the required time and was therefore was held over for trial in Superior Court, the Commissioner of the Department of Corrections and the Secretary of the Department of Services for Children, Youth and Their Families shall transfer such children to the Young Criminal Offender Program within the Department of Corrections upon opening of such program unless they, based on their best judgment as to the level of security and the nature of the facility required for such a child, determine otherwise. No child subject to the joint placement process shall be entitled to appeal or otherwise challenge such placement decision."

Section 2. Amend § 4204A(a), Title 11, Delaware Code by deleting said section in its entirety and replacing said section with the following:

"(a) When a child, as defined under § 901(3) of Title 10, is sentenced in Superior Court as an adult, within 30 days there shall be a joint placement decision to be made by the Commissioner of the Department of Corrections ("The Commissioner") and the Secretary of the Department of Services for Children, Youth and Their Families ("The Secretary") to transfer the child to the Young Criminal Offender Program within the Department of Corrections until the child reaches the child's 18th birthday unless they, based on their best judgment as to the level of security and the nature of the facility required for such a child, determine otherwise. No child subject to the joint placement process shall be entitled to appeal or otherwise challenge such placement decision. The Commissioner and the Secretary shall have the exclusive authority to determine placement of such a child after sentencing in Superior Court."

Section 3. Amend § 4204A(b), Title 11, Delaware Code by deleting said subsection in its entirety and inserting in lieu thereof the following:

"(b) Notwithstanding the subsection (a) of this section, no child who has not reached his or her 16th birthday shall be transferred to the Department of Corrections pursuant to this section. At any point during the course of confinement, an administrative review of the

placement may be requested by the Commissioner or the Secretary for further consideration and, if appropriate, transfer to or from either Department."

Section 4. Amend § 4204A(c), Title 11, Delaware Code by deleting said section in its entirety and inserting in lieu thereof the following: "Nothing in this section shall be construed to give a child the right to challenge such placement decision."

Section 5. This bill revises the Delaware Code as it currently exists. It is the intent of the General Assembly that adult adjudicated youth ages 16 and older will be housed in the Young Criminal Offenders Program within the Department of Corrections when such program is available.

Section 6. Effective August 31, 1998, the General Assembly intends that, per its terms, the amendment to the Delaware Code made by 70 Del. Laws c. 597 (Section 1 and Section 2 of Senate Bill 437 of the 138th General Assembly), will become effective.

Section 7. 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 8. This legislation will be effective upon enactment.

Approved February 11, 1997

CHAPTER 6

FORMERLY

HOUSE BILL NO. 42

AS AMENDED BY HOUSE AMENDMENT NOS. 2, 3 AND 4

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO SCHOOL PROPERTY.

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

Section 1. Amend 14 *Del. C.* §1056(e) by deleting the first sentence thereof in its entirety and inserting in lieu thereof the following:

"A school board shall permit the use of property under its jurisdiction free of charge, except, however, for the expense of custodial salaries, heating and lighting in excess of the school's normal operations, whenever the entity seeking to use the property is an educational, cultural, civic, political or recreational entity, organized or operating primarily within the boundaries of the district, provided there is no monetary gain to the individuals or organization using such property as a result of such use, except as provided for in subsection (d)(4) of this section."

Section 2. Amend 14 *Del. C.* §1056(e) by deleting the phrase "determined by a school board, subject to the approval of the State Board of Education" and all text that follows through the end of Subsection (e), and by inserting in lieu thereof the following:

"adopted by a school board in accordance with the applicable provisions of this title and Title 29. All such fees collected by a school board shall be retained by the school district to be used as local funds for any permissible educational purpose."

Section 3. Amend 14 *Del. C.* §1057(b) by deleting Subsection (b) in its entirety, and by inserting in lieu thereof the following:

"(b)(1) Notwithstanding any provision of §1056 of this title, when any real property or part thereof of any reorganized school district is not then deemed necessary for school purposes, temporarily or permanently, the board of education of the district may lease such property or part thereof to any person or organization. The leasing person or organization may be required to pay a rental or fee to be determined by the board and to assume sole responsibility for the complete maintenance and preservation of the property, including compliance with all applicable building and housing codes, so that there will be no cost or obligation to the school district for the continued ownership of such property.

(2) Any funds raised from rent or charges collected by the school district on any lease for a period of ten years or less shall be retained by the school district to be used as local funds for any permissible educational purpose. Any funds raised from rent or charges collected by the school district on any lease for a period of more than ten years shall be applied to the costs of maintaining and operating the leased property, if any, with the balance to be turned over to the State Treasurer to be assigned to the State and the school district according to paragraph (15) of subsection (a) of this section.

(B) Notwithstanding the provisions of paragraph (A) of this subsection, in the event that there is any outstanding, unpaid, bonded indebtedness held by the State with respect to the building or grounds leased by a local district in accordance with the provisions of this section, or any identifiable portion thereof, a pro-rated portion of the lease proceeds in excess of the cost of custodial salaries and utilities associated with the lease shall be turned over to the State Treasurer during any period of the lease that the bonded indebtedness held by the State remains outstanding and unpaid. The amount of such excess lease revenues payable to the State shall be equal to the lesser of: 1) the

actual debt service payable by the State during any period covered by the lease, or 2) the amount of the excess revenues generated by the lease during any period that the bonded indebtedness held by the State remains outstanding and unpaid multiplied by a fraction equal to the State share in the major capital project or projects for which the outstanding, unpaid, bonded indebtedness was originally issued. In the event that the outstanding, unpaid bonded indebtedness relates only to an identifiable portion of the leased facility, the amount payable to the State Treasurer shall be the amount calculated in accordance with the preceding sentence multiplied by a fraction, the numerator of which shall be the gross square footage of the identifiable portion of the leased facility which is included in the lease, and the denominator of which shall be the gross square footage of the entire identifiable portion of the leased facility to which the outstanding, unpaid bonded indebtedness relates.

(3) Before leasing such property or part thereof to any person or organization for any period in excess of twelve (12) months, and before renewing any existing lease where the original term was for twelve (12) months or less but the original term(s) together with the proposed renewal period(s) will exceed twelve (12) months:

(A) The school district board of education shall first offer to lease the property to State agencies. If, as a result of the public hearing, sufficient objections to the use of the property by a State agency have been raised, then the school district board of education may refuse to lease to a State agency.

(B) If no agency of State government declares an intent to lease the property within 30 days of the offer, or if the lease by a requesting State agency is denied, the school district board of education shall offer to lease the property to the local government in whose jurisdiction the property is located. If, as a result of the public hearing, sufficient objections to the use of the property by the local government have been raised, then the school district board of education may refuse to lease to the local government.

(C). If such local government does not declare an intent to lease the property within 30 days of the offer, or if the lease by a requesting local government is denied, the school district board of education may proceed either to offer to lease the property on the open market or enter into an agreement with a lessee, the terms of which are supported by an independent appraisal. If, as a result of the public hearing, sufficient objections to the use of the property by such third party lessee have been raised, then the school district board of education may refuse leasing to such third party lessee.

(4) No lease of property pursuant to this subsection shall be negotiated until the school district board of education has complied with the procedures set forth in Paragraphs (1) through (5) of Subsection (a) of this section.

(5) No lease of property pursuant to this subsection shall be entered into unless the proposed use of the property is compatible with the characteristics of the neighborhood in which the property is located.

(5) Should a school district contract with any person or organization to lease a classroom building during the regular school year, and specifically during normal operating hours, the State of Delaware shall not be obligated to build or construct any additional space that may be needed by the school district as a result of entering into such lease."

Approved February 11, 1997

CHAPTER 6

FORMERLY

HOUSE BILL NO. 42
AS AMENDED BY HOUSE AMENDMENT NOS. 2, 3 AND 4AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO SCHOOL
PROPERTY.

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

Section 1. Amend 14 *Del. C.* §1056(e) by deleting the first sentence thereof in its entirety and inserting in lieu thereof the following:

"A school board shall permit the use of property under its jurisdiction free of charge, except, however, for the expense of custodial salaries, heating and lighting in excess of the school's normal operations, whenever the entity seeking to use the property is an educational, cultural, civic, political or recreational entity, organized or operating primarily within the boundaries of the district, provided there is no monetary gain to the individuals or organization using such property as a result of such use, except as provided for in subsection (d)(4) of this section."

Section 2. Amend 14 *Del. C.* §1056(e) by deleting the phrase "determined by a school board, subject to the approval of the State Board of Education" and all text that follows through the end of Subsection (e), and by inserting in lieu thereof the following:

"adopted by a school board in accordance with the applicable provisions of this title and Title 29. All such fees collected by a school board shall be retained by the school district to be used as local funds for any permissible educational purpose."

Section 3. Amend 14 *Del. C.* §1057(b) by deleting Subsection (b) in its entirety, and by inserting in lieu thereof the following:

"(b)(1) Notwithstanding any provision of §1056 of this title, when any real property or part thereof of any reorganized school district is not then deemed necessary for school purposes, temporarily or permanently, the board of education of the district may lease such property or part thereof to any person or organization. The leasing person or organization may be required to pay a rental or fee to be determined by the board and to assume sole responsibility for the complete maintenance and preservation of the property, including compliance with all applicable building and housing codes, so that there will be no cost or obligation to the school district for the continued ownership of such property.

(2) Any funds raised from rent or charges collected by the school district on any lease for a period of ten years or less shall be retained by the school district to be used as local funds for any permissible educational purpose. Any funds raised from rent or charges collected by the school district on any lease for a period of more than ten years shall be applied to the costs of maintaining and operating the leased property, if any, with the balance to be turned over to the State Treasurer to be assigned to the State and the school district according to paragraph (15) of subsection (a) of this section.

(B) Notwithstanding the provisions of paragraph (A) of this subsection, in the event that there is any outstanding, unpaid, bonded indebtedness held by the State with respect to the building or grounds leased by a local district in accordance with the provisions of this section, or any identifiable portion thereof, a pro-rated portion of the lease proceeds in excess of the cost of custodial salaries and utilities associated with the lease shall be turned over to the State Treasurer during any period of the lease that the bonded indebtedness held by the State remains outstanding and unpaid. The amount of such excess lease revenues payable to the State shall be equal to the lesser of: 1) the

actual debt service payable by the State during any period covered by the lease, or 2) the amount of the excess revenues generated by the lease during any period that the bonded indebtedness held by the State remains outstanding and unpaid multiplied by a fraction equal to the State share in the major capital project or projects for which the outstanding, unpaid, bonded indebtedness was originally issued. In the event that the outstanding, unpaid bonded indebtedness relates only to an identifiable portion of the leased facility, the amount payable to the State Treasurer shall be the amount calculated in accordance with the preceding sentence multiplied by a fraction, the numerator of which shall be the gross square footage of the identifiable portion of the leased facility which is included in the lease, and the denominator of which shall be the gross square footage of the entire identifiable portion of the leased facility to which the outstanding, unpaid bonded indebtedness relates.

(3) Before leasing such property or part thereof to any person or organization for any period in excess of twelve (12) months, and before renewing any existing lease where the original term was for twelve (12) months or less but the original term(s) together with the proposed renewal period(s) will exceed twelve (12) months:

(A) The school district board of education shall first offer to lease the property to State agencies. If, as a result of the public hearing, sufficient objections to the use of the property by a State agency have been raised, then the school district board of education may refuse to lease to a State agency.

(B) If no agency of State government declares an intent to lease the property within 30 days of the offer, or if the lease by a requesting State agency is denied, the school district board of education shall offer to lease the property to the local government in whose jurisdiction the property is located. If, as a result of the public hearing, sufficient objections to the use of the property by the local government have been raised, then the school district board of education may refuse to lease to the local government.

(C). If such local government does not declare an intent to lease the property within 30 days of the offer, or if the lease by a requesting local government is denied, the school district board of education may proceed either to offer to lease the property on the open market or enter into an agreement with a lessee, the terms of which are supported by an independent appraisal. If, as a result of the public hearing, sufficient objections to the use of the property by such third party lessee have been raised, then the school district board of education may refuse leasing to such third party lessee.

(4) No lease of property pursuant to this subsection shall be negotiated until the school district board of education has complied with the procedures set forth in Paragraphs (1) through (5) of Subsection (a) of this section.

(5) No lease of property pursuant to this subsection shall be entered into unless the proposed use of the property is compatible with the characteristics of the neighborhood in which the property is located.

(5) Should a school district contract with any person or organization to lease a classroom building during the regular school year, and specifically during normal operating hours, the State of Delaware shall not be obligated to build or construct any additional space that may be needed by the school district as a result of entering into such lease."

Approved February 11, 1997

CHAPTER 7

FORMERLY

HOUSE BILL NO. 48

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE BOOT CAMP INCARCERATION ACT.

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

Section 1. Amend § 6703, Title 11, Delaware Code, by deleting the words "burglary in the second degree."

Section 2. Amend § 6705, Title 11, Delaware Code by deleting it in its entirety and inserting in lieu thereof the following:

"(a) Each participant in the boot camp program shall have first been convicted of a criminal offense. The selection of boot camp participants shall be made by the Bureau from those offenders not otherwise excluded under this section. However, satisfying the statutory or regulatory qualifications for admission to the boot camp program shall not mean that an offender shall automatically be permitted to participate in the program.

(b) Notwithstanding the provisions of subsection (a), the following offenders shall not be classified or otherwise permitted to participate in the boot camp program:

(1) Any person declared to be a habitual offender under § 4214 of this title;

(2) Any person who is serving a sentence for a violent crime but may include persons serving a sentence for a violation of probation or parole;

(3) Any person designated by the sentencing court or the Attorney General pursuant to subsection (c) of this section as not being eligible for the boot camp program.

(c) The sentencing court or the Attorney General shall have the authority to designate any person as bootcamp ineligible at the time of sentencing. Such designation shall be specifically and clearly set forth in the sentencing order."

Section 3. Amend § 6706, Title 11, Delaware Code by deleting 6706(a) and inserting in lieu thereof the following:

"(a) Not subject to any of the exclusionary criteria under § 6705(b) or § 6705(c);"

Section 4. Amend § 6709(d), Title 11, Delaware Code, by inserting at the end of said subsection the following: "Notwithstanding any provision of this Title to contrary, any boot camp participant who is otherwise appropriately classified to the boot camp program may participate in work squads pursuant to this section."

Approved February 10, 1997

CHAPTER 8

FORMERLY

HOUSE BILL NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE CREATION OF A SECRETARY OF EDUCATION AND THE POWERS AND DUTIES OF SUCH OFFICER.

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

Section 1. This Act may be referred to as the "Secretary of Education Act of 1997".

Section 2. Amend § 107, Title 14, Delaware Code by deleting such section and substituting in lieu thereof the following:

"§ 107. Secretary of Education; Acting Secretary; appointment.

(a) The administrator and head of the Department shall be the Secretary of Education, who shall be a graduate of a standard college and shall have not less than 5 years experience in teaching and administration, with experience in each such category. The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. He or she shall be paid a salary as determined by the General Assembly in the annual appropriations act.

(b) In the event of death, resignation, temporary incapacity or removal of the Secretary and prior to the appointment of his or her successor, the Governor may appoint the Deputy Secretary or an Associate Secretary of Education to serve as Acting Secretary. The Secretary may, during his absence from the State, appoint the Deputy Secretary or an Associate Secretary to serve as Acting Secretary during such absence. In either case, the Acting Secretary shall have all the powers and perform all the duties and functions of the Secretary during his or her absence or incapacity or until his or her successor is duly qualified and appointed."

Section 3. Until further legislative action, the Secretary of Education shall exercise all duties and powers vested in the former position of Superintendent of Public Instruction, and the Deputy or Associate Superintendents of Public Instruction may be appointed as Acting Secretary pursuant to subsection (b) of § 107 of Title 14 as amended by Section 2 hereof.

Approved February 11, 1997

CHAPTER 9

FORMERLY

SENATE BILL NO. 27
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND VOLUME 70, CHAPTER 473, LAWS OF DELAWARE, RELATING TO THE FISCAL YEAR 1997 BOND AND CAPITAL IMPROVEMENTS 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 Section 4 of Volume 70, Chapter 473, Laws of Delaware by striking the following language as it appears therein:

"New Castle Vo-Tech

DE Skills Ctr. Renov. (60/40)	<u>200,000</u>	<u>133,300</u>	<u>333,300</u>
Subtotal	<u>\$2,308,400</u>	<u>\$1,329,000</u>	<u>\$3,637,400"</u>

and by substituting in lieu thereof the following language:

"New Castle Vo-Tech

DE Skills Ctr. Renov. (100%)	<u>200,000</u>	<u>0</u>	<u>200,000</u>
Subtotal	<u>\$2,308,400</u>	<u>\$1,195,700</u>	<u>\$3,504,100"</u>

Section 2. (a) Of the Fourteen Million Dollars (\$14,000,000) appropriated to Farmland Preservation in Section 14 of Volume 70, Chapter 473, Laws of Delaware, up to Two Hundred Fifty Thousand Dollars (\$250,000) may be used for the costs of mapping, legal services and other related costs required to create agricultural district agreements and shall be exempt from matching requirements of the program.

(b) The Department of Agriculture is hereby relieved of the requirement to repay an \$80,000 advance from the Budget Office.

Approved February 14, 1997

CHAPTER 10

FORMERLY

HOUSE BILL NO. 31
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO INFANT
NUTRITION, AND PROVIDING FOR AN INFANT NUTRITION ACT.

WHEREAS, the Surgeon General of the United States recommends that babies from birth to one year of age should be breast-fed, unless medically contraindicated, in order to achieve a healthy start on life; and

WHEREAS, breast milk strengthens the immune system of babies, improves digestion and is of better nutritional value than regular milk; and

WHEREAS, despite the Surgeon General's recommendation, statistics reveal a declining number of women are choosing to breast-feed their children, and nearly half of all new mothers are now choosing formula over breast milk even before they leave the hospital; and

WHEREAS, the social constraints of modern society impede a woman's choice to breast-feed due to embarrassment and the lack of public acceptance; and

WHEREAS, in the best interest of the state to recognize breast-feeding in places of public accommodation as an important right which must be encouraged in order to promote child health.

NOW THEREFORE:

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

SECTION 1. Amend Chapter 3, Title 31 of the Delaware Code by adding thereto a new section, designated as § 312, which new section shall read as follows:

"§ 312 Breast-feeding. Notwithstanding any provisions of law to the contrary, a mother shall be entitled to breast-feed her child in any location of a place of public accommodation, wherein the mother is otherwise permitted."

Approved April 7, 1997

CHAPTER 11

FORMERLY

HOUSE BILL NO. 36

AN ACT TO AMEND CHAPTER 90, TITLE 11 OF THE DELAWARE CODE RELATING TO COMPENSATION FOR INNOCENT VICTIMS OF CRIME.

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

Section 1. Amend Subsection (3), Section 9002, Chapter 90, Title 11 of the Delaware Code by striking the period (.) at the end of paragraph (d), and substituting

“; or” in lieu thereof.

Section 2. Amend Subsection (3), Section 9002, Chapter 90, Title 11 of the Delaware Code by adding thereto a new paragraph, designated as paragraph e., which new paragraph shall read as follows:

“e. An act of terrorism, as defined in §2331 of Title 18, *United States Code*, committed outside the United States against a resident of this State.”

Approved April 7, 1997

CHAPTER 12

FORMERLY

HOUSE BILL NO. 52

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 227, VOLUME 69, LAWS OF DELAWARE, RELATING TO THE PHARMACY ACCESS ACT.

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

Section 1. Amend Chapter 227, Volume 69 Laws of Delaware, by striking Section 4 in its entirety and substituting in lieu thereof the following:

“Section 4. This Act shall sunset and automatically be repealed on June 30, 1998, unless reenacted prior to that date.”

Approved April 7, 1997

CHAPTER 13

FORMERLY

HOUSE BILL NO. 67
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTERS 27 AND 41 OF TITLE 21 OF THE DELAWARE CODE
PERTAINING TO TOLL EVASION.

BE IT 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 2733(a), Title 21, of the Delaware Code, by creating a new
subsection "(8)" thereof, to read as follows:

"Has violated Section 4129 of this title based upon notification of such violation
provided by the Department of Transportation to the Department. However, no
suspension of driving privileges shall take place if the toll(s), administrative fee and civil
penalty has been paid prior to the hearing required under subsection (b) of this Section."

Section 2. Amend Chapter 41, Title 21, of the Delaware Code, by adding a new section,
as follows:

"Section 4129. Civil Penalty for Evasion of Tolls.

(a) In addition to the provisions of Section 4127 of this Chapter, any person who
refuses to pay, evades or attempts to evade the payment of a toll in connection with the
use of the Delaware Turnpike and the Korean War Veterans Memorial Highway and any
other State toll road shall be liable for the payment of one toll, a \$25.00 administrative
fee, and for a civil penalty of \$25 per violation payable to the Department of
Transportation or its designee.

(b) Except as provided in subsection (d) hereof, an owner of a vehicle shall be
jointly and severally liable for failure of an operator thereof to comply with the provisions
of subsection (a). The owner of a vehicle shall be liable pursuant to this Section if such
vehicle was used or operated with the permission of the owner, express or implied, in
violation of the provisions of this Section, and such violation is evidenced by information
obtained from visual observation, video surveillance device or other method of
identifying the vehicle; provided, however, that no owner of a vehicle shall be liable
where the operator of the vehicle has been identified and charged with a violation of this
Section for the same incident.

(c) In the event of nonpayment of the proper toll, as evidenced by visual
observation, a video surveillance device or other method of identifying the vehicle, the
Department of Transportation or its designee may send an advisory and payment request
to the owner of the vehicle by regular mail at the address of record with the Division of
Motor Vehicles, or, if applicable, the licensing authority of another jurisdiction, providing
the owner with the opportunity to resolve the matter prior to the issuance of a summons
and complaint that charges a violation of this Section. The advisory and payment request
shall contain sufficient information to inform the owner of the nature, date, time and
location of the alleged violation. In addition to the payment of the proper toll, the
Department of Transportation may require as part of the advisory and payment request
that the owner pay a reasonable administrative fee of \$25 to the entity processing the
violation. If the owner fails to pay the required toll and fee, the owner shall be subject to
liability on the 31st day following the date of the violation, for the violation of this
Section by the vehicle owner or operator.

(d) An owner of a vehicle who is a lessor of a vehicle operated in violation of this Section shall not be liable for such violation if the lessor submits a copy of the rental, lease, or other contract document covering that vehicle, on the date of the violation, with the name and address of the lessee clearly legible, to the Department of Transportation or its designee, within ten (10) days of the receipt of the notice of violation. Failure to provide such information in the timeframe required, shall render the lessor liable for the penalty prescribed by this Section. Where the lessor complies with the provisions of this subsection, the lessee of such vehicle shall be deemed the owner of the vehicle for the purposes of this Section and shall be subject to liability for the violation hereunder, as if the lessee were the owner and/or operator at the time of the violation."

Section 3. Amend §4127(a), Title 21, Delaware Code by inserting between "Turnpike" and "except" the phrase "the Korean War Veterans Memorial Highway or any other State toll road."

Approved April 7, 1997

CHAPTER 14

FORMERLY

SENATE BILL NO. 33

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:

Section 1. Amend § 563(a), Title 30 of the Delaware Code, by adding to the end of said subsection a new sentence, to read as follows:

"Such authority shall include, without limitation, the authority to require the rounding, according to conventional rules, of cents to whole dollars with regard to any line or set of lines on any return issued under this Title or Title 4."

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 application of the 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 be effective for tax periods beginning after December 31, 1996.

Approved April 7, 1997

CHAPTER 15

FORMERLY

SENATE BILL NO. 56
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO SCHOOL CALENDARS.

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

Section 1. Amend §1049(1), Title 14, Delaware Code by deleting "12" in the second sentence of such subsection, and substituting "11"; and adding the following after the second sentence of subsection (1) after the word "students" and before the word "In":

"There shall be at least 172 days of regular school attendance for seniors, with the remaining eight days of pupil attendance for seniors used for end-of-school activities including examinations, graduation practices or exercises, and other activities designated by the school district. Graduation exercises shall be held no sooner than the end of the 175th school day."

Section 2. Amend Title 14, §1049 of the Delaware Code by deleting the phrase "at least 180 days" as it appears and substituting in lieu thereof the phrase "not to exceed 180 days, except as provided under §2802 of this Title,".

Approved April 7, 1997

CHAPTER 16

FORMERLY

SENATE BILL NO. 77

AN ACT TO AMEND AN ACT BEING CHAPTER 137, VOLUME 61, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF DELMAR" TO SUBSTITUTE GENDER NEUTRAL TERMS FOR "COUNCILMAN" and "COUNCILMEN" AND TO PROVIDE FOR FEMALE PRONOUNS IN REFERENCES TO THE MAYOR, COUNCIL MEMBERS, TOWN MANAGER, TOWN SOLICITOR, TOWN ALDERMAN, ASSISTANT ALDERMAN and TOWN AUDITOR

BE IT 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 137, VOLUME 61, Laws of Delaware, as amended, be and the same is further amended as follows by deleting all references to "Councilman" or "Councilmen" and by substituting in lieu thereof "Councilperson" and "Councilpersons," respectively and by inserting "or she" after the pronoun "he", by inserting "or her" after the pronoun "his" and by inserting "or her" after the pronoun "him" in all references to the Mayor, Council Members, Town Manager, Town Solicitor, Town Alderman, Assistant Alderman and Town Auditor.

Approved April 7, 1997

CHAPTER 17

FORMERLY

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

AN ACT AWARDING SPECIAL LINE OF DUTY BENEFITS TO WAYNE STEEN.

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. Wayne Steen is hereby awarded special line-of-duty disability benefits in the weekly amount of three hundred fifty seven dollars and nineteen cents (\$357.19), said benefits commencing June 12, 1995.

Section 2. Payments made pursuant to this Act shall be from the State Self-Insurance Fund as provided in Chapter 65 of Title 18. The General Assembly shall, when necessary, from time to time, provide for the adequate funding of this Act to the Self-Insurance Fund.

Section 3. Payments made pursuant to this Act are exempt from any state, county or municipal tax and shall not be subject to execution or attachment or to any legal process whatsoever and shall be unassignable.

Section 4. This Act is in lieu of line-of-duty disability benefits contemplated by Chapter 67 of Title 18 of the Delaware Code, and the passage of this Act shall make Wayne Steen ineligible for such benefits.

Section 5. The benefits conferred by this Act shall not be reduced by the amount of any other payment or payments to which Wayne Steen may be entitled as a result of the same disability which gave rise to this Act, including, but not limited to, the payment of any state, federal, county or municipal funds or insurance proceeds.

Section 6. All benefits authorized by this Act which remain unpaid on the date of death shall be paid directly to the surviving spouse of Wayne Steen or, in the absence of a surviving spouse, to his surviving issue, per capita, it being the intention of this Act that benefits payable hereunder be exempted from probate.

Approved April 9, 1997

CHAPTER 18

FORMERLY

HOUSE BILL NO. 68
AS AMENDED BY HOUSE AMENDMENT NO. 1AN ACT TO AMEND CHAPTER 90, TITLE 11 OF THE DELAWARE CODE RELATING
TO THE DENIAL OF CERTAIN VICTIM COMPENSATION CLAIMS.

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

Section 1. Amend Subsection (a), Section 9006, Chapter 90, Title 11 of the Delaware Code by striking the period (.) at the end of paragraph (7), and substituting a semi-colon (;) in lieu thereof.

Section 2. Amend Subsection (a), Section 9006, Chapter 90, Title 11 of the Delaware Code by adding thereto a new paragraph, designated as paragraph (8), which new paragraph shall read as follows:

"(8) Where the victim is delinquent in the payment of any penalty assessment levied pursuant to §9012 of this Title, or in the payment of an order of restitution payable to the Victim Compensation Fund; provided, however, that the Board may condition payment of a claim upon the satisfaction of such delinquencies. In addition, the Board may, for hardship or other good cause, waive the provisions of this paragraph in their entirety."

Approved April 23, 1997

CHAPTER 19

FORMERLY

SENATE BILL NO. 44

AN ACT TO AMEND TITLES 5 AND 30 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 subsection (c) of §105 of Title 5 of the Delaware Code by inserting the words and punctuation ", payment for costs and expenses in acting as a receiver, reimbursement for expenses incurred in the operation of the office" after the words "examination fees" and before the words "and any investigation fees" in the first sentence thereof.

Section 2. Amend subsection (e) of §105 of Title 5 of the Delaware Code by deleting the words "approved by" and inserting in lieu thereof the words "submitted to" after the words "Commissioner and" and before the words "the Council".

Section 3. Amend subsection (b) of §124 of Title 5 of the Delaware Code by deleting the word "to" and inserting in lieu thereof the words "with other regulatory authorities with respect to any institution subject to the Commissioner's supervision, which cooperative agreements may" after the words "cooperative agreements" and before the word "include", and by inserting the words "with respect to any institution subject to the Commissioner's supervision, which joint action, among other things, may be" after the words "regulatory authorities" and before the words "to assure".

Section 4. Amend subsection (a) of §127 of Title 5 of the Delaware Code by adding at the end thereof the following sentences: "The examination fees provided by this subsection shall be due and payable when invoiced by the Commissioner. If any institution shall fail to pay the examination fee due under this section on or before 30 days after the invoice date, a penalty of 0.05 percent shall be assessed for each day that the examination fee shall remain unpaid after such date."

Section 5. Amend subsection (b) of §127 of Title 5 of the Delaware Code by adding at the end thereof the following sentence: "If any institution shall fail to pay the supervisory assessment due under this section on or before the August 1 due date, a penalty of 0.05 percent shall be assessed for each day that the supervisory assessment shall remain unpaid after such date."

Section 6. Amend subsection (d) of §127 of Title 5 of the Delaware Code by deleting the words "Secretary of Finance" and inserting in lieu thereof the words "Secretary of State" at both places at which such words appear in that subsection.

Section 7. Amend subsection (d) of §136 of Title 5 of the Delaware Code by inserting in the third sentence thereof the words "in this State" after the words "principal place of business" and before the words "during normal working hours", and by inserting the words and punctuation "or, with respect to a financial institution that does not maintain a place of business in this State, by hand delivering the order to the registered agent in this State (or, if there is none, the Secretary of State, as provided in Title 8) and, within 7 days of such delivery, depositing in the United States mails, by registered mail, postage prepaid, a true and attested copy of the order, together with a statement that service is being made pursuant to this section, addressed to such financial institution at its address as the same appears on the records in the Commissioner's office" after the word "hours" and before the period.

Section 8. Amend subsection (d) of §143 of Title 5 of the Delaware Code by inserting in the third sentence thereof the words "in this State" after the words "principal place of business" and before the words "during normal working hours", and by inserting the words and punctuation "or, with respect to a financial institution that does not maintain a place of business in this State,

by hand delivering the notice of civil penalty to the registered agent in this State (or, if there is none, the Secretary of State, as provided in Title 8) and, within 7 days of such delivery, depositing in the United States mails, by registered mail, postage prepaid, a true and attested copy of the notice, together with a statement that service is being made pursuant to this section, addressed to such financial institution at its address as the same appears on the records in the Commissioner's office" after the word "hours" and before the period.

Section 9. Amend subsection (b) of §160 of Title 5 of the Delaware Code by inserting the words and punctuation ";provided, however, that no acquisition shall be authorized by this subsection (b) on or after January 1, 1997" after the word "acquired" and before the period.

Section 10. Amend Chapter 3 of Title 5 of the Delaware Code by redesignating that chapter as Chapter 34 of Title 5 of the Delaware Code, and amend §§ 301, 302, 303, 304, 305, 306, 307, 308, 309 and 310 of Title 5 of the Delaware Code by redesignating those sections, respectively, as §§ 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409 and 3410 of Title 5 of the Delaware Code.

Section 11. Amend subsection (2) of §3401 (formerly §301) of Title 5 of the Delaware Code by deleting the text of that subsection in its entirety and inserting in lieu thereof the words and punctuation "'Insured institution' means an insured depository institution (as defined in the Federal Deposit Insurance Act at 12 U.S.C. §1813(c)(2)) or an insured credit union (as defined in the Federal Credit Union Act at 12 U.S.C. §1752(7)) authorized by law to do business in this State."

Section 12. Amend subsection (b) of §3402 (formerly §302) of Title 5 of the Delaware Code by changing the reference to "§303" to "§3403", by changing the reference to "§304" to "§3404", and by deleting the words "financial institution" wherever such words appear in that subsection and inserting in lieu thereof the words "insured institution".

Section 13. Amend subsection (c) of §3402 (formerly §302) of Title 5 of the Delaware Code by changing the reference to "§304" to "§3404", and by deleting the words "financial institution" wherever such words appear in that subsection and inserting in lieu thereof the words "insured institution".

Section 14. Amend subsection (a) of §3403 (formerly §303) of Title 5 of the Delaware Code by changing the reference to "§304" to "§3404".

Section 15. Amend subsection (b) of §3403 (formerly §303) of Title 5 of the Delaware Code by deleting the words "financial institution" wherever such words appear in that subsection and inserting in lieu thereof the words "insured institution".

Section 16. Amend §3405 (formerly §305) of Title 5 of the Delaware Code by deleting the words "financial institution" from the second sentence of that section and inserting in lieu thereof the words "insured institution".

Section 17. Amend subsection (a) of §3406 (formerly §306) of Title 5 of the Delaware Code by deleting the words "financial institutions" from the first sentence of that subsection and inserting in lieu thereof the words "insured institutions", and by changing the reference to "§301" to "§3401".

Section 18. Amend §3407 (formerly §307) of Title 5 of the Delaware Code by deleting the words "financial institutions" from the first sentence of that section and inserting in lieu thereof the words "insured institutions".

Section 19. Amend §701 of Title 5 of the Delaware Code by deleting from the first sentence thereof the number and words "Chapters 10 or" and inserting in lieu thereof the word "Chapter".

Section 20. Amend §745 of Title 5 of the Delaware Code by deleting from the second sentence thereof the words "this chapter" and inserting in lieu thereof the words "the law of this State" after the words "organized under" and before the words "shall not", by inserting at the end of the second sentence thereof the words and punctuation ";provided, however, that this requirement shall not apply to trust companies organized under the laws of this State prior to

February 28, 1933 and authorized by a certificate issued by the State Bank Commissioner to transact the business of a trust company on January 1, 1997" after the number "\$500,000" and before the period, and by deleting from the third sentence thereof the words "corporation organized under this chapter" and inserting in lieu thereof the words "such bank, trust company or limited purpose trust company" after the word "every" and before the words "shall have".

Section 21. Amend subsection (b) of §749 of Title 5 of the Delaware Code by deleting from the first sentence thereof the words "as capital stock for a corporation organized under this chapter" after the words and numbers "prescribed by §745 of this title" and before the closed parenthesis, and by inserting in the third sentence thereof the words and date "and authorized by a certificate issued by the State Bank Commissioner to transact the business of a trust company on January 1, 1997" after the date "February 28, 1933" and before the words "to any amount".

Section 22. Amend §768 of Title 5 of the Delaware Code by deleting the number "10" after the word "Chapter" and inserting in lieu thereof the number "15".

Section 23. Amend paragraph (1) of subsection (a) of §770 of Title 5 of the Delaware Code by deleting the fourth sentence thereof in its entirety, beginning with the words "No certificate" and ending with the words "to be established".

Section 24. Amend subsection (a) of §772 of Title 5 of the Delaware Code by deleting the words and punctuation ", with prior approval of the Commissioner," and inserting in lieu thereof the words and punctuation "or resulting bank (as defined in §795 of this chapter)" after the word "bank" and before the words "may install", and by inserting the words and punctuation ", provided that such bank shall provide written notice thereof to the Commissioner within 30 days after such automated service branch is installed or operated" after the word "State" and before the period at the end of that subsection.

Section 25. Amend subsection (b) of §772 of Title 5 of the Delaware Code by deleting in their entirety the first two sentences of that subsection.

Section 26. Amend §772 of Title 5 of the Delaware Code by deleting subsection (d) thereof in its entirety.

Section 27. Amend subsection (c) of §784 of Title 5 of the Delaware Code by inserting the words and punctuation "; provided, however, that before the expiration of such 30-day period or any extension thereof, the Commissioner in the Commissioner's sole discretion may by order extend such period for up to an additional 30 days in order to enable the Commissioner to fulfill the Commissioner's responsibilities with respect to the merger" after the word "approved" and before the period at the end of the first sentence thereof.

Section 28. Amend §786 of Title 5 of the Delaware Code by inserting in the title thereof the words "banks and federal savings associations" after the word "national" and before the words "into state banks".

Section 29. Amend subsection (a) of §786 of Title 5 of the Delaware Code by inserting the words "or federal savings association (as defined in the Home Owners' Loan Act, as amended, at 12 U.S.C. §1462)" after the words "national bank" and before the words "located in this State", and by deleting the remaining text of that subsection after the words "may be granted a state charter" and inserting in lieu thereof the words and punctuation "with the approval of the State Bank Commissioner; provided, however, that the conversion shall be deemed approved if no action is taken by the State Bank Commissioner within 30 days after receipt of the completed application in accordance with subsection (b) of this section. Notwithstanding any other provision of this title, a state bank resulting from the conversion of a national bank or federal savings association may retain and exercise all the powers and rights of the converting national bank or federal savings association, in addition to all the powers and rights available to a state bank under this Title."

Section 30. Amend subsection (b) of §786 of Title 5 of the Delaware Code by inserting in the first paragraph thereof the words "or federal savings association" after the words "national bank" and before the words "may apply", and by inserting in subparagraph (1) thereof the words "bank or federal savings association" after the word "national" and before the words "to a state bank".

Section 31. Delete existing §793 of Title 5 of the Delaware Code; provided, however, that any consumer credit bank formed under Chapter 10 of Title 5 of the Delaware Code that converted to become a bank deemed as having been formed under Chapter 7 of Title 5 of the Delaware Code shall be unaffected by the deletion of that section.

Section 32. Renumber existing §793A of Title 5 of the Delaware Code as new §793 of Title 5 of the Delaware Code.

Section 33. Amend subsection (7) of §795 of Title 5 of the Delaware Code by deleting the words and numbers "has become a Delaware state bank pursuant to §793 of" after the words "consumer credit bank which" and before the words "this title", and inserting in lieu thereof the words "became a Delaware state bank pursuant to", and by deleting the reference to "§793A" and inserting in lieu thereof a reference to "§793".

Section 34. Amend subsection (13) of §795 of Title 5 of the Delaware Code by deleting the words, numbers and punctuation "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." and inserting in lieu thereof the words, numbers and punctuation "State bank, as defined in the Federal Deposit Insurance Act, as amended, at 12 U.S.C. § 1813(a), that is not chartered under the laws of this State."

Section 35. Amend §795N of Title 5 of the Delaware Code by inserting the words "and retain any branch office in this State or otherwise continue to conduct a banking business in this State" after the words "out-of-state bank" and before the period.

Section 36. Amend subsection (a) of §803 of Title 5 of the Delaware Code by deleting from the first sentence thereof the words "and Chapter 10 of this title" after the words "as provided in this Chapter" and before the comma.

Section 37. Amend subsection (a) of §852 of Title 5 of the Delaware Code by deleting the words "Chapters 7 and 10" and inserting in lieu thereof the words "Chapter 7" after the word "and" and before the words "of this title".

Section 38. Delete §853 of Title 5 of the Delaware Code.

Section 39. Amend §904 of Title 5 of the Delaware Code by deleting the word and punctuation "; publication" from the title thereof.

Section 40. Amend subsection (a) of §904 of Title 5 of the Delaware Code by deleting the number "3" and inserting in lieu thereof the number "2" after the words "at least" and before the word "directors" in the first sentence thereof.

Section 41. Amend subsection (a) of §909 of Title 5 of the Delaware Code by inserting the words and punctuation ", in the case of a bank (including a bank and trust company and a savings bank), the bank's Tier 1 and Tier 2 capital included in the bank's risk-based capital under the capital guidelines of the appropriate federal banking agency, plus the balance of the bank's allowance for loan and lease losses not included in the bank's Tier 2 capital for purposes of the calculation of risk-based capital by the appropriate federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. §1817(a)(3), or, in the case of a trust company (other than a bank and trust company)," after the words "total capital, which for this purpose means" and before the words "the sum of the capital", and by deleting the words and punctuation "or, in the case of a mutual savings bank, the sum of the surplus, undivided profit and the valuation portion of the loan loss reserve accounts of the lender" after the words "accounts of the lender" and before the colon.

Section 42. Delete §921 of Title 5 of the Delaware Code.

Section 43. Delete §934 and §935 of Title 5 of the Delaware Code; provided, however, that this deletion shall not affect any right to indemnification otherwise provided by those sections.

Section 44. Amend subsection (8) of §941 of Title 5 of the Delaware Code by adding at the end of that subsection the words and punctuation "Purchases and loans may be included in

outstanding unpaid indebtedness as of such time as may be specified in the agreement governing the plan."

Section 45. Amend §943 of Title 5 of the Delaware Code by deleting the second and third sentences of that section and inserting in lieu thereof the following:

"Periodic interest may be calculated using an average daily balance, two-cycle average daily balance, adjusted balance or previous balance method or using any other balance computation method provided for in the agreement governing the plan. Periodic billing cycles may be established in such manner and shall have such duration, as may be specified in the agreement governing the plan."

Section 46. Amend §944 of Title 5 of the Delaware Code by inserting in the second sentence thereof the words "the first day of the billing cycle that contains" after the words "on or after" and before the words "the effective date".

Section 47. Amend subsection (a) of §945 of Title 5 of the Delaware Code by deleting the word "and" at the end of subparagraph (8) thereof, by changing the period at the end of subparagraph (9) to a semi-colon and by adding new subparagraphs (10) and (11) as follows:

"(10) Prepayment charges authorized under subsection (b) of this section; and

(11) Subject to any limitations contained in this subchapter, such other fees and charges as are set forth in the agreement governing the plan."

Section 48. Amend §945 of Title 5 of the Delaware Code by redesignating subsection (b) thereof as subsection (c) and by adding a new subsection (b) as follows:

"(b) An individual borrower may pay the outstanding unpaid indebtedness charged to the borrower's account under a plan in full at any time. Except for a charge imposed to terminate a plan if the agreement governing the plan so provides, a bank may not impose any prepayment charge in connection with the payment of outstanding unpaid indebtedness in full by an individual borrower. A bank may charge and collect any prepayment penalty or charge specified in the agreement governing the plan in connection with the payoff and termination of a plan that is secured by a real estate mortgage. The terms of prepayment of the outstanding unpaid indebtedness relating to a revolving credit plan involving a borrower other than an individual borrower shall be as the bank and the borrower may agree."

Section 49. Amend subsection (a) of §950 of Title 5 of the Delaware Code by inserting in the second sentence thereof the words "§943 and" after the words "pursuant to" and before the words "§944 of this title".

Section 50. Amend §952 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) Unless the agreement governing a revolving credit plan otherwise provides, (i) a bank may at any time and from time to time amend the terms of such agreement in any respect and (ii) any amendment may, on and after the date upon which it becomes effective as to a particular borrower, apply to all then outstanding unpaid indebtedness in the borrower's account under the plan, including any such indebtedness that arose prior to the effective date of the amendment. An agreement governing a revolving credit plan may be amended pursuant to the provisions of this section regardless of whether the plan is active or inactive or whether additional borrowings are available thereunder. Any amendment that does not increase the rate or rates of periodic interest charged by a bank to a borrower under §943 or §944 of this title may become effective as determined by the bank, subject to compliance by the bank with any applicable notice requirements under the Truth in Lending Act (15 U.S.C. §§1601 et seq.), and the regulations promulgated thereunder, as in effect from time to time.

(b) (1) If an amendment increases the rate or rates of periodic interest charged by a bank to a borrower under §943 or §944 of this title, the bank shall mail or deliver to the borrower, at least 15 days before the effective date of the amendment, a clear and

conspicuous written notice that shall describe the amendment and shall also set forth the effective date thereof and any applicable information required to be disclosed pursuant to the following provisions of this section.

(2) Any amendment that increases the rate or rates of periodic interest charged by a bank to a borrower under §943 or §944 of this title may become effective as to a particular borrower if the borrower does not, within 15 days of the earlier of the mailing or delivery of the written notice of the amendment (or such longer period as may be established by the bank), furnish written notice to the bank that the borrower does not agree to accept such amendment. The notice from the bank shall set forth the address to which a borrower may send notice of the borrower's election not to accept the amendment and shall include a statement that, absent the furnishing of notice to the bank of non-acceptance within the referenced 15 day (or longer) time period, the amendment will become effective and apply to such borrower. As a condition to the effectiveness of any notice that a borrower does not accept such amendment, the bank may require the borrower to return to it all credit devices. If after 15 days from the mailing or delivery by the bank of a notice of an amendment (or such longer period as may have been established by the bank as referenced above) a borrower uses a plan by making a purchase or obtaining a loan, notwithstanding that the borrower has prior to such use furnished the bank notice that the borrower does not accept an amendment, the amendment may be deemed by the bank to have been accepted and may become effective as to the borrower as of the date that such amendment would have become effective but for the furnishing of notice by the borrower (or as of any later date selected by the bank).

(3) Any amendment that increases the rate or rates of periodic interest charged by a bank to a borrower under §943 or §944 of this title may, in lieu of the procedure referenced in paragraph (2) of this subsection (b), become effective as to a particular borrower if the borrower uses the plan after a date specified in the written notice of the amendment that is at least 15 days after the mailing or delivery of the notice (but that need not be the date the amendment becomes effective) by making a purchase or obtaining a loan, provided that the notice from the bank includes a statement that the described usage after the referenced date will constitute the borrower's acceptance of the amendment.

(4) Any borrower who furnishes timely notice electing not to accept an amendment in accordance with the procedures referenced in paragraph (2) of this subsection (b) and who does not subsequently use the plan, or who fails to use such borrower's plan as referenced in paragraph (3) of this subsection (b), shall be permitted to pay the outstanding unpaid indebtedness in such borrower's account under the plan in accordance with the rate or rates of periodic interest charged by a bank to a borrower under §943 or §944 of this title without giving effect to the amendment; provided, however, that the bank may convert the borrower's account to a closed end credit account as governed by subchapter III of this chapter, on credit terms substantially similar to those set forth in the then-existing agreement governing the borrower's plan.

(5) Notwithstanding the other provisions of this subsection (b), no notice required by this subsection (b) of an amendment of an agreement governing a revolving credit plan shall be required, and any amendment may become effective as of any date agreed upon between a bank and a borrower, with respect to any amendment that is agreed upon between the bank and the borrower, either orally or in writing.

(c) For purposes of this section, the following are examples of amendments that shall not be deemed to increase the rate or rates of periodic interest charged by a bank to a borrower under §943 or §944 of this title:

(1) A decrease or increase in the required number or amount of periodic installment payments;

(2) A change in the schedule or formula used under a variable rate plan under section 944 of this title provided that the initial interest rate resulting from such change is not an increase from the rate in effect on the date immediately preceding the effective date of the change;

(3) A change from a variable rate to a fixed rate or from a fixed rate to a variable rate if the resulting rate on the date of change is not an increase from the rate in effect immediately prior to the change;

(4) A change from a daily periodic rate to a periodic rate other than daily or from a periodic rate other than daily to a daily periodic rate; and

(5) A change in the method of determining the outstanding unpaid indebtedness upon which periodic interest is calculated (including, without limitation, a change with respect to the date by which or the time period within which a new balance or any portion thereof must be paid to avoid additional periodic interest).

(d) The procedures for amendment by a bank of the terms of a plan to which a borrower other than an individual borrower is a party may, in lieu of the foregoing provisions of this section, be as the agreement governing the plan may otherwise provide."

Section 51. Amend §965 of Title 5 of the Delaware Code by changing the period at the end of subsection (2) to a semicolon and adding new subsections (3), (4) and (5) as follows:

"(3) Returned payment charges;

(4) Documentary evidence charges; and

(5) Subject to any limitations contained in this subchapter, such other fees and charges as are set forth in the agreement governing, or the bond, note or other evidence of, the loan."

Section 52. Amend §968 of Title 5 of the Delaware Code by inserting in the second sentence thereof the words "§963 and" after the words "pursuant to" and before the words "§964 of this title".

Section 53. Delete all the provisions of Chapter 10 of Title 5 of the Delaware Code; provided, however, that any bank originally formed pursuant to that chapter shall be unaffected by the deletion of that chapter.

Section 54. Amend subsection (a) of §1101 of Title 5 of the Delaware Code by deleting from the first sentence thereof the words and punctuation "(which for the purposes of this chapter has the same meaning as in §795 of this title)", by deleting from the first sentence thereof the words and punctuation "(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)", and by inserting between the existing first and second sentences thereof the following:

"For the purposes of this chapter, "out-of-state bank" shall have the same meaning as in §795 of this title. Also for the purposes of this chapter, "resulting branch" shall have 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."

Section 55. Further amend subsection (a) of §1101 of Title 5 of the Delaware Code by inserting the word "or" after the semicolon at the end of subparagraph (1)b.2., and by adding a new subparagraph (1)b.3., as follows:

"3. Derived from business activities carried on outside the State, which subsidiary, foreign branch or other branch established outside of this State is subject to shares-tax under the laws of another state; provided, however, that in the case of any subsidiary engaged in the sale, distribution or underwriting of, or dealing in, securities, the amount of income excluded pursuant to this sub-subparagraph b.3. shall in no event exceed 50 percent of such subsidiary's net operating income before taxes;"

Section 56. Amend §1102 of Title 5 of the Delaware Code by designating all of the existing text of that section as subsection (a) thereof, and by adding to that section a new subsection (b), as follows:

"(b) Every banking organization (or out-of-state bank that operates a resulting branch in this State), trust company, or federal savings bank not headquartered in this State but maintaining branches in this State failing to comply with subsection (a) of this section shall be subject to a penalty of \$25 for each day that it continues in such failure; unless the Commissioner is satisfied that such failure was not willful. Any penalty that may be imposed by the Commissioner hereunder shall be paid to the State Treasurer for deposit in the General Fund."

Section 57. Amend subsection (a) of §1104 of Title 5 of the Delaware Code by adding the following sentences at the end of that subsection:

"Every banking organization (or out-of-state bank that operates a resulting branch in this State), trust company, or federal savings bank not headquartered in this State but maintaining branches in this State failing to file the tentative return covering estimated bank franchise tax liability required by this subsection shall be subject to a penalty of \$25 for each day that it continues in such failure; unless the Commissioner is satisfied that such failure was not willful. Any penalty that may be imposed by the Commissioner hereunder shall be paid to the State Treasurer for deposit in the General Fund."

Section 58. Amend subparagraph (1) of subsection (c) of §1104 of Title 5 of the Delaware Code by deleting the number, words and punctuation "1-1/2 percent per month, or fraction thereof," and inserting in lieu thereof the number and words "0.05 percent per day".

Section 59. Amend subsection (e) of §1104 of Title 5 of the Delaware Code by deleting the number and words "1-1/2 percent shall be assessed for each month or fraction thereof" and inserting in lieu thereof the number and words "0.05 percent shall be assessed for each day".

Section 60. Amend subsection (a) of §1105 of Title 5 of the Delaware Code by deleting the words and punctuation "net income for years beginning before January 1, 1983, or taxable income for years beginning after December 31, 1982, as defined in this chapter," and inserting in lieu thereof the words "taxable income", and by deleting the words and punctuation "net income for years beginning before January 1, 1983, or taxable income for years beginning after December 31, 1982, as applicable," wherever such words and punctuation appear in that subsection and inserting in lieu thereof the words "taxable income".

Section 61. Amend subsection (d) of §1537 of Title 5 of the Delaware Code by deleting the reference to "§793A" and inserting in lieu thereof a reference to "§793".

Section 62. Amend §1544 of Title 5 of the Delaware Code by deleting the reference to "§793A" and inserting in lieu thereof a reference to "§793".

Section 63. Amend subsection (5) of §2214 of Title 5 of the Delaware Code by adding at the end of that subsection the words and punctuation "Purchases and loans may be included in outstanding unpaid indebtedness as of such time as may be specified in the agreement governing the plan."

Section 64. Amend §2216 of Title 5 of the Delaware Code by deleting the second and third sentences of that section and inserting in lieu thereof the following:

"Periodic interest may be calculated using an average daily balance, two-cycle average daily balance, adjusted balance or previous balance method or using any other balance computation method provided for in the agreement governing the plan. Periodic billing cycles may be established in such manner and shall have such duration, as may be specified in the agreement governing the plan."

Section 65. Amend §2217 of Title 5 of the Delaware Code by inserting in the second sentence thereof the words "the first day of the billing cycle that contains" after the words "on or after" and before the words "the effective date".

Section 66. Amend subsection (a) of §2218 of Title 5 of the Delaware Code by deleting the word "and" at the end of subparagraph (4) thereof, by redesignating subparagraph (5) as subparagraph (6), and by adding a new subparagraph (5) as follows:

"(5) Prepayment charges authorized by subsection (b) of this section; and"

Section 67. Amend §2218 of Title 5 of the Delaware Code by redesignating subsection (b) thereof as subsection (c) and by adding a new subsection (b) as follows:

"(b) A borrower may pay the outstanding unpaid indebtedness charged to the borrower's account under a plan in full at any time. Except for a charge imposed to terminate a plan if the agreement governing the plan so provides, a licensee may not impose any prepayment charges in connection with the payment of outstanding unpaid indebtedness in full by a borrower. A licensee may charge and collect any prepayment penalty or other charge specified in the agreement governing the plan in connection with the payoff and termination of a plan that is secured by a real estate mortgage."

Section 68. Amend subsection (a) of §2222 of Title 5 of the Delaware Code by inserting in the second sentence thereof the words "§2216 and" after the words "pursuant to" and before the words "§2217 of this title".

Section 69. Amend §2224 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) Unless the agreement governing a revolving credit plan otherwise provides, (i) a licensee may at any time and from time to time amend the terms of such agreement in any respect and (ii) any amendment may, on and after the date upon which it becomes effective as to a particular borrower, apply to all then outstanding unpaid indebtedness in the borrower's account under the plan, including any such indebtedness that arose prior to the effective date of the amendment. An agreement governing a revolving credit plan may be amended pursuant to the provisions of this section regardless of whether the plan is active or inactive or whether additional borrowings are available thereunder. Any amendment that does not increase the rate or rates of periodic interest charged by a licensee to a borrower under §2216 or §2217 of this title shall become effective as determined by the licensee, subject to compliance by the licensee with any applicable notice requirements under the Truth in Lending Act (15 U.S.C. §§1601 et seq.), and the regulations promulgated thereunder, as in effect from time to time.

(b) (1) If an amendment increases the rate or rates of periodic interest charged by a licensee to a borrower under §2216 or §2217 of this title, the licensee shall mail or deliver to the borrower, at least 15 days before the effective date of the amendment, a clear and conspicuous written notice that shall describe the amendment and shall also set forth the effective date thereof and any applicable information required to be disclosed pursuant to the following provisions of this section.

(2) Any amendment that increases the rate or rates of periodic interest charged by a licensee to a borrower under §2216 or §2217 of this title shall become effective as to a particular borrower if the borrower does not, within 15 days of the earlier of the mailing or delivery of the written notice of the amendment (or such longer period as may be established by the licensee), furnish written notice to the licensee that the borrower does not agree to accept such amendment. The notice from the licensee shall set forth the address to which a borrower may send notice of the borrower's election not to accept the amendment and shall include a statement that, absent the furnishing of notice to the licensee of non-acceptance within the referenced 15 day (or longer) time period, the amendment will become effective and apply to such borrower. As a condition to the effectiveness of any notice that a borrower does not accept such amendment, the licensee may require the borrower to return to it all credit devices. If after 15 days from the mailing or delivery by the licensee of a notice of an amendment (or such longer period as may have been established by the licensee as referenced above) a borrower uses a plan by making a purchase or obtaining a loan, notwithstanding that the borrower has prior to such use furnished the licensee notice that the borrower does not accept an amendment, the amendment may be deemed by the licensee to have been accepted and may become effective as to the borrower as of the date that such amendment would have become effective but for the furnishing of notice by the borrower (or as of any later date selected by the licensee).

(3) Any amendment that increases the rate or rates of periodic interest charged by a licensee to a borrower under §2216 or §2217 of this title may, in lieu of the procedure referenced in paragraph (2) of this subsection (b), become effective as to a particular borrower if the borrower uses the plan after a date specified in the written notice of the amendment that is at least 15 days after the mailing or delivery of the notice (but that need not be the date the amendment becomes effective) by making a purchase or obtaining a loan, provided that the notice from the licensee includes a statement that the described usage after the referenced date will constitute the borrower's acceptance of the amendment.

(4) Any borrower who furnishes timely notice electing not to accept an amendment in accordance with the procedures referenced in paragraph (2) of this subsection (b) and who does not subsequently use the plan, or who fails to use such borrower's plan as referenced in paragraph (3) of this subsection (b), shall be permitted to pay the outstanding unpaid indebtedness in such borrower's account under the plan in accordance with the rate or rates of periodic interest charged by a licensee to a borrower under §2216 or §2217 of this title without giving effect to the amendment; provided, however, that the licensee may convert the borrower's account to a closed end credit account as governed by subchapter III of this chapter, on credit terms substantially similar to those set forth in the then-existing agreement governing the borrower's plan.

(5) Notwithstanding the other provisions of this subsection (b), no notice required by this subsection (b) of an amendment of an agreement governing a revolving credit plan shall be required, and any amendment may become effective as of any date agreed upon between a licensee and a borrower, with respect to any amendment that is agreed upon between the licensee and the borrower, either orally or in writing.

(c) For purposes of this section, the following are examples of amendments that shall not be deemed to increase the rate or rates of periodic interest charged by a licensee to a borrower under §2216 or §2217 of this title:

(1) A decrease or increase in the required number or amount of periodic installment payments;

(2) A change in the schedule or formula used under a variable rate plan under section 2217 of this title provided that the initial interest rate resulting from such change is not an increase from the rate in effect on the date immediately preceding the effective date of the change;

(3) A change from a variable rate to a fixed rate or from a fixed rate to a variable rate if the resulting rate on the date of change is not an increase from the rate in effect immediately prior to the change;

(4) A change from a daily periodic rate to a periodic rate other than daily or from a periodic rate other than daily to a daily periodic rate; and

(5) A change in the method of determining the outstanding unpaid indebtedness upon which periodic interest is calculated (including, without limitation, a change with respect to the date by which or the time period within which a new balance or any portion thereof must be paid to avoid additional periodic interest)."

Section 70. Amend the title of Chapter 23 of Title 5 of the Delaware Code by deleting the words and punctuation ",DRAFTS AND MONEY ORDERS" and inserting in lieu thereof the words "AND TRANSMISSION OF MONEY".

Section 71. Amend §2302 of Title 5 of the Delaware Code by inserting at the end of that section a new subsection (8), as follows:

"(8) "Accelerated Mortgage Payment Provider" means any person who, in accordance with a written contract, receives funds from a mortgagor to transmit, on behalf of such mortgagor, to a lender or servicer, in order to exceed regularly scheduled minimum payment obligations under the terms of the indebtedness."

Section 72. Amend subsection (a) of §2304 of Title 5 of the Delaware Code by deleting the words, numbers and punctuation "any of the following: (1) Banks" and inserting in lieu thereof the word "banks", by deleting the semi-colon after the words "agent authorized to do business in this State" and inserting in lieu thereof a period, and by deleting existing subparagraph (2) thereof in its entirety.

Section 73. Amend §2309 of Title 5 of the Delaware Code by deleting the title and text of that section in their entirety, and inserting in lieu thereof the following:

"§2309 Surety Bonds and Irrevocable Letters of Credit.

(a) Surety Bonds.

(1) Every licensee shall file with the Commissioner, in a form satisfactory to the Commissioner, an original corporate surety bond, with surety provided by a corporation authorized to transact business in this State, in the principal sum of \$25,000 and in an additional principal sum of \$5,000 for each location, in excess of one, at which the applicant proposes to conduct a business licensed by this chapter, but in no event shall the bond be required to be in excess of \$250,000.

(2) No bond shall be accepted unless the following requirements are satisfied:

(i) The term of the bond shall be commensurate with the license period or continuous;

(ii) The expiration date of the bond shall not be earlier than midnight of the date on which the license expires; and

(iii) The bond shall run to the State, for the benefit of the Office of the State Bank Commissioner and for the benefit of all consumers injured by any wrongful act, omission, default, fraud or misrepresentation by a licensee in the course of its activity as a licensee. Compensation under the bond shall be for amounts which represent actual losses and shall not be payable for claims made by business creditors, third-party service providers, agents or persons otherwise in the employ of the licensee. Surety claims shall be paid to the Office of the State Bank Commissioner by the insurer not later than 90 days after receipt of a claim. Claims paid after 90 days shall be subject to daily interest at the legal rate. The aggregate liability of the surety on the bond, exclusive of any interest which accrues for payments made after 90 days, shall in no event exceed the amount of such bond.

(3) If the licensee changes its surety company or the bond is otherwise amended, the licensee shall immediately provide the Commissioner with the amended original copy of the surety bond. No cancellation of an existing bond by a surety shall be effective unless written notice of its intention to cancel is filed with the Commissioner at least thirty (30) days before the date upon which cancellation shall take effect.

(4) The Commissioner may require potential claimants to provide such documentation and affirmations as the Commissioner shall determine to be necessary and appropriate. In the event the Commissioner determines that multiple consumers have been injured by a licensee, the Commissioner shall cause a notice to be published for the purpose of identifying all relevant claims.

(5) When a surety company receives a claim against the bond of a licensee, it shall immediately notify the Commissioner and shall not pay any claim unless and until it receives notice to do so from the Commissioner.

(6) The Commissioner shall have a period of two calendar years after the effective date of cancellation or termination of the surety bond by the insurer to submit claims to the insurer.

(b) Irrevocable Letters of Credit.

In lieu of requiring the filing of a surety bond, the Commissioner may, at the Commissioner's discretion, accept from a licensee an irrevocable letter of credit.

(1) Such irrevocable letter of credit shall be provided by an insured depository institution (as defined in the Federal Deposit Insurance Act at 12 U.S.C. §1813(c)) acceptable to the Commissioner, in a form satisfactory to the Commissioner in the principal sum of \$25,000 and in an additional principal sum of \$5,000 for each location, in excess of one, at which the applicant proposes to conduct a business licensed by this chapter, but in no event shall such irrevocable letter of credit be required to be in excess of \$250,000.

(2) No irrevocable letter of credit shall be accepted unless the following requirements are satisfied:

(i) The irrevocable letter of credit shall run to the State, for the benefit of the Office of the State Bank Commissioner and for the benefit of all consumers injured by the wrongful act, omission, default, fraud or misrepresentation by a licensee in the course of its activity as a licensee. Compensation under the irrevocable letter of credit shall be for amounts which represent actual losses and shall not be payable for claims made by business creditors, third-party service providers, agents or persons otherwise in the employ of the licensee. The aggregate liability of the insured depository institution issuing the irrevocable letter of credit shall in no event exceed the amount of such irrevocable letter of credit; and

(ii) Draws upon such irrevocable letter of credit shall be available by sight drafts thereunder, in amounts determined by the Commissioner, up to the aggregate amount of the irrevocable letter of credit. Such drafts shall be paid in accordance with §5-112(1) of Title 6 of the Delaware Code.

(3) The Commissioner may require potential claimants to provide such documentation and affirmations as the Commissioner shall determine to be necessary and appropriate. In the event the Commissioner determines that multiple consumers have been injured by a licensee, the Commissioner shall cause a notice to be published for the purpose of identifying all relevant claims.

(4) The Commissioner may refuse release of an irrevocable letter of credit, following the surrender of a license, up to two (2) years after the effective date of such termination of licensure."

Section 74. Amend §2312 of Title 5 of the Delaware Code by designating all of the existing text of that section as subsection "(a)" thereof, and by inserting at the end of that section a new subsection "(b)", as follows:

"(b) Each licensee engaged in the business of receiving money for transmission shall be liable for payment of all amounts received for transmission."

Section 75. Amend §2313 of Title 5 of the Delaware Code by inserting at the end of that section a new subsection "(c)", as follows:

"(c) In lieu of the provisions of subsection (b) of this section, every accelerated mortgage payment provider may furnish an annual statement to a mortgagor of the transmittals. Each such statement shall identify the dates money was received for transmission and the amounts thereof, the dates transmittals were made to the lender on behalf of the mortgagor and the amounts thereof, and the name and address of the lender or recipient of such transmittals."

Section 76. Amend §2314 of Title 5 of the Delaware Code by deleting the words "In furtherance of the foregoing" from the beginning of the second sentence thereof and capitalizing the first letter of the word "the", which becomes the first word in that sentence.

Section 77. Amend §2714 of Title 5 of the Delaware Code by deleting the title and text of that section in their entirety, and inserting in lieu thereof the following:

"§2714 Surety Bonds and Irrevocable Letters of Credit.

(a) Surety Bonds.

(1) Every licensee shall file with the Commissioner, in a form satisfactory to the Commissioner, an original corporate surety bond, with surety provided by a corporation authorized to transact business in this State, in the principal sum of \$5,000.

(2) No bond shall be accepted unless the following requirements are satisfied:

(i) The term of the bond shall be commensurate with the license period or continuous;

(ii) The expiration date of the bond shall not be earlier than midnight of the date on which the license expires; and

(iii) The bond shall run to the State, for the benefit of the Office of the State Bank Commissioner and for the benefit of all consumers injured by any wrongful act, omission, default, fraud or misrepresentation by a licensee in the course of its activity as a licensee. Compensation under the bond shall be for amounts which represent actual losses and shall not be payable for claims made by business creditors, third-party service providers, agents or persons otherwise in the employ of the licensee. Surety claims shall be paid to the Office of the State Bank Commissioner by the insurer not later than 90 days after receipt of a claim. Claims paid after 90 days shall be subject to daily interest at the legal rate. The aggregate liability of the surety on the bond, exclusive of any interest which accrues for payments made after 90 days, shall in no event exceed the amount of such bond.

(3) If the licensee changes its surety company or the bond is otherwise amended, the licensee shall immediately provide the Commissioner with the amended original copy of the surety bond. No cancellation of an existing bond by a surety shall be effective unless written notice of its intention to cancel is filed with the Commissioner at least thirty (30) days before the date upon which cancellation shall take effect.

(4) The Commissioner may require potential claimants to provide such documentation and affirmations as the Commissioner shall determine to be necessary and appropriate. In the event the Commissioner determines that multiple consumers have been injured by a licensee, the Commissioner shall cause a notice to be published for the purpose of identifying all relevant claims.

(5) When a surety company receives a claim against the bond of a licensee, it shall immediately notify the Commissioner and shall not pay any claim unless and until it receives notice to do so from the Commissioner.

(6) The Commissioner shall have a period of two calendar years after the effective date of cancellation or termination of the surety bond by the insurer to submit claims to the insurer.

(b) Irrevocable Letters of Credit.

In lieu of requiring the filing of a surety bond, the Commissioner may, at the Commissioner's discretion, accept from a licensee an irrevocable letter of credit.

(1) Such irrevocable letter of credit shall be provided by an insured depository institution (as defined in the Federal Deposit Insurance Act at 12 U.S.C. §1813(c)) acceptable to the Commissioner, in a form satisfactory to the Commissioner in the principal sum of \$5,000.

(2) No irrevocable letter of credit shall be accepted unless the following requirements are satisfied:

(i) The irrevocable letter of credit shall run to the State, for the benefit of the Office of the State Bank Commissioner and for the benefit of all consumers

injured by the wrongful act, omission, default, fraud or misrepresentation by a licensee in the course of its activity as a licensee. Compensation under the irrevocable letter of credit shall be for amounts which represent actual losses and shall not be payable for claims made by business creditors, third-party service providers, agents or persons otherwise in the employ of the licensee. The aggregate liability of the insured depository institution issuing the irrevocable letter of credit shall in no event exceed the amount of such irrevocable letter of credit; and

(ii) Draws upon such irrevocable letter of credit shall be available by sight drafts thereunder, in amounts determined by the Commissioner, up to the aggregate amount of the irrevocable letter of credit. Such drafts shall be paid in accordance with §5-112(1) of Title 6 of the Delaware Code.

(3) The Commissioner may require potential claimants to provide such documentation and affirmations as the Commissioner shall determine to be necessary and appropriate. In the event the Commissioner determines that multiple consumers have been injured by a licensee, the Commissioner shall cause a notice to be published for the purpose of identifying all relevant claims.

(4) The Commissioner may refuse release of an irrevocable letter of credit, following the surrender of a license, up to two (2) years after the effective date of such termination of licensure."

Section 78. Amend subsection (e) of §2902 of Title 5 of the Delaware Code by inserting the words and punctuation "In case there is a change of name but no change in corporate structure, the Commissioner shall endorse such name change on the license without charge." between the existing first and second sentences thereof, and by inserting in the existing second sentence thereof the word "otherwise" after the words "Such license shall not be" and before the words "transferable or assignable".

Section 79. Amend subsection (b) of §2909 of Title 5 of the Delaware Code by deleting from the first sentence thereof the reference to "§2907" and inserting in lieu thereof a reference to "§2908".

Section 80. Amend paragraph (7) of subsection (a) of §1903 of Title 30 of the Delaware Code by deleting the reference to "§1101(a)(3) and (4) of Title 5" and inserting in lieu thereof a reference to "§1101(a)(1)d. and §1101(a)(1)e. of Title 5".

Section 81. 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 82. This Act shall take effect immediately upon its adoption.

Approved April 23, 1997

CHAPTER 20

FORMERLY

SENATE BILL NO. 30

AN ACT TO AMEND 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:

Section 1. Amend §2121(b), Title 21 of the Delaware Code, by striking the first sentence appearing in the second paragraph and by inserting in lieu thereof the following:

"Motor vehicles with a registered gross weight of 5,000 pounds or less may be assigned any type of number plate. Motor vehicles, except for recreational vehicles, with a registered weight rating above 5,000 pounds will be assigned commercial or farm truck license plates. The number plates for motorcycles and mopeds as defined by §101(19) and (53) of this title shall display thereon the letters MC for motorcycles and the letters MP for mopeds."

Section 2. Amend §2156, Title 21 of the Delaware Code, by striking subsection (a) in its entirety and by inserting in lieu thereof the following:

"(a) The registration fee for all convertible vehicles shall be ascertained upon the basis of the vehicle's gross load weight. It shall be determined which is the greater, the gross load weight as a carrier of persons or the gross load weight as the carrier of property, and the greater gross load weight shall be the basis for calculating the required registration fees. The fee for all station wagons or suburbans shall be the same as for vehicles used for pleasure as provided in §2151 of this Title."

Approved April 29, 1997

CHAPTER 21

FORMERLY

HOUSE BILL NO. 130

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE
ADJUSTMENT OF ELECTION AREAS FOR CAPE HENLOPEN SCHOOL
DISTRICT BOARD MEMBERS.

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

Section 1. Amend §1069, Title 14 of the Delaware Code by deleting subparagraphs (b) and (c) in their entirety, and substituting in lieu thereof the following:

“(b) The Cape Henlopen School District is hereby divided into 4 areas as follows:

(1) Area A: Beginning at a point on the shoreline of the Delaware Bay between Broadkill Beach and Roosevelt Inlet near where the Broadkill River runs in an east-westerly direction; thence following a westerly direction through the middle of the Broadkill River to the mid point of the confluence of Beaverdam Creek; thence in a southerly direction through the middle of Beaverdam Creek to the boundary line of Cape Henlopen School District; thence following the boundary of Cape Henlopen School District first in a westerly direction and extending to the shoreline of Delaware Bay in the vicinity of Fowlers Beach; thence in a southerly direction to the beginning point.

(2) Area B: Beginning at a point on the shoreline of the Delaware Bay intersected by perpendicular line running through and extended from the middle of Route 9 on Lewes Beach; thence following a westerly direction through the middle of Route 9 until the intersection of Route 261; thence in a southerly direction through the middle of Route 261 until the intersection of Route 285; thence in a southerly direction through the middle of Route 285 to the intersection of Route 5; thence southerly through the middle of Route 5 until the intersection with the District's boundary; thence following the District's boundary first in a westerly then northerly direction until the boundary connects to the same point where Area A's boundary intersects with Route 259 and Beaverdam Creek; thence following the same boundary for Area A to the Delaware Bay; thence in a southerly direction along the shoreline of Delaware Bay to the beginning point.

(3) Area C: Beginning at the same point on the shoreline of Delaware Bay as Area B and following the same boundary of Area B in a westerly and then southerly direction until the line meets the District boundary; thence in an easterly direction along the District boundary to a point on the boundary which is directly grid south of the tip of Bald Eagle Point; thence in a northwesterly direction, off-shore of land, through the center of Love Creek to the intersection of Route 24; thence in a northeasterly direction through the center of Route 24 until the intersection of Route 1; thence for a short distance in a southerly direction through the center of Route 1 until the intersection of Route 270; thence in a northeasterly direction through the center of Route 270 until the termination of Route 270 near the sewage treatment plant; thence in a grid easterly direction to the shoreline of the Atlantic Ocean; thence in a northerly direction along the shoreline of the Atlantic Ocean and then in a westerly direction along the shoreline of the Delaware Bay to the beginning point.

(4) Area D: Beginning at a point where the Indian River Inlet and the Atlantic Ocean converge; thence in a westerly and then northerly direction until the line meets the point of intersection for Area C and the District boundary; thence following the same boundary for Area C in a northerly and then easterly direction until the line meets the shoreline of the Atlantic Ocean; thence in a southerly direction to the beginning point.

(c) School board members shall be elected in the following manner:

(1) At the regular school election in 1997 the qualified electors in the school district shall choose 1 member who is a resident of Area D. The member shall serve a term of one year.

(2) At the regular school election in 1998 the qualified electors in the school district shall choose 1 member who is a resident of Area A. One member shall be elected from Area D and shall serve a term of four years.

(3) At the regular school election in 1999 the qualified electors in the school district shall choose 1 member who is a resident of Area C and 1 member who is a resident of the district at large.

(4) At the regular school election in 2000 the qualified electors in the school district shall choose 1 member who is a resident of area B and 1 member who is a resident of the district at large.

(5) At the regular school election in 2001 the qualified electors in the school district shall choose 1 member who is a residence of the district at large.

(6) All subsequent school board elections shall follow a schedule with a 5 year sequence as herein listed and thereafter:

2002 -- Elect 1 member who is a resident of Area D

2003 -- Elect 1 member who is a resident of Area A

2004 -- Elect 1 member who is a resident of Area C and

one member who is a resident of the district at large.

2005 -- Elect 1 member who is a resident of Area B and one

member who is a resident of the district at large.

2006 -- Elect one member who is a resident of the district

at large.

(7) Except for the shortened term of Area D for one year from 1997 to 1998 and Area D for four years from 1998 to 2002, thereafter, each school board member shall be elected to a term of 5 years. An exception shall be when such election is to fill an unexpired term as provided in this chapter, until a successor has been elected and duly qualified, said term of such elected school board member to commence on the 1st day of July following his election.

(8) Nominations for each candidate qualified to be a school board member shall provide a declaration of intention as to whether the candidate is to serve at large, if elected, or if the candidate is to serve from his legal place of residence whether it be Area A, B, C, or D, depending upon board members to be elected in a given year. Nominations in either case shall be by residents of the school district as provided elsewhere in this chapter. At the election, whether by voting machine or ballot, the names of all persons properly nominated shall be listed alphabetically in appropriate groupings by area and/or "at large." If in a given year when nominations may be made for members living in a specific area and no nominations are so made, and if during that given year a nomination may also be made for a member to serve "at large", the member "at large" living in the given area receiving the highest number of votes shall be declared duly elected to the position of school board member; if the same candidate should also have received the highest number of votes of all candidates nominated to serve "at large" then the person receiving the second highest number of votes shall be declared duly elected to the position "at large" in the school district.

(9) In all school board elections nominations may be made and board members chosen at the election by qualified electors of the entire school district thereof.

(10) Each school board member so elected shall have those qualifications prescribed by this chapter and shall meet any other requirements provided in this section."

Approved April 29, 1997

CHAPTER 22

FORMERLY

HOUSE BILL NO. 5
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND SECTION 114, CHAPTER 1 OF TITLE 26 OF THE DELAWARE CODE RELATING TO THE FEES TO BE CHARGED BY THE PUBLIC SERVICE COMMISSION AND TO SET A NEW, INCREASED SCHEDULE FOR SUCH FEES AND CHARGES.

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

Section 1. Amend Subchapter I, § 114(a), Title 26, Delaware Code, by striking said subsection (a) in its entirety and substituting in lieu thereof a new subsection (a) to read as follows: -

“(a) The Commission may impose charges and fees for filing and for other services rendered by it in accordance with the following schedule of fees:

SCHEDULE OF FEES

1. For filing the annual financial statement of any public utility..... \$25.00
2. Certificates of Public Convenience and Necessity:
 - (a) For filing each original application for a certificate of public convenience and necessity (except for telecommunications local exchange service or application for approval of a transfer of such certificate)..... 750.00
 - (b) For filing each extension to a certificate of public convenience and necessity (except for telecommunications local exchange service)..... 300.00
 - (c) For filing each application for a certificate of public convenience and necessity (for original or for extension) to provide telecommunications local exchange service, or application for approval of a transfer of such certificate..... 3000.00
3. For filing each application for approval or authority to discontinue or abandon all or any part of any public utility operation or service... 150.00
4. (a) For each filing of rate or tariff schedules, or any

	amendment thereto or notice of changes therein.	50.00
	(b) For each filing of petition or application to increase rates.....	100.00
5.	For filing each petition or application under § 215(a)(1) of this title.....	100.00
6.	For filing each petition or application under § 215(a)(2) of this title in accordance with the following schedule based upon the aggregate amount of the stocks (by par value or by stated value if no par), notes, bonds, other evidence of indebtedness. The fee so established is to be used to evaluate such petition or application in lieu of any other assessment.....	
	<u>AGGREGATE AMOUNT</u>	
	Under \$1,000,001.....	150.00
	\$1,000,001 - \$10,000,000.....	250.00
	\$10,000,001 and above.....	350.00
7.	For preparing and certifying to the Superior Court any record in appeal.....	400.00
8.	For certifying a copy of each paper, order, record, transcript or any other official document other than to the Superior Court.....	10.00
9.	Upon request therefor by either a consumer or a utility for testing each water meter having an outlet not exceeding one inch.....	10.00
10.	Upon request therefor by either a consumer or a utility for testing each water meter having an outlet of more than one inch but not exceeding two inches.....	15.00
11.	Upon request therefor by either a consumer or a utility for testing each electric meter.....	10.00
12.	The charge or fee for any services rendered by the Commission in filing papers, documents,	

records or other items not expressly provided

for in this subsection shall be a reasonable charge

or fee in relation to the service rendered, not to exceed the highest fee or charge permitted on this schedule

of fees fixed by the Commission from time to time."

Section 2. A copy of the "Schedule of Fees" set forth in Section 1 above, accompanied with a citation to this Act shall be maintained and available for public inspection at the offices of the Public Service Commission. The fees and charges set forth in such schedule shall apply to all documents filed and to all services rendered after the date of enactment.

Section 3. The fees and charges imposed under the "Schedule of Fees" set forth in section 1 above shall be in addition to any fees, charges, or assessments imposed under the provisions of §§ 114(b),(c) and 115 of this title. All monies collected pursuant to such schedule shall be deposited in accord with § 116 of this title.

Approved April 29, 1997

CHAPTER 23

FORMERLY

HOUSE BILL NO. 79

AN ACT AUTHORIZING THE CHRISTINA REORGANIZED SCHOOL DISTRICT AND/OR STATE BOARD OF EDUCATION TO EXCHANGE CERTAIN SCHOOL REAL PROPERTY FOR THE PROPERTY OF ANOTHER PERSON.

WHEREAS, the Christina Reorganized School District desires to exchange a parcel of school real property having approximately 0.58 acres (25,481 square feet) and being a portion of the Christiana-Salem Elementary School property, located on West Main Street, in White Clay Creek Hundred, for a parcel of land consisting of 0.76 acres (33,120 square feet), adjoining the school site and owned by Allied Properties, Inc.; and

WHEREAS, the said school parcel of land is located on the east side of Browns Lane at the Southwest corner of the school site, and is no longer needed for school purposes; and

WHEREAS, the exchange will be beneficial to the school district as the Allied Properties' parcel of land is located on West Main Street and, if acquired by the school district, will increase the school site's frontage on West Main Street from 447 feet, more or less, to 544 feet, more or less, an increase of approximately 107 feet.

NOW, THEREFORE:

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

Section 1. Notwithstanding the provisions of subsections (a), (c) or (d) of 1057, Title 14, Delaware Code, or any other laws of this State, the Christina Reorganized School District and/or State Board of Education, as the case may be, are authorized and empowered to exchange the parcel of school and, consisting of 0.58 acres, more or less, and more particularly described and identified as Parcel A on Plan of Thorpe Property, dated October 13, 1991 and prepared by Engineering Consulting Incorporation, for the parcel of land, consisting of 0.76 acres, more or less, and more particularly described and identified as Parcel B on said Plan, said Parcel B being owned by Allied Properties, Inc.

Section 2. The Christina Reorganized School District and/or State Board of Education, as the case may be, are authorized and empowered to execute and deliver to Allied Properties, Inc. a good and sufficient deed and such affidavits as are required by law, granting and conveying the aforementioned Parcel A to Allied Properties, Inc. on the condition that Allied Properties, Inc.:

(a) Prepare at its own expense the deeds to be executed by the parties, each deed to recite the sum of one dollar (\$1.00) as consideration; and

(b) Execute and deliver to the Christina Reorganized School District a good and sufficient deed granting and conveying the aforementioned Parcel B to the Christina Reorganized School District; and

(c) Pay the cost of recording the deeds executed by the parties; and

(d) Prepare at its expense such affidavits and other documents as are required by law to transfer legal title to land.

Section 3. The Christina Reorganized School District and/or State Board of Education, as the case may be, may convey the aforementioned Parcel A to Allied Properties, Inc., subject to the provisions of Section 2 hereof, without complying with the provisions of subsections (a), (c) or (d) of Section 1057, Title 14, Delaware Code.

Approved May 7, 1997

CHAPTER 24

FORMERLY

HOUSE BILL NO. 11

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO RE-INCORPORATE THE CITY OF HARRINGTON" BEING CHAPTER 115, VOLUME 69, LAWS OF DELAWARE, AS AMENDED, RELATING TO THE CITY TREASURER.

BE IT 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 115, Volume 69, Laws of Delaware, as amended, by striking section 7.2.3 in its entirety and substituting in lieu thereof the following:

"7.2.3. Treasurer. The City Council shall appoint the City Manager as the City Treasurer who shall be custodian of all City funds and shall authorize deposit into federally-insured banking institutions located in the city as necessary.

The Treasurer shall pay no money except upon warrant or check countersigned by the Mayor, or in the Mayor's absence, by the Vice-Mayor.

The Mayor or Vice Mayor and City Treasurer shall sign no warrant or check on the city Treasury unless authorized by City Council pursuant to appropriation made by Council.

The Treasurer shall be responsible for seeing that a true and detailed account of all monies received by the City is maintained on a current basis. The books and accounts of the City shall at all times be open to inspection by the Council or Mayor.

The City Treasurer shall make such reports and at such times as the Council may direct.

The City Treasurer shall be required to give bond in such amount and in such form with such surety as the Council shall determine and approve, the cost of said bond to be paid by the City."

Approved May 7, 1997

CHAPTER 25

FORMERLY

SENATE BILL NO. 67

AN ACT TO AMEND 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):

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

Section 1. This Act may be referred to as the "Banking Industry and Financial Services Act of 1997".

Section 2. Amend subsection (a) of §121 of Title 5 of the Delaware Code by inserting in subparagraph (1) thereof the word and number "or §1661(a)(14)" after the number "§761(a)(14)" and before the words "of this title".

Section 3. Amend subsection (a) of §124 of Title 5 of the Delaware Code by inserting in the first sentence thereof the word and number "or §1662(b)" after the number "§767" and before the words "of this title".

Section 4. Amend §144 of Title 5 of the Delaware Code by adding the words and punctuation "except for a savings bank established under Chapter 16 of this title," after the word and punctuation "name," and before the words "nor shall".

Section 5. Amend subsection (2) of §167 of Title 5 of the Delaware Code by inserting the words "or Delaware savings and loan holding company" after the words "holding company" and before the period.

Section 6. Amend §168 of Title 5 of the Delaware Code by inserting the words "or savings and loan holding companies" after the words "bank holding companies" at both places at which those words appear in that section.

Section 7. Amend §701 of Title 5 of the Delaware Code by inserting in the first sentence thereof the words "or Chapter 16" after the words "Chapter 15" and before the words "of this title".

Section 8. Amend §722 of Title 5 of the Delaware Code by deleting the words "Fifteen or more persons being citizens of this State and" and inserting in lieu thereof "Three or more persons, at least two of whom must be citizens and residents of this State," and by deleting the words and punctuation beginning with "; provided, however," and ending with "of this State" from the end of the sentence and before the period.

Section 9. Amend subsection (a) of §749 of Title 5 of the Delaware Code by inserting the words and punctuation ", except as provided in Chapters 15 or 16 of this title," after the words "of this State" and before the words "shall hereafter amend".

Section 10. Amend subsection (b) of §749 of Title 5 of the Delaware Code by inserting in the first sentence thereof the words and punctuation "(but not under Chapters 15 or 16 of this title)" after the words "General Assembly" and before the comma.

Section 11. Amend subsection (a) of §770 of Title 5 of the Delaware Code by deleting both sentences of subparagraph (2) and inserting in lieu thereof the words and punctuation "The applicant shall pay to the Commissioner an investigation fee of \$250 which shall not be refundable and shall be submitted with the application."

Section 12. Amend subsection (c) of §771 of Title 5 of the Delaware Code by deleting the text of that subsection and inserting in lieu thereof the words and punctuation "The applicant shall pay to the Commissioner an investigation fee of \$250, which shall not be refundable and shall be submitted with the application for the issuance of a certificate under subsections (a) or (e) of this section.

Section 13. Amend subsection (e) of §771 of Title 5 of the Delaware Code by inserting the words "or Chapter 16 of this title" after the word "chapter" and before the words "or by act", by inserting the word and number "or §1661(a)(14)" after the number "§761(a)(14)" and before the words "of this title", and by deleting the words "for which he shall collect and receive a fee of \$500" after the word "Commissioner" and before the comma.

Section 14. Amend subsection (a) of §782 of Title 5 of the Delaware Code by inserting in the first sentence thereof the words "or Chapter 16 of this title" after the word "chapter" and before the words "or under any special act".

Section 15. Amend subsection (a) of §784 of Title 5 of the Delaware Code by inserting in subparagraph (2)(iv) thereof the words and punctuation ", or a statement that the resulting bank will be a nonstock corporation" after the words "par value of each share" and before the semicolon.

Section 16. Amend subsection (b) of §786 of Title 5 of the Delaware Code by inserting in subparagraph (2) thereof the words "or members" after the word "stockholders".

Section 17. Amend §792 of Title 5 of the Delaware Code by deleting the words and punctuation "a fee of \$5,750 for use of the State upon approval of a merger, consolidation or conversion. In addition, the resulting bank shall pay" after the word "Commissioner" and before the words "an investigation fee".

Section 18. Amend subsection (c) of §793 (formerly §793A) of Title 5 of the Delaware Code by deleting the words and punctuation "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" after the word "The" and before the words "resulting bank".

Section 19. Amend §795 of Title 5 of the Delaware Code by adding a new subsection (16) at the end thereof, as follows:

"(16) 'Savings and loan holding company' has the meaning specified in the Home Owners' Loan Act, as amended, at 12 U.S.C. §1467a."

Section 20. Amend subsection (b) of §795J of Title 5 of the Delaware Code by inserting the words "or savings and loan holding company" after the words "bank holding company" and before the words "that controls".

Section 21. Amend §831 of Title 5 of the Delaware Code by deleting from subsection (5) the words "an existing" and inserting in lieu thereof the word "a", by deleting existing subsection (8) in its entirety, and by redesignating existing subsections (9) through (15) as new subsections (8) through (14) thereof.

Section 22. Amend subsection (a) of §832 of Title 5 of the Delaware Code by deleting the words and punctuation "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" and inserting in lieu thereof the words "a Delaware savings bank or a Delaware savings and loan holding company", and by deleting the word "existing" after the words "and the" and before the words "Delaware savings bank that it acquires specifically".

Section 23. Amend subsection (b) of §832 of Title 5 of the Delaware Code by deleting the words and punctuation "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," and inserting in

lieu thereof the words "a Delaware savings bank or a Delaware savings and loan holding company".

Section 24. Amend subsection (c) of §832 of Title 5 of the Delaware Code by deleting the comma and inserting in lieu thereof the word "or" after the words "Delaware savings bank" and before the words "a Delaware savings and loan holding company", and by deleting the words "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" before the period.

Section 25. Amend subsection (a) of §833 of Title 5 of the Delaware Code by deleting the words "an existing" and inserting in lieu thereof the word "a" after the word "acquire" and before the words "Delaware savings bank".

Section 26. Amend subsection (b) of §833 of Title 5 of the Delaware Code by deleting from the first sentence thereof the words "an existing" and inserting in lieu thereof the word "a" after the words "acquire or control" and before the words "Delaware savings bank", and by deleting from subparagraphs (1), (2) and (3) thereof the word "existing" at each place at which that word appears therein.

Section 27. Amend subsection (c) of §833 of Title 5 of the Delaware Code by deleting the word "existing" after the word "the" and before the words "Delaware savings bank".

Section 28. Amend subsection (3) of §834 of Title 5 of the Delaware Code by deleting the words "an existing" and inserting in lieu thereof the word "a" after the word "acquires" and before the words "Delaware savings bank" at both places at which those words appear in that subsection.

Section 29. Amend subsection (4) of §834 of Title 5 of the Delaware Code by deleting the word "existing" after the word "any" and before the words "Delaware savings bank" at both places at which those words appear in that subsection, and by deleting the words "an existing" and inserting in lieu thereof the word "a" after the word "acquires" and before the words "Delaware savings bank" at both places at which those words appear in that subsection.

Section 30. Amend the first sentence of §835 of Title 5 of the Delaware Code by deleting the words "an existing" and inserting in lieu thereof the word "a" after the word "operating" and before the words "Delaware savings bank", and by deleting the word "existing" after the word "any" and before the words "Delaware savings bank".

Section 31. Amend §836 of Title 5 of the Delaware Code by deleting the word and punctuation ", existing" from the title, and by deleting the word "existing" from the text thereof.

Section 32. Amend Chapter 8 of Title 5 of the Delaware Code by adding a new Subchapter VI thereto, as follows:

"Subchapter VI. Regulation of Delaware Savings and Loan Holding Companies

§ 861. Definitions.

As used in this subchapter:

(1) 'Delaware savings and loan holding company' means a savings and loan holding company (as defined in the Home Owners' Loan Act, as amended, at 12 U.S.C. §1467a) located in Delaware that owns or controls a Delaware savings bank.

(2) 'Delaware savings bank' means a savings bank organized and existing under the laws of this State that is not a bank as defined in §2(c) of the Bank Holding Company Act of 1956, as amended, 12 U.S.C. §1841(c).

(3) 'Located' has the meaning specified in §831 of this title.

§ 862. Becoming a Delaware savings and loan holding company.

(a) Any corporation intending to become a Delaware savings and loan holding company shall file an application with the Commissioner for approval to acquire a Delaware savings bank. The application shall contain such information as the Commissioner may by regulation require, shall, if not a Delaware corporation, designate a resident of the State as the applicant's agent for the service of any paper or notice of legal process on the applicant in connection with matters arising out of this subchapter, and shall be accompanied by a filing fee in the amount of \$5,750 for the use of the State and a nonrefundable investigation fee in such amount as the Commissioner shall from time to time fix by regulation, payable to and for the use of the Office of the Bank Commissioner.

(b) In determining whether or not to approve such acquisition by a Delaware savings and loan holding company, the Commissioner shall consider:

- (1) The financial and the managerial resources of the Delaware savings and loan holding company;
- (2) The future prospects of the Delaware savings and loan holding company and the Delaware savings bank whose assets or shares it will acquire;
- (3) The financial history of the Delaware savings and loan holding company;
- (4) Whether such acquisition or holding may result in undue concentration of resources or substantial lessening of competition within this State; and
- (5) The convenience and needs of the public of this State.

§ 863. Reports.

A Delaware savings and loan holding company shall file with the Commissioner upon the Commissioner's request copies of all regular and periodic reports which a savings and loan holding company is required to file under the Home Owners' Loan Act, as amended [12 U.S.C. §1461 et seq.] or under § 13 or § 15(d) of the Securities and Exchange Act of 1934, as amended [15 U.S.C. § 78m or § 78o(d)], but excluding any portions not available to the public.

§ 864. Supervision and examination.

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

§ 865. Nonexclusivity.

Nothing in this subchapter or any law of this State shall be deemed to prohibit or limit a Delaware savings and loan holding company from making an acquisition that is otherwise permitted by applicable law of the United States and any state.

§ 866. Bank Commissioner cooperative agreements.

The Commissioner may enter into cooperative agreements or joint actions with other regulatory authorities to carry out his responsibilities under this subchapter and to assure

the safety and soundness of any Delaware savings bank and to assure compliance with applicable Delaware banking laws."

Section 33. Amend §908A of Title 5 of the Delaware Code by inserting the word and number "or §1662(b)(1)" after the number "§767(a)" at both places at which that number appears in that section.

Section 34. Amend §§ 909(e), 910(3), 910(4), 929(b), 930(a), 1101(f), 1101(g) and 1109 of Title 5 of the Delaware Code by inserting the word and number "or §1661(a)(14)" after the number "§761(a)(14)" at each place at which that number appears in those sections.

Section 35. Amend Title 5 of the Delaware Code by adding at the end of Part II ("Banks and Trust Companies") thereof a new Chapter 16, as follows:

"Chapter 16

CORPORATION LAW FOR STATE SAVINGS BANKS

Subchapter I. General Provisions

- § 1601. Establishment of savings banks; definition.
- § 1602. Applicability of other laws.
- § 1603. Taxation.
- § 1604. Reserved power of State to amend or repeal this chapter.

Subchapter II. Formation of Savings Bank

- § 1621. Incorporators; number and qualifications.
- § 1622. Articles of association; contents and execution.
- § 1623. Notice of intention to incorporate; publication.
- § 1624. Application for a certificate of public convenience and advantage.
- § 1625. Determination of public convenience.
- § 1626. Organization meeting of incorporators; notice; proceedings.
- § 1627. Articles of organization.
- § 1628. Approval of articles of organization.
- § 1629. Filing of articles of organization.
- § 1630. Certificate of incorporation; issuance, form, recording and evidence.
- § 1631. Commencement of corporate existence.
- § 1632. Commencement of business; certificate authorizing.
- § 1633. Revocation of charter for failure to commence business within reasonable time.
- § 1634. Fees of Secretary of State and Commissioner.

Subchapter III. Conduct of Internal Corporate Affairs

- § 1641. Bylaws, adoption, amendment and repeal.
- § 1642. Directors; number, quorum, term, vacancies and oath.

- § 1643. Stockholders' meetings; time, place, adjournment and quorum.
- § 1644. Voting rights of stockholders.
- § 1645. Capital stock; minimum required.
- § 1646. Par value of stock; payment for and issuance; increase and reduction.
- § 1647. Stockholders' liability.
- § 1648. Dividends.
- § 1649. Meetings of members of nonstock corporations; voting rights; time, place, adjournment and quorum.
- § 1650. Amendment of charter.

Subchapter IV. Powers and Prohibitions

- § 1661. General powers of corporations organized under this chapter.
- § 1662. Limitations on powers and activities of savings banks.
- § 1663. Loans on security of and purchase of its own capital stock.
- § 1664. Conversion of a nonstock savings bank to a stock savings bank.
- § 1665. Reorganization as a mutual holding company.

Subchapter I. General Provisions

§ 1601. Establishment of savings banks; definition.

Savings banks shall be established or created in this State under and in accordance with this chapter. The term 'savings bank' as used in this chapter refers to a corporation organized under this chapter. The provisions of this chapter specifically relating to capital stock or stockholders of a savings bank shall not apply to a savings bank without capital stock.

§ 1602. Applicability of other laws.

Every corporation created under this chapter shall be deemed to be subject to and entitled to the benefit of this Code, including, but not limited to, provisions in Chapter 7 of this title that apply generally to banks, and any other general statutes of this State making provision for the regulation of banks and trust companies, or for the regulation and governance of corporations established under Title 8 of this Code, where the same are not inconsistent with the express provisions of this chapter.

§ 1603. Taxation.

Every corporation created by or under this chapter shall be subject to the same taxation as shall be fixed by the laws of this State for banks and trust companies.

§ 1604. Reserved power of State to amend or repeal this 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.

Subchapter II. Formation of a Savings Bank

§ 1621. Incorporators; number and qualifications.

Three or more persons of lawful age, at least two of whom must be citizens of this State, who associate themselves by a written agreement, hereinafter called 'articles of association,' for the purpose of forming a savings bank may, upon compliance with this chapter, become a corporation, with the powers conferred by this chapter and subject to the regulations prescribed by this chapter and subject also to the regulations prescribed for banks and trust companies by any general statute of this State.

§ 1622. Articles of association; contents and execution.

(a) The articles of association shall set forth that the subscribers thereto associate themselves with the intention of forming a corporation, 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 place of business will be located;

(4) If the corporation is to be authorized to issue capital stock, the amount of its capital stock, and the number of shares into which it is to be divided. If the corporation is not to have authority to issue capital stock, that fact shall be stated in the certificate of incorporation, together with the conditions of membership in the corporation, or the certificate may provide that the conditions of membership shall be stated in the bylaws;

(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 or members, 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 savings banks.

(c) Each incorporator shall subscribe to the articles the incorporator's name, residence, post-office address and the number of shares of stock which the incorporator agrees to take, and shall acknowledge the same to be the incorporator's act and deed before some officer authorized by the laws of this State to take acknowledgments of deeds.

(d) The articles of association may contain an article which provides that any article or provision thereof shall not be amended, modified, repealed or otherwise changed in any manner whatsoever. Such an article, when approved by the Commissioner under § 1628 of this title, shall be valid, binding and enforceable against the corporation and its shareholders or members notwithstanding any other provision of this title.

§ 1623. Notice of intention to incorporate; publication.

Notice of the intention of the incorporators to form a savings bank 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 bank or trust company. The published notice shall specify the names of all the associates, the name of the proposed corporation, the city or town where it is to be located, and the amount of its capital stock.

§ 1624. Application for a 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 incorporators shall apply to the State Bank Commissioner for a certificate that public convenience and advantage will be promoted by the establishment of the savings bank.

§ 1625. Determination of public convenience.

Upon the application for a certificate that public convenience and advantage will be promoted by the establishment of the savings bank, the State Bank Commissioner shall consider and determine whether public convenience and advantage would be promoted by the establishment of the savings bank, and whether the terms and provisions of the articles of association are in compliance with this chapter and shall issue or refuse to issue a certificate in accordance with such determination. 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 incorporators shall hold the first meeting and follow the procedure prescribed by § 1626 of this title.

§ 1626. Organization meeting of incorporators; notice; proceedings.

(a) The first meeting of the incorporators shall be called by a notice signed either by the incorporator who is designated in the articles of association for the purpose, or by a majority of the incorporators. The notice shall state the time, place and purposes of the meeting. A copy of the notice shall, at least 7 days before the day appointed for the meeting, be given to each incorporator, or left at the incorporator's residence or usual place of business, or deposited in the post office, postage prepaid, and addressed to the incorporator at the incorporator's residence or usual place of business, and another copy thereof and an affidavit of 1 of the incorporators that the notice has been duly served shall be filed and recorded with the records of the corporation. If all the incorporators shall in writing, endorsed upon the articles of association, waive such notice and fix the time and place of the meeting, no notice shall be required.

(b) At the first meeting, or at any adjournment thereof, the incorporators shall organize by the choice by ballot of a temporary secretary, by the adoption of bylaws and by the election in such manner as the bylaws may determine, of 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.

§ 1627. Articles of organization.

The president and a majority of the directors elected at the organization meeting of the incorporators shall make, sign and make oath to, a certificate (hereinafter called 'articles of organization') setting forth:

- (1) A true copy of the articles of association;
- (2) The names of the subscribers thereto;
- (3) The name, residence and post-office address of each of the officers of the corporation; and
- (4) The date of the first meeting and the successive adjournments thereof, if any.

§ 1628. Approval of articles of organization.

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.

§ 1629. Filing of articles of organization.

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.

§ 1630. Certificate of incorporation; issuance, form, recording and evidence.

(a) Upon the filing of the articles of organization as required by § 1629 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 names of the incorporators) have associated themselves with the intention of forming 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 or, if the corporation is not to have authority to issue capital stock, that fact shall be stated), and having its place of business in (the city or town where its place of business will be located) and 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 the State of Delaware, do hereby certify that (the names of the incorporators), their associates and successors, are legally organized and established as, and 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 therefor. 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 the 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 the recorder of deeds' hand and the seal of the recorder of deeds' 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.

§ 1631. 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 § 1630 of this title, the persons named in the certificate, 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 § 1632 of this title.

§ 1632. Commencement of business; certificate authorizing.

(a) 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.

(b) (1) If the corporation is to be authorized to issue capital stock, when the whole capital stock has been issued, a list of the stockholders, with the name, residence and post-office address of each, and the number of shares held by each, shall be filed with the State Bank Commissioner, which list shall be certified by the president and the cashier or treasurer of the corporation. Upon receipt of the list the Commissioner shall cause an examination to be made of the method of payment of the capital stock and if, after such examination, it appears that the whole capital stock has been paid in cash, and that all requirements of this Code and any other law have been complied with, the Commissioner shall issue a certificate authorizing the corporation to begin the transaction of business.

(2) If the corporation is not to have authority to issue capital stock, an aggregate minimum dollar amount and number of savings accounts shall be subscribed for and paid in cash, as determined by the Commissioner, which payment shall be certified by the president and the cashier or treasurer of the corporation. Upon receipt of the foregoing certification of payment, the Commissioner shall cause an examination to be made of the subscription and payment of such savings accounts and if, after such examination, it appears that the requisite dollar amount and number of savings accounts have been subscribed for and paid in cash, and that all the requirements of this Code and any other law have been complied with, the Commissioner shall issue a certificate authorizing the corporation to begin the transaction of business.

(c) No corporation shall begin the transaction of business until a certificate has been granted by the Commissioner in accordance with subsection (b) of this section.

§ 1633. Revocation of charter for failure to commence business within reasonable time.

Every corporation created under this chapter shall, after the expiration of a reasonable time from the date of its incorporation, as determined by the State Bank Commissioner, 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. The Commissioner shall by regulations prescribe the criteria to be applied in determining what constitutes a reasonable period of time.

§ 1634. Fees of Secretary of State and Commissioner.

The following fees shall be collected by and paid to the Secretary of State, for the use of the State:

(1) For making and issuing the certificate of incorporation, \$11.50;

(2) For making the certified copy of the articles of association, \$11.50;

(3) 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 association in said office, \$5.75;

(4) For supplying any additional certified copy of the certificate of incorporation or articles of association requested by the corporation, \$5.75.

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

§ 1641. Bylaws, adoption, amendment and repeal.

A corporation 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 meeting of the incorporators, as provided in § 1626 of this title, but thereafter the power to make, alter or repeal bylaws shall be in the stockholders or members of the corporation, provided that any corporation may, in the certificate of incorporation, confer that power upon the directors.

§ 1642. Directors; number, quorum, term, vacancies and oath.

(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 organization meeting of the incorporators, as provided in § 1626 of this title, shall hold office until the succeeding annual meeting of the stockholders or members and until their successors have been duly chosen and qualified, and thereafter directors shall be elected at the annual meeting of the stockholders or members 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 the director's duties.

§ 1643. Stockholders' meetings; time, place, adjournment and quorum.

(a) Meetings of stockholders (except the meeting of incorporators referred to in § 1626 of this title) shall be held 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.

(c) The bylaws may prescribe what number of shares shall be represented at any stockholders' meeting to constitute a quorum, but in the absence of such a provision, any number of shares represented at a stockholders' meeting shall be sufficient for the transaction of business thereat.

§ 1644. 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.

§ 1645. Capital stock; minimum required.

The capital stock of a savings bank organized under this chapter shall be as follows: Not less than \$500,000 if the savings bank is located in a city or town having a population of more than 50,000 persons; not less than \$350,000 if the savings bank is located in a city or town of not more than 50,000 nor less than 5,000 persons; and not less than \$250,000 if the savings bank is located in a town of not more than 5,000 persons; or such greater amount as the Commissioner may require after review of the charter, business plan and proposed activities of the savings bank. In addition to the capital stock required by the foregoing, every corporation organized under this

chapter shall have a paid-in surplus account equal to no less than one-half of the minimum capital stock required by this section. The minimum capital stock and paid-in surplus required to be maintained by such corporation in its savings bank business pursuant to this section may not be utilized to satisfy the capital or reserve requirements to which the corporation may be subject with respect to any activity authorized by § 1661(a)(14) of this title.

§ 1646. Par value of stock; payment for and issuance; increase and reduction.

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. In the case of a reduction, the capital stock shall not be reduced to less than the amount required by § 1645 of this title.

§ 1647. Stockholders' liability.

The private property of the stockholders shall not be subject to the payment of the corporate debts except as otherwise provided in the articles of association.

§ 1648. Dividends.

The directors of a savings bank 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 on common stock 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.

§ 1649. Meetings of members of nonstock corporations; voting rights; time, place, adjournment and quorum.

(a) Unless otherwise provided in the certificate of incorporation of a nonstock corporation, each member shall be entitled at every meeting of members to 1 vote in person or by proxy.

(b) Meetings of members of nonstock corporations (except the meeting of incorporators referred to in § 1626 of this title) shall be held in this State. The bylaws shall fix the time of the annual meeting and may provide for special or called meetings of members.

(c) Any meeting of the members 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.

(d) The bylaws may prescribe what number or participation of members shall be represented at any meeting to constitute a quorum, but in the absence of such a provision, any number or participation of members represented at a meeting shall be sufficient for the transaction of business thereat.

§ 1650. Amendment of charter.

(a) Savings banks organized under this chapter shall amend their certificates of incorporation by and under this section.

(b) Any savings bank may, from time to time, when and as desired, amend its certificate of incorporation relating to the regulation and governance of corporations established under Title 8, where the same are not inconsistent with the express provisions of this chapter, including, but not limited to, addition to its corporate powers and purposes, or diminution thereof, or both (provided such additional corporate power or purpose to be such as is authorized or contemplated under any of the provisions of this chapter); or, if organized as a stock corporation, by increasing or decreasing its authorized capital stock (provided that such increase or decrease be expressly

approved by the State Bank Commissioner, and provided also that the capital stock shall not be reduced below the amount prescribed by § 1645 of this title as capital stock for a corporation organized under this chapter); by changing the number or par value of its shares of stock; or by changing its corporate 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 one 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. In the case of an increase of capital stock, the amendment may provide that the increased stock may in whole or in part be disposed of without being offered to the stockholders, but in no case shall any stock be issued except upon payment in full in cash.

(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. 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 the Commissioner.

Subchapter IV. Powers and Prohibitions

§ 1661. General powers of corporations organized under this chapter.

(a) A corporation established under and in compliance with this chapter shall have power to:

- (1) Sue and be sued, complain and defend in any court of law or equity;
- (2) Make and use a common seal and alter the same at pleasure;
- (3) Hold, purchase, convey, mortgage or lease real and personal property;
- (4) Borrow and lend money;
- (5) Discount bills, promissory notes or other evidences of debt;
- (6) Receive deposits of money either on time or demand;
- (7) Buy and sell gold and silver bullion and foreign money and coin;
- (8) Purchase securities for the investment of the funds under its control and sell the same;
- (9) Take mortgages and obligations of all kinds for payment of money for the investment of funds under its control and sell the same;
- (10) Receive for safekeeping securities and all types of choses in action and all kinds of personal property;
- (11) Keep deposit boxes and rent them to customers or patrons;
- (12) Engage in the sale, distribution and underwriting of, and deal in, stocks, bonds, debentures, notes or other securities;
- (13) Exercise the powers and engage in the activities permissible for such corporations through 1 or more subsidiaries;
- (14) Act as an insurer and transact the business of insurance in accordance with the provisions of Title 18; except that no corporation established under and in compliance with this chapter shall have power to act as a title insurer and transact the business of title insurance;

(15) Act as guarantor or surety for the debt or obligation of another, including specifically but without limitation the rediscounting with recourse of commercial paper and the issuance of letters of credit as defined in § 5-103(1)(a) of Title 6 and standby letters of credit. As used herein, the term 'standby letter of credit' includes every letter of credit (or similar arrangement however named or designated) which represents an obligation to the beneficiary on the part of the issuer to repay money borrowed by or advanced to or for the account of the customer, or to make payment on account of any evidence of indebtedness undertaken by the customer, or to make payment on account of any default by the customer in performance of an obligation. The terms 'beneficiary,' 'issuer' and 'customer' as used herein have the same meaning as in § 5-103(1) of Title 6;

(16) Authorize an affiliated insured depository institution (as those terms are defined in § 796 of this title) to engage in the authorized agency activities provided in § 796A of this title;

(17) Be appointed executor of a will, codicil or writing testamentary, administrator with the will annexed or administrator of the estate of any decedent, receiver, assignee, guardian, conservator or trustee by will or by any written instrument or other act of the parties, or by any court or official, under the same circumstances, in the same manner, and subject to the same control by the court having jurisdiction of the same, as a legally qualified individual;

(18) Act as agent for the purpose of issuing, registering or countersigning the certificates of stock, bonds, or other evidences of indebtedness of a corporation, association, municipal corporation, state or national government, on such terms as may be agreed upon, and also act as trustee for the bondholders of a corporation, and for such purpose may receive transfers of real and personal property upon such terms as may be agreed upon; and

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

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

§ 1662. Limitations on powers and activities of savings banks.

(a) (1) A savings bank shall operate so as to satisfy the Qualified Thrift Lender Test, as provided in Section 10(m) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)), or in accordance with such regulations or orders as may be established or issued by the Commissioner. Such regulations or orders shall be similar in scope and content to the provisions in the Qualified Thrift Lender Test, as provided in Section 10(m) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)), as in effect on January 1, 1997.

(2) The aggregate amount of secured or unsecured loans for commercial, corporate, business or agricultural purposes made by a savings bank may not exceed 20 percent of the total assets of the savings bank, and amounts in excess of 10 percent of such total assets may be used under this subparagraph only for small business loans.

(b) (1) Any savings bank which engages in any activity authorized by § 1661(a)(14) of this title otherwise than through a subsidiary thereof shall engage in each such activity through a department or division which shall maintain financial records separate and distinct from other records of such bank or trust company; provided, that such division may be established and may engage in each such activity only in accordance with the provisions of Title 18.

(2) A savings bank which engages in any activity authorized by § 1661(a)(14) of this title, whether through a department, division or subsidiary, may make loans to and transact other business with such department, division or subsidiary, provided such loan or other transaction is made on terms and under circumstances substantially the same as for comparable transactions with or involving other customers, or, in the absence of comparable transactions, upon terms and under circumstances that in good faith would be offered to or would apply to other customers.

(3) No department, division or subsidiary of a savings bank which engages in any activity authorized by § 1661(a)(14) of this title shall utilize in any manner or for any purpose the information contained in any insurance contract between a nonaffiliated insurer and the insured which such company has obtained from the insured in connection with any request for an extension of credit.

(4) No savings bank which engages in any activity authorized by § 1661(a)(14) of this title shall, in evaluating any request or application for the extension of credit, discriminate against an applicant on the basis that such applicant is a competitor of such savings bank in any such activity.

(5) Notwithstanding the grant of powers contained in § 1661(a)(14) of this title, § 1661(a)(14) of this title does not permit, and shall not be construed to permit, any savings bank, all or substantially all of the voting shares of which have been acquired by an out-of-state bank holding company or any subsidiary thereof, from being operated in a manner and at a location inconsistent with the requirements of § 803(a)(4) of this title; provided, however, that any savings bank which engages in any activity first authorized by § 1661(a)(14) of this title shall, through any division or subsidiary, be permitted to sell or offer for sale to members of the general public in this State any insurance product, or a product which is otherwise functionally equivalent to such a product, which had, prior to May 30, 1990, been previously sold to the general public in this State by or through any parent, subsidiary or affiliate of such savings bank.

(6) The offer to sell or the sale of any insurance product authorized to be sold under this section or § 1661(a)(14) shall be made only by those individuals who are validly licensed as insurance agents or brokers in the State or other jurisdiction in which the sale of insurance is offered or consummated. The offer to sell insurance products shall include, but not be limited to, solicitation by mail, telephone, electronic or print media, and by personal contact. Violation of this subsection shall subject the violator and the employer of the violator to the penalties prescribed in Title 18 for solicitation or sale of insurance and the receipt or payment of commissions to unauthorized persons, if the violation occurred in this State. The State Bank Commissioner and the Insurance Commissioner shall be charged to advise regulators in other states or jurisdictions when it is discovered that such violations have occurred in such other state or jurisdiction.

§ 1663. Loans on security of and purchase of its own capital stock.

No corporation established under this chapter shall directly or indirectly make a loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith. The stock so purchased or acquired shall, within 6 months after its purchase or acquisition, be sold or disposed of at public or private sale.

§ 1664. Conversion of a nonstock savings bank to a stock savings bank.

Subject to the approval of the Commissioner, a savings bank may convert from a nonstock to a stock form of organization in accordance with such regulations, orders or procedures as may be established or issued by the Commissioner. Such 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 the nonstock savings bank applies to the 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 Commissioner determines that the proposed conversion would pose a risk to the savings bank's safety and soundness, violate any law or regulation, or present a breach of fiduciary duty.

§ 1665. Reorganization as a mutual holding company.

Subject to the approval of the State Bank Commissioner, a nonstock savings bank 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 Commissioner. Any regulations, orders and procedures established or issued by the 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 the nonstock savings bank applies to the Commissioner for approval of the proposed holding company reorganization; provided that the Commissioner may exempt the savings 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 nonstock savings 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 Commissioner determines that the proposed formation of the mutual holding company would pose a risk to the savings bank'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 the mutual holding company shall be conducted in accordance with the requirements and procedures for a mutual-to-stock conversion of a savings bank as prescribed by § 1664 of this title."

Section 36. 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 37. This Act shall be effective on September 29, 1997.

Approved May 14, 1997

CHAPTER 26

FORMERLY

HOUSE BILL NO. 109

AN ACT TO AMEND CHAPTER 31, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION AND DISCLOSURE OR USE OF INFORMATION.

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

Section 1. Amend §3125(a)(2), Chapter 31, Title 19 of the Delaware Code by adding the words "and unemployment compensation claim information" after the words "wage information" and before the words "with respect to an individual" as they appear therein.

Section 2. Amend §3125(a)(2)b, Chapter 31, Title 19 of the Delaware Code by striking the "." as it appears at the end of this sub-paragraph and in its place inserting the following words "or for the establishment of paternity or the establishment, modification, or enforcement of child support orders pursuant to Section 466(c)(1) of the Social Security Act as amended by Section 325(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996."

Section 3. Amend §3125(a)(2), Chapter 31, Title 19 of the Delaware Code by redesignating sub-paragraph "d" as it appears therein as sub-paragraph "e" and by adding a new sub-paragraph "d" to read as follows:

"d. In accordance with Section 303(c) of the Social Security Act, as amended by Section 313(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, a state or local child support enforcement agency may disclose to an agent of that agency for purposes of establishing and collecting child support obligations from, and locating individuals owing such obligations, the information provided by the Department under this subsection."

Approved May 14, 1997

CHAPTER 27

FORMERLY

HOUSE BILL NO. 110

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING
TO UNEMPLOYMENT COMPENSATION AND RECOUPMENT OF
OVERPAYMENTS.

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

Section 1. Amend § 3325, Chapter 33, Title 19 of the Delaware Code by striking the last sentence in its entirety as it appears therein and in its place inserting the following:

"No action shall be taken by the Department to collect an overpayment of benefits to any person after a period of 5 years from the end of the benefit year, as defined in Section 3302(3) of this Title, with respect to which such benefits were paid, unless during this 5 year period, the Department has brought a civil action in a court of competent jurisdiction against the claimant. Any payment on account by a claimant on an overpayment, by any means, except the offset of subsequently awarded benefits, by the Department shall be credited against the outstanding indebtedness of the claimant in the following manner; First, interest on fraud overpayments; Second, principal on fraud overpayments in oldest to newest outstanding indebtedness order; Third, principal on non-fraud overpayments in oldest to newest outstanding indebtedness order; and, Fourth, court costs. Any collection of an overpayment by the offset of subsequently awarded benefits by the Department shall be credited only against the principal of the outstanding indebtedness of the claimant in accordance with Section 303(a)(5) of the Social Security Act and Section 3304(a)(4) of the Federal Unemployment Tax Act. Such offsets shall be credited first to fraud overpayment principal and second to non-fraud overpayment principal in oldest to newest outstanding indebtedness order."

Approved May 14, 1997

CHAPTER 28

FORMERLY

HOUSE BILL NO. 111

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION AND UNCOLLECTED OVERISSUANCE OF FOOD STAMP COUPONS.

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

Section 1. Amend §3313, Chapter 33, Title 19 of the Delaware Code by adding a new subsection "(O)" to read as follows:

"(O)(1). An individual filing a new claim for unemployment compensation shall, at the time of filing such claims, disclose whether or not he or she owes an uncollected overissuance (as defined in Section 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons. The Department shall notify the state food stamp agency enforcing such obligation of any individual who discloses that he or she owes a food stamp coupon obligation and who is determined to be eligible for unemployment compensation.

(2) The Department shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance of food stamp coupons:

(a) The amount specified by the individual to the Department to be deducted and withheld under this paragraph, if neither subparagraphs (b) nor (c) of this paragraph is applicable;

(b) The amount (if any) determined pursuant to an agreement submitted to the Department by the state food stamp agency under Section 13(c)(3)(A) of the Food Stamp Act of 1977, unless subparagraph (c) of this paragraph is applicable; or

(c) Any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to Section 13(c)(3)(B) of the Food Stamp Act of 1977.

(3) Any amount deducted and withheld under paragraph (2) of this subsection shall be paid by the Department to the appropriate state food stamp agency.

(4) Any amount deducted and withheld under paragraph (2) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state food stamp agency as repayment of the individual's uncollected overissuance of food stamp coupons.

(5) For purposes of paragraph (1) through (4) of this subsection, the term 'unemployment compensation' means any compensation payable under this Act including amounts payable by the Department pursuant to an agreement under any Federal law providing for compensation, assistance, or allowances with respect to unemployment.

(6) This subsection applies only if arrangements have been made for reimbursement by the state food stamp agency for the administrative costs incurred by the Department under this subsection which are attributable to the repayment of uncollected overissuance of food stamp coupons to the state food stamp agency.

(7) The term 'state food stamp agency' as used in these provisions means any agency described in Section 3(n)(1) of the Food Stamp Act of 1977 which administers the food stamp program established under such Act."

Approved May 14, 1997

CHAPTER 29

FORMERLY

HOUSE BILL NO. 12

AN ACT TO AMEND TITLE 10, OF THE DELAWARE CODE RELATING TO CONCURRENT JURISDICTION IN JUSTICE OF THE PEACE COURTS FOR VIOLATIONS OF MUNICIPAL JUVENILE CURFEW 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. Amend §922, Title 10 of the Delaware Code by redesignating the existing subsection "(c)" as "(d)" and adding a new subsection "(c)" to read as follows:

"(c) The Court shall have concurrent criminal jurisdiction with the Justice of the Peace Courts in all proceedings concerning alleged curfew violations pursuant to any municipal ordinance."

Section 2. Amend §922(a), Title 10 of the Delaware Code by striking the reference to subsections "(b) and (c)" in the first sentence of subsection (a) and by inserting in lieu thereof "(b), (c), and (d)".

Approved May 14, 1997

CHAPTER 30

FORMERLY

HOUSE BILL NO. 10

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE IV, SECTION 26 OF THE DELAWARE CONSTITUTION OF 1897, AS AMENDED, RELATING TO THE POWERS AND DUTIES OF THE PROTHONOTARY AND THE ENTRY OF TESTATUM FIERI FACIAS.

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

Section 1. Amend Article IV, Section 26 of the Delaware Constitution of 1897, as amended, by adding the following sentence at the end of the section:

"This section shall not be interpreted to prevent the transfer of a judgment from any court of one county to the Superior Court of another county pursuant to legislation enacted by the General Assembly, nor shall it be construed to require the issuance or entry into the record of a testatum fieri facias when a judgment is transferred from a court of one county to the Superior Court of another county pursuant to legislation enacted by the General Assembly."

WHEREAS, the said proposed amendment was adopted by two-thirds of all members elected to each House of the 138th General Assembly:

NOW, THEREFORE:

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

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

Effective May 6, 1997

CHAPTER 31

FORMERLY

SENATE BILL NO. 17
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO DENTISTRY
AND DENTAL HYGIENE

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

Section 1. Amend Subchapter I, Chapter 11, Title 24 of the Delaware Code by striking said Subchapter in its entirety and substituting in lieu thereof the following:

"Subchapter I. Board of Dental Examiners

§1100. Objectives.

The primary objective of the Board of Dental Examiners, 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 and unprofessional practices.

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 licenses or former licensees.

§1101. Board of Dental Examiners; appointments; qualifications; term; vacancies; suspension or removal; unexcused absences; compensation.

(a) There is created a State Board of Dental Examiners 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, 5 of whom shall be dentists licensed under this Chapter and who have been actively practicing dentistry in this State for a period of 5 years immediately preceding appointment to the Board; one member shall be a dental hygienist who has been actively practicing dental hygiene in this State for a period of 5 years immediately preceding appointment to the Board; and 3 public members who shall have been residents of this State for a period of 5 years immediately preceding appointment to the Board. The public members shall not be, nor ever have been, dentists or dental hygienists; nor members of the immediate family of a dentist or dental hygienist; shall not have been employed by a dentist; shall not have a material interest in the providing of goods and services to dentists or dental hygienists; nor have been engaged in an activity directly related to dentistry or dental hygiene. The public members shall be accessible to inquiries, comments and suggestions from the general public. No public member shall have been licensed in any health related field or be licensed to practice law. No person shall be eligible for appointment to the Board who is in any manner connected with or interested in any dental college or the dental department of any college or university or the dental supply business.

(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.

(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 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 dentists or dental hygienists, including the Delaware State Dental Society and the Delaware Dental Hygienists' Association.

(h) The provisions set forth for 'employees' in Chapter 58, Title 29 of the Delaware Code shall apply to all members of 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, in accordance with the policy of the Division of Professional Regulation, 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.

§1102. 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 annually shall elect a 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) When members of the Dental Hygiene Advisory Committee participate in voting on matters listed in §1104(c)(1), (2) and (3) of this Chapter, the Board composition shall be 12 voting members, so that 7 members shall constitute a quorum.

(e) 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.

§1103. Records.

The Division of Professional Regulation shall keep a register of all approved applications for license as a dentist or a dental hygienist, 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.

§1104. Dental Hygiene Advisory Committee.

(a) There is created a State Dental Hygiene Advisory Committee which shall serve the Board on matters pertaining to the policy and practice of dental hygiene.

(b) The Committee shall consist of 3 licensed dental hygienists appointed by the Governor, who are residents of this State, and who have been actively practicing dental hygiene in this State for 2 years immediately preceding appointment to the Committee.

(1) No person shall be eligible for appointment to the Committee who is in any manner connected with or who has an interest in any dental hygiene college or the dental hygiene department of any college or university or any commercial dental enterprise.

(2) Each member shall serve a term of 3 years and remain eligible to participate in proceedings unless and until replaced by the Governor.

(3) All terms shall be staggered so that one new member is added and one member is retired each year.

(4) Persons who are members of the Committee on the effective date of this Act shall complete their terms.

(5) A member of the Committee shall be suspended or removed by the Governor for misfeasance, nonfeasance, malfeasance, misconduct, incompetency or neglect of duty.

(6) No member of the Committee shall hold elective office in any professional association of dental hygienists.

(7) Each member of the Committee shall be reimbursed, according to the policy of the Division of Professional Regulation, for all expenses involved in each meeting, including travel; and in addition, shall receive \$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.

(c) The Committee shall participate with members of the Board in:

(1) Voting on the qualifications of candidates who apply for licensure to practice dental hygiene;

(2) Voting on the composition of the State dental hygiene clinical/practical examination;

(3) Voting on the requirements for renewal of dental hygiene licenses.

§1105. Powers and duties of the Board.

(a) The Board of Dental Examiners 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 administered by the National Board of Dental Examiners to be taken by all persons applying for licensure;

- hygiene;
- (4) Prepare and administer a practical examination in dentistry and dental hygiene;
- (5) Designate a written jurisprudence examination on the Delaware laws pertaining to dentistry to be taken by all persons applying for licensure;
- (6) Provide for the administration of all applicable examinations, including notice and information to applicants.
- (7) Evaluate the credentials of all persons applying for a license to practice dentistry and dental hygiene in order to determine whether such persons meet the qualifications for licensing set forth in this Chapter.
- (8) Grant licenses to and renew licenses of all persons who meet the qualifications for licensure and/or renewal of licenses;
- (9) Establish by rule and regulation continuing education standards required for license renewal for dentists and dental hygienists;
- (10) Evaluate certified records to determine whether an applicant for licensure, who has been previously licensed, certified, or registered in another jurisdiction to practice dentistry or dental hygiene, 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.
- (11) Refer all complaints from licensees and the public concerning licensed dentists and dental hygienists, or concerning practices of the Board or of the profession, to the Division of Professional Regulation for investigation pursuant to §8810 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;
- (12) 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 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 dentist or dental hygienist shall be subject to a disciplinary hearing and, if so, shall conduct such hearing in accordance with this Chapter and the Administrative Procedures Act.
- (13) 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."

Section 2. Members currently serving on the Board of Dental Examiners and the Dental Hygiene Advisory Committee shall continue to serve unless or until replaced by the Governor.

Approved May 15, 1997

CHAPTER 32

FORMERLY

HOUSE BILL NO. 7

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SENTENCING FOR CERTAIN CRIMES.

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

Section 1. Amend § 4204(l), Title 11 of the Delaware Code, by striking the first word thereof, "Whenever", and by inserting in its place new text, to read:

"Except when the court imposes a life sentence or sentence of death, whenever".

Approved May 19, 1997

CHAPTER 33

FORMERLY

HOUSE BILL NO. 8

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE IV, §11(1) OF THE DELAWARE CONSTITUTION OF 1897, AS AMENDED, RELATING TO THE JURISDICTION OF THE DELAWARE SUPREME COURT IN CRIMINAL CASES.

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

Section 1. Amend Article IV, § 11(1) of the Delaware Constitution of 1897, as amended, by adding thereto a new paragraph, said paragraph to be designated as (1)(c), to read as follows:

'(1)(c) Notwithstanding any provisions of this Section to the contrary, to receive appeals from the Superior Court in criminal causes, upon application by the State in all causes in which the Superior Court, or any inferior court an appeal from which lies to the Superior Court, has granted an accused any of the following: a new trial or judgment of acquittal after a verdict, modification of a verdict, arrest of judgment, relief in any post-conviction proceeding or in any action collaterally attacking a criminal judgment, or a new punishment hearing in a capital case after the court has imposed a sentence of death, or any order or judgment declaring any act of the General Assembly, or any portion of any such act, to be unconstitutional under either the Constitution of the United States or the State of Delaware, inoperative or unenforceable, except that no appeal shall lie where otherwise prohibited by the double jeopardy clause of the Constitution of the United States or of this State. Notwithstanding anything in this Article to the contrary, the General Assembly may by statute implement the jurisdiction herein conferred.'"

WHEREAS, the said proposed amendment was adopted by two-thirds of all members elected to each House of the 138th General Assembly:

NOW, THEREFORE:

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

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

Effective May 6, 1997

CHAPTER 34

FORMERLY

HOUSE BILL NO. 74

AN ACT AUTHORIZING THE TRANSFER OF THE FREE PUBLIC LIBRARY OF THE SMYRNA SCHOOL DISTRICT KNOWN AS THE SMYRNA PUBLIC LIBRARY TO THE TOWN OF SMYRNA, PROVIDING THAT THE TOWN OF SMYRNA SHALL ASSUME THE OUTSTANDING OBLIGATIONS OF THE LIBRARY AND THE OBLIGATIONS OF THE SMYRNA SCHOOL DISTRICT AND ITS DISTRICT LIBRARY COMMISSION RELATING TO SUCH LIBRARY UPON THE TRANSFER THEREOF, AS AUTHORIZED BY CHAPTER 71 OF TITLE 14 OF THE DELAWARE CODE.

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

Section 1. The District Library Commission heretofore established to serve the Smyrna School District is authorized to transfer the free public library of the Smyrna School District, known as the Smyrna Public Library, including any real or personal property of the library held by either the District or Commission, to the Town of Smyrna and the Town of Smyrna is authorized to acquire same. The effective date of said transfer shall be July 1, 1997.

Section 2. The said District and Commission have authority to transfer said library, together with its real and personal property, pursuant to Chapter 71 of Title 14 of the Delaware Code.

Section 3. Upon the transfer of such free public library as herein authorized, all the outstanding obligations of such library and all outstanding obligations of the District Library Commission of the Smyrna School District relating to such library or operations thereof shall be assumed by and become the obligation and responsibility of the Town of Smyrna.

Section 4. The District Library Commission of the Smyrna School District shall be reconstituted as the Town of Smyrna Library Advisory Board and shall continue to advise the Town of Smyrna regarding the operation of such Library after its transfer to the Town of Smyrna until the terms of the present members of such Commission shall expire. As each member's term expires, the Mayor shall then appoint a successor with the advice and consent of the Town Council. After its transfer to the Town of Smyrna the Town shall administer and supervise the library as a department of the Town.

Approved May 22, 1997

CHAPTER 35

FORMERLY

HOUSE BILL NO. 103

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE
TRANSFER OF JUDGMENTS FROM THE JUSTICE OF THE PEACE COURTS.

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

Section 1. Amend § 9569(a), Title 10 of the Delaware Code as follows:

(1) Delete subsection "(a)" in its entirety and substitute in lieu thereof the following:

"(a) Judgments entered into the judgment docket in the Justice of the Peace courts shall not constitute a lien upon real estate, but the judgment creditor may file a duly certified transcript of the docket entries of the judgment in the office of the Prothonotary of the Superior Court in any or all of the three counties of the State and the Prothonotary shall enter in his or her judgment docket the names of the parties, the amount of the judgment, the name of the court in which the judgment was recovered, the time from which interest runs, and the amount of the costs, with the true date of filing and entry. The Prothonotary, in his or her discretion, may allow transfer of judgments as provided in this subsection to be accomplished by electronic means."

Section 2. Amend § 9569, Title 10 of the Delaware Code by adding the following subsection (d):

"(d) Once a judgment has been transferred as provided in subsection (a) of this section, the Justice of the Peace Courts shall retain jurisdiction for purposes of all post-judgment proceedings with the exception of execution upon the judgment and/or the sale of real estate."

Approved May 22, 1997

CHAPTER 36

FORMERLY

SENATE BILL NO. 34

AN ACT TO AMEND TITLE 14, DELAWARE CODE RELATING TO MANDATORY
ATTENDANCE REQUIREMENTS FOR PUBLIC SCHOOL STUDENTS.

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

Section 1. Amend §2702(d), Title 14, Delaware Code by striking the words "Each parent" as they appear in the first sentence thereof and substituting in lieu thereof the following:

"If contacted by the school pursuant to §2702c(1) of this title, each parent".

Approved May 22, 1997

CHAPTER 37

FORMERLY

SENATE BILL NO. 63

AN ACT TO AMEND SUBCHAPTER I OF CHAPTER 49 OF TITLE 10 OF THE DELAWARE CODE RELATING TO SUBJECTS OF EXECUTION; EXEMPTIONS.

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

Section 1. Amend Section 4914(b) of Title 10 of the Delaware Code by adding immediately after the word "estate" the phrase ", in addition to the exemptions made in §4915 of this title,".

Section 2. Amend Subchapter I of Chapter 49 of Title 10 of the Delaware Code by adding a new Section 4915 to read as follows:

"§4915. Exemption of retirement plans.

(a) In addition to the exemptions provided in sections 4902 and 4903, there shall be exempt from execution or attachment process, assets held or amounts payable under any retirement plan.

(b) Any amount qualifying as an 'eligible rollover distribution' under section 402 of the Internal Revenue Code of 1986, as amended, or as a 'rollover contribution' under section 408 of the Internal Revenue Code of 1986, as amended, is treated as an exempt amount under subsection (a) for sixty days after the distribution of such amount. Such amount remains exempt from execution or attachment process if contributed to a retirement plan within sixty days of being distributed from a retirement plan.

(c) Any retirement plan described in subsection (a) shall not be exempt from any claims for relief granted pursuant to Title 13, Chapter 5 and/or Chapter 15.

(d) Any retirement plan described in subsection (a) shall not be exempt from the claims of an alternate payee under a qualified domestic relations order. However, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor of the alternate payee. As used in this subsection, the terms 'alternate payee' and 'qualified domestic relations order' have the meaning ascribed to them in section 414(p) of the Internal Revenue Code of 1986, as amended.

(e) A participant or beneficiary of a retirement plan is not prohibited from granting a valid and enforceable security interest in the participant's or beneficiary's interest under the retirement plan to secure a loan to the participant or beneficiary from the plan, and the right to assets held in or to receive payments from the plan is subject to execution and attachment for the satisfaction of the security interest or lien granted by the participant or beneficiary to secure the loan.

(f) 'Retirement plan' means any retirement or profit sharing plan that is qualified under section 401, 403, 408, 409, 414 or 457 of the Internal Revenue Code of 1986, as amended.

(g) This section shall not exempt from execution or attachment any judgment obtained under section 554 of Title 30.

(h) If this section is held invalid or preempted by federal law, in whole or in part, it shall remain in effect to the maximum extent permitted by law."

Section 3. This Act shall become effective on the date of enactment.

Approved May 22, 1997

CHAPTER 38

FORMERLY

HOUSE BILL NO. 113
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE
VIOLENT CRIMES COMPENSATION BOARD.

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

Section 1. Amend Title 29 of the Delaware Code by adding to Section 10004(h) a new subparagraph (7) to read as follows:

"(a) The Violent Crimes Compensation Board may close any meeting to the public where:

(1) The claim to be considered derives from any sexual offense within the Definitions of a crime in §9002 of Title 11.

(2) The claims to be considered derives from any offense by a child as defined in this section unless such child has been deemed amenable to the jurisdiction of a criminal court as to the matter before the Board.

(3) The claim to be considered derives from any matter not yet adjudicated.

(b) The Board shall produce a complete record of any proceedings closed to the public which record may be denied to anyone seeking access for good cause shown".

Approved May 22, 1997

Section 4. Amend §2909, Title 30, Delaware Code, by adding thereto a new subsection (k) to read as follows:

"(k) This Chapter shall not apply to the exchange between or among wholesalers of fungible goods when the goods received by such wholesaler are received by it for the purpose of resale. For purposes of this subsection the term 'fungible' shall refer to goods of which any unit is, by nature or usage of trade, the equivalent of any other like unit. This provision shall not be construed so as to exclude from tax under this chapter the sale, whether at retail or wholesale, of goods received for resale as a result of the exchange. The exemption provided in this section is not applicable to a sale occurring upon the delivery by one exchange partner directly to the customer of the other exchange partner and such delivery shall be treated as made to such customer directly by the other exchange partner and subject to tax, even though such other exchange partner may never have obtained physical possession of such fungible good."

Section 5. The exemption provided by Section 4 of this Act shall be effective for exchanges occurring after December 31, 1996.

Approved May 22, 1997

CHAPTER 40

FORMERLY

HOUSE BILL NO. 210
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 3AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO
RESTRUCTURING THE NEW CASTLE COUNTY GOVERNMENT.

WHEREAS, the County Executive has announced a restructuring of New Castle County government which is intended to make the government more efficient and accessible; and

WHEREAS, to accomplish this restructuring, the County Executive requires limited authority from the General Assembly to implement these proposals.

NOW THEREFORE:

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

Section 1. Amend Chapter 11, Title 9 of the Delaware Code by adding a new Section 1122 which shall read as follows:

"§ 1122. County Executive Limited Restructuring Power.

The County Executive of New Castle County shall have the power to merge, establish and modify departments, offices, or agencies of the County and may prescribe the functions and management systems of all departments, and office of the County subject to approval of County Council in the annual budget ordinance. Action taken by the County Executive and County Council pursuant to the authority granted by this provision shall terminate by July 1, 1998. The authority granted pursuant to this Section shall supersede any conflicting provisions within this title."

Approved May 22, 1997

CHAPTER 41

FORMERLY

HOUSE BILL NO. 155

AN ACT TO AMEND THE CHARTER OF THE TOWN OF MILLSBORO, CHAPTER 457, VOLUME 60, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MILLSBORO", TO CHANGE THE TIME OF THE ANNUAL ORGANIZATIONAL MEETING, TO DELETE TECHNICAL REQUIREMENTS FOR SPECIAL MEETINGS, TO ADD STANDARDS TO THE REQUIREMENTS FOR ALDERMAN, TO REMOVE A MANDATED BOARD OF HEALTH, AUTHORIZE THE TOWN MANAGER ON BEHALF OF THE TOWN COUNCIL TO DIRECT THE POLICE DEPARTMENT, TO REMOVE OUTDATED REFERENCES TO COSTS AND TO CORRECT CERTAIN OUT OF DATE REFERENCES AND TYPOGRAPHICAL ERRORS.

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

Section 1. Amend Subsection (a), Section 9, ORGANIZATION AND ANNUAL MEETING OF COUNCIL, of Chapter 457, Volume 60, Laws of Delaware, as amended, by striking out the phrase "At eight o'clock in the evening, prevailing time," at the beginning of the second sentence and capitalizing the word "At" so that the second sentence shall read as follows:

"At the first regular meeting following the Annual Municipal Election, the Town Council shall meet at the Council Chamber and the newly elected officers shall assume the duties of office being first duly sworn or affirmed to perform their duties with fidelity, as aforesaid."

Section 2. Amend Section 10, REGULAR AND SPECIAL MEETINGS, of Chapter 457, Volume 60, Laws of Delaware, as amended, by striking the last three sentences of said section.

Section 3. Amend Subsection (a), Section 19, ALDERMAN AND ASSISTANT ALDERMAN, of Chapter 457, Volume 60, Laws of Delaware, as amended, by striking the "." and substituting in lieu thereof a ";" at the end of the first sentence and adding to the end thereof the following:

"... such persons shall be members in good standing of the Bar of the State of Delaware and shall meet the standards established for magistrates and Justices of the Peace for the State of Delaware."

Section 4. Amend Subsection (a), Section 22, BOARD OF HEALTH, of Chapter 457, Volume 60, Laws of Delaware, as amended, by striking the first sentence thereof and substituting in lieu thereof the following:

"The Town Council may provide for a Board of Health. If it is established, the Board of Health shall consist of four (4) members, one of whom shall be a practicing physician."

Section 5. Amend Subsection (a), Section 23, POLICE FORCE, of Chapter 457, Volume 60, Laws of Delaware, as amended, by striking from the last sentence the words "Chairman of the Police Committee" and substituting in lieu thereof the words "Town Manager"

Section 6. Amend Subsection (h)(8), Section 28, COLLECTION OF ANNUAL TAXES, Chapter 457, Volume 60, Laws of Delaware, as amended, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(8) In the sale of lands for payment of delinquent taxes, the costs shall be allowed to be deducted from the proceeds of the sale or chargeable against the owner, as

the case may be, including but not limited to charges of the Prothonotary, Town of Millsboro, cost of printing and posting hand bills, the publication of the advertisement of sale in one or more newspapers, the auctioneer's fee and attorney's fees incurred by the Town of Millsboro. The costs of the deed will not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer. The total of any Delaware and municipal transfer tax shall be paid by the purchaser of said lands at the tax sale."

Section 7. Amend Subsection (b)(4), Section 31, STREETS, Chapter 457, Volume 60, Laws of Delaware, as amended, by striking out the words "Farmers Bank of the State of Delaware" and substituting in lieu thereof the following:

"...the banking institution as may be described by the Town Council, which institution shall be licensed in the State of Delaware and insured by the Federal Deposit Insurance Corporation or its successor,"

Section 8. Amend Subsection (b), Section 34, POWER TO BORROW MONEY AND ISSUE BONDS, of Chapter 457, Volume 60, Laws of Delaware, as amended, by striking in the first sentence thereof the word "succeed" as it appears in said sentence and substituting in lieu thereof the word "exceed."

Approved May 22, 1997

CHAPTER 42

FORMERLY

HOUSE BILL NO. 228

AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE REGARDING LICENSES FOR TAPROOMS, HOTELS, RESTAURANTS OR CLUBS, FOOD CONCESSIONAIRES AT HORSE RACETRACKS OR MULTI-PURPOSE SPORT FACILITIES; DINNER THEATER PERFORMANCES; BOWLING ALLEYS; CATERERS; REMOVAL OF PARTIALLY CONSUMED BOTTLES FROM PREMISES.

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

Section 1. Amend Title 4, Delaware Code, Section 512 by adding a new subsection (h) as follows:

“(h) Notwithstanding any provision of this title to the contrary, license holders who operate horse racetracks may permit patrons to bring inside with them alcoholic beverages regulated under this title for their own personal consumption, provided that they have a lawful ticket for admission to the facility and are of the lawful age to consume alcoholic beverages. The license holder may restrict the portions of the facility that patrons may act in accord with this section. The license holder must maintain as current all necessary licenses required pursuant to §554 of this title.”

Approved May 22, 1997

CHAPTER 43

FORMERLY

HOUSE BILL NO. 82
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 AND TITLE 21 OF THE DELAWARE CODE RELATING TO USE OF AUDIOVISUAL DEVICES FOR COURT APPEARANCES AND VIDEOPHONE ASSESSMENTS.

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

Section 1. Amend Chapter 59, Title 11 of the Delaware Code by adding a new Section 5910 as follows:

“§5910. Use of Audiovisual Devices.

Anything else in this or any other chapter or title notwithstanding, those proceedings specified by court rule may be conducted by audiovisual device. Audiovisual monitors shall be situated in the courtroom and at the location where the defendant is physically located so as to provide the public, the court, and the defendant with a view of the proceedings. Such court proceedings may be conducted by a justice of the Peace Court in the same or another county from that in which the defendant is physically located.”

Section 2. Amend §4101, Title 11 of the Delaware Code by adding subsection (d)(3) as follows:

“(3) The courts may expunge the record of any videophone assessment which remains uncollected for a period in excess of 3 years.”

Section 3.

(1) Amend §703, Title 21 by renumbering subsections ‘(d)’, ‘(e)’, and ‘(f)’, as ‘(e)’, ‘(f)’, and ‘(g)’ respectively and adding a new subsection (d) as follows:

(d) Anything else in this or any other chapter or title notwithstanding, those proceedings in the Justice of the Peace Courts specified by court rule may be conducted by audiovisual device. Audiovisual monitors shall be situated in the courtroom and where the defendant is present so as to provide the public, the court, and the defendant with a view of the proceedings. Such proceedings may be conducted by a Justice of the Peace Court in the same or another county from that in which the defendant is physically located.

Approved May 22, 1997

CHAPTER 44

FORMERLY

HOUSE BILL NO. 106

AN ACT TO AMEND CHAPTER 21, TITLE 13 OF THE DELAWARE CODE RELATING TO THE COMPOSITION OF THE DOMESTIC VIOLENCE COORDINATING COUNCIL.

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

Section 1. Amend Section 2102(9), Chapter 21, Title 13 of the Delaware Code, by deleting the current language and substituting in lieu thereof the following:

"A representative of the health care community designated by the Board of Medical Practice;"

Section 2. Amend Section 2102, Chapter 21, Title 13 of the Delaware Code by renumbering current subsections 10 and 11 to become subsections 11 and 12, respectively and by adding a new subsection 10 to read as follows:

"(10) The President Judge of the Superior Court;"

Approved May 22, 1997

CHAPTER 45

FORMERLY

HOUSE BILL NO. 128

AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE CRIMINAL JUSTICE COUNCIL.

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

Section 1. Amend §8701, Title 11, Chapter 87 of the Delaware Code by deleting the number "23" as it appears on the first line of subsection "(b)" and inserting in lieu thereof the number "25".

Section 2. Amend §8701, Title 11, Chapter 87 of the Delaware Code by adding a new subsection "(b)(21)" as follows:

"(21) The Chief Judge of the Court of Common Pleas; and"

Section 3. Amend §8701, Title 11, Delaware Code by deleting the word "and" in §8701(19) and by adding as new §8701(22) the following:

"(22) The Secretary of Public Safety."

Approved May 22, 1997

CHAPTER 46

FORMERLY

HOUSE BILL NO. 9
AS AMENDED BY SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE CRIME
OF NEW HOME CONSTRUCTION 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 Chapter 5 of Title 11 of the Delaware Code by redesignating

§ 917 thereof as § 918 and by adding thereto a new § 917 to read as follows:

"§ 917. New Home Construction Fraud; class C felony, class F felony, class G felony, class A misdemeanor.

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

(1) 'New home construction' means the erection, installation or construction of a dwelling on a fixed foundation on land which is owned or purchased by a home buyer.

(2) A 'dwelling' means a building which is usually occupied by a person lodging therein at night but shall not include a mobile home as defined in 25 Del. C. § 7003(2).

(3) A 'home buyer' means a person who intends to enter into a new home construction contract for himself or herself or on behalf of any person.

(4) A 'new home contractor' means any person who offers or provides new home construction services as a general contractor or a sub-contractor and shall, in addition, include but not be limited to, an architect, engineer or real estate broker or agent.

(5) A 'new home construction contract' is any agreement, whether written or oral, between a new home contractor and a home buyer whereby the new home contractor agrees to provide new home construction services in exchange for a payment of money.

(6) Payment of money means tender of money or other consideration of value by a home buyer, or by any lending institution on behalf of the home buyer to a new home contractor as part of a new home construction contract.

(7) For the purpose of this section, land is 'purchased' by a home buyer when the home buyer acquires it by sale, negotiation, mortgage, pledge, lien, gift or any other transaction creating an interest in the property prior to the formation of the new home construction contract, or if the home buyer is to purchase the land as part of the new home construction contract.

(b) A person is guilty of new home construction fraud who, with the intent specified in § 841 of this Title, enters into a new home construction contract and:

(1) uses or employs any false pretense or false promise as those acts are defined in §§ 843 and 844 of this Title; or

(2) receives payments and intentionally fails to use said payment(s) for the purpose(s) identified in the new home construction contract and/or diverts said

payment(s) to a use or uses other than the erection, installation or construction of the dwelling identified therein; or

(3) receives payment(s) and fails to provide that person's own true name, or provides a false name, address or phone number of the business offering said new home construction services.

(c) For new home construction fraud under this section, it shall be prima facie evidence of the intent specified in § 841 of this title that the new home contractor:

(1) has been previously convicted under this section, 11 Del. C. §916, or 6 Del. C. § 3505 within ten years of the first payment under the new home construction contract in question; or

(2) is currently subject to any administrative order, judgment or injunction under Chapter 25, Title 6 of the Delaware Code relating to new home construction or home improvements (as defined at 11 Del. C. § 917(a)(1)).

(d) New construction fraud is a class A misdemeanor, unless:

(1) the loss to the home buyer is at least \$1,000 but less than \$50,000, in which case it is a class G felony;

(2) the loss to the home buyer is at least \$50,000 but less than \$100,000, in which case it is a class F felony; or

(3) the loss to the home buyer is \$100,000 or more in which case it is a class C felony.

(e) For the purpose of calculating the amount of the loss to the home buyer, the loss shall be deemed to be the lesser of the total of all payments actually made by the home buyer or the cost to the home buyer to complete the new home construction according to the terms of the original new home construction contract whether or not said new home is actually completed."

Section 2. If any provision of this Act, or the application thereof to any person, thing or circumstance 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 May 22, 1997

CHAPTER 47

FORMERLY

HOUSE BILL NO. 119

AN ACT TO AMEND CHAPTER 5 OF TITLE 11 OF THE DELAWARE CODE RELATING
TO THE CRIME OF ROBBERY.

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

Section 1. Amend Section 831 of Title 11 of the Delaware Code by designating the existing language of the statute as subsection (a); and adding a new subsection (b) to read as follows:

“(b) In addition to its ordinary meaning, the phrase ‘in the course of committing theft’ includes any act which occurs in an attempt to commit theft or in immediate flight after the attempt or commission of the theft.

Approved May 22, 1997

CHAPTER 48

FORMERLY

SENATE BILL NO. 62
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 11 AND 101, TITLE 29 DELAWARE CODE, RELATING TO THE REGISTER OF REGULATIONS AND PUBLIC NOTICE OF PROPOSED AND PROMULGATED REGULATIONS.

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

Section 1. Amend §1131, Title 29 Delaware Code by striking the words "to be implemented upon the completion of the requirements of Chapter 101 of this title" as they appear in the fourth sentence of said section.

Section 2. Amend §1132, Title 29 Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§1132. Definitions.

(1) "Agency" means as defined in §10102 of this title.

(2) "Division" means the Division of Research of Legislative Council as established pursuant to this chapter.

(3) "Register of Regulations" means a publication authorized and recognized by law published for public information purposes, providing public notice of changes in agency regulations, whether new, modified or repealed, together with supplemental information as deemed appropriate by the Registrar.

(4) "Registrar" means an employee of the Division charged with the responsibility of compiling, maintaining and publishing the Register of Regulations.

(5) "Regulation" means as defined in §10102 of this title."

Section 3. Amend §1133, Title 29, Delaware Code by rewording said section to read as follows:

"§1133. Register of Regulations.

The Division shall establish, maintain and publish an official Register of Regulations at the Division. The Register of Regulations shall provide public notice of all proposed regulation(s) to be adopted, amended or repealed indexed by agency and subject matter with:

(1) Text of the proposed regulation(s) to be adopted, amended or repealed, nature of the proceedings including a synopsis of the subject, substance, issues and possible terms of the agency action and a reference to the legal authority of the agency to act;

(2) A statement of the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; if at a public hearing, the date, time and place of the hearing;

(3) The place or places where the proposed regulations to be adopted, amended or repealed may be inspected or copied;

(4) The fee or other requirements for obtaining copies of same."

Section 4. Amend §1134, Title 29, Delaware Code by rewording §1134(a)(3) thereof to read as follows:

"§1134(a)(3) Have the authority to make revisions to both proposed and existing regulations that do not alter the sense, meaning or effect of such regulations, including, but not limited to:

- (i) renumbering and rearranging sections or parts of sections;
- (ii) transferring of sections or dividing of sections so as to give to distinct subject matters a separate section number, but without changing the meaning;
- (iii) inserting or changing the wording of headnotes;
- (iv) change reference numbers to agree with renumbered regulations or sections thereof;
- (v) substituting the proper section or regulation number for the terms 'this regulation', 'the preceding section' and the like;
- (vi) striking out figures where they are merely a repetition of written words and vice versa;
- (vii) changing capitalization for the purpose of uniformity;
- (viii) correcting of manifest typographical and grammatical errors; and
- (ix) making any other purely formal or clerical changes in keeping with the purpose of the revision."

Section 5. Amend §1135, Title 29, Delaware Code by striking subsections (a), (b) and (c) thereof.

Section 6. Amend §1135, Title 29, Delaware Code by striking subsection (d) thereof in its entirety and substituting in lieu thereof the following:

"Each agency shall submit to the Division a general description of its organization, its methods of operation, the name, address and telephone number of a contact person or persons that will be responsible for submitting proposed, adopted or regulations to be repealed to the Registrar, and a current copy of existing regulations. The contact person shall have a general working knowledge of the agency's functions, responsibilities and internal procedures and familiarity with the Administrative Procedures Act. The submission shall include a brief statement of the nature and requirements of all rules of practice and the procedure used by the agency to exercise its statutory authority of promulgating regulations."

Section 7. Amend §10101, Title 29, Delaware Code by striking the words "judicial review" as they appear therein and substituting in lieu thereof the words "public comment and judicial review".

Section 8. Amend §10115, Title 29, Delaware Code by rewording said section to read as follows:

"§10115. Notice

(a) Whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the Register of Regulations pursuant to §1134 of this title.

(1) The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal;

(2) The notice shall state the manner in which persons may present their views;
(a) if in writing, of the place to which and the final date by which such views may be

submitted; or (b) if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the Register of Regulations.

(b) If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation a minimum of 20 days prior to such public hearing;

(c) The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings."

Section 9. Amend §10118, Title 29, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§10118. Agency findings, form of regulations.

(a) The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the Register of Regulations.

(b) At the conclusion of all hearings and after receipt within the time allowed of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include:

(1) A brief summary of the evidence and information submitted;

(2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended;

(3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received;

(4) The exact text and citation of such regulation adopted, amended or repealed;

(5) The effective date of the order;

(6) Any other findings or conclusions required by the law under which the agency has authority to act; and

(7) The signatures of at least a quorum of the agency members.

(c) In the event an agency makes substantive changes in the proposal, as a result of the public comments, evidence and information, the agency shall consider the revised proposal as a new proposal subject to the notice requirements of §10115 of this title and all other requirements of this subchapter. If the changes are not substantive, the agency shall not be required to repropose the regulation change. Whether a change constitutes substantive or nonsubstantive matter shall be determined by the agency head.

(d) In the event the proposing agency seeks to withdraw its proposal, the proposing agency shall notify the Registrar in writing that the proposal is being withdrawn and the Registrar shall publish the withdrawal information in the next issue of the Register of Regulations.

(e) The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the Register of Regulations, unless such adoption, amendment or repeal qualifies as an emergency under §10119."

Section 10. Amend §10119, Title 29, Delaware Code by rewording said section to read as follows:

"§10119. Emergency regulations

If an agency determines that an imminent peril to the public health, safety or welfare requires the adoption, amendment or repeal of a regulation with less than the notice required by §10115, the following rules shall apply:

(1) The agency may proceed to act without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable;

(2) The order adopting, amending or repealing a regulation shall state in writing the reasons for the agency's determination that such emergency action is necessary;

(3) The order effecting such action may be effective for a period of not longer than 120 days and may be renewed once for a period not exceeding 60 days;

(4) When such an order is issued without any of the public procedures otherwise required or authorized by this chapter, the agency shall state as part of the order that it will receive, consider and respond to petitions by any interested person for the reconsideration or revision thereof; and

(5) The agency shall submit a copy of the emergency order to the Registrar for publication in the next issue of the Register of Regulations."

Section 11. This Act shall become effective on June 1, 1997.

Section 12. Amend §1134, Title 29 Delaware Code by striking the word "register" wherever it appears therein and substituting in lieu thereof the words "Register of Regulations".

Section 13. Amend §10141, Title 29, Delaware Code by striking the word "adopted" at the end of §10141(d) and substituting in lieu thereof the words "published in the Register of Regulations".

Approved June 4, 1997

CHAPTER 49

FORMERLY

HOUSE BILL NO. 193
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 67, TITLE 16 OF THE DELAWARE CODE RELATING
TO AMBULANCE SERVICE IN THE STATE OF DELAWARE.

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

Section 1. Amend Title 16 of the Delaware Code by adding a new Section 6717 thereto to read as follows:

"§6717. Establishment of State Fire Prevention Commission ambulance service Responsibility and Authority: Ambulance service districts: Operational and administrative requirements: Ambulance service permits.

As the responsible agency for the regulation of ambulance services within the state, the Commission may adopt regulations applicable to ambulance service providers including: Establishment of ambulance service districts, establishment of operational and administrative requirements, and issuing ambulance service permits. The provision of this act shall not pertain to the operation of paramedic service as outlined in Chapter 98 of this title."

Section 2. Amend Section 6708 Chapter 67, Title 16 of the Delaware Code by adding new subsections, designated as subsections (4) and (5), which new subsections shall read as follows:

"(4) 'Ambulance Service District' means a geographical area with boundaries which are typically aligned to fire service districts within the State as identified and certified by State Fire Prevention Commission.

(5) 'Ambulance Service Provider' means an organization or company which has been authorized and permitted to provide ambulance service within the state by the State Fire Prevention Commission."

Approved June 11, 1997

CHAPTER 50

FORMERLY

HOUSE BILL NO. 166
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47, TITLE 16, DELAWARE CODE, RELATING TO
UNIFORM CONTROLLED SUBSTANCES AND ANABOLIC STEROIDS.

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

Section 1. Amend § 4718, Title 16, Delaware Code, by adding a new subsection (1)
which shall read as follows:

"(1) Any anabolic steroid, as listed in subsection (f), which is a combination of
estrogen and anabolic steroid and which is expressly intended for administration to
hormone-deficient women, shall be exempt from the provisions of this Act. If any person
prescribes, dispenses or distributes an anabolic steroid which is a combination of estrogen
and anabolic steroid for use by persons who are not hormone-deficient women, such
person shall be considered to have prescribed, dispensed or distributed an anabolic steroid
within the meaning of this Act."

Approved June 11, 1997

CHAPTER 51

FORMERLY

SENATE BILL NO. 60
AS AMENDED BY SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 RELATING TO PROFESSIONAL ENGINEERS.

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

Section 1. Amend §2823(a), Chapter 28, Title 24 of the Delaware Code by adding the following phrase after the word "power" in the second sentence:

"to require the successful completion of additional training or education courses and/or".

Section 2. Further amend §2823, Chapter 28, Title 24 of the Delaware Code by relettering the current subsections (b) through (d) as (c) through (e) and adding the following new subsection (b):

"(b) When disciplinary action requires the successful completion of additional training or education courses, Council shall determine the conditions of the additional training or education courses on a case-by-case basis, including, but not limited to, the type and number of hours of training or education. All training or education courses shall be related to the engineering profession and must be approved by Council."

Section 3. Amend §2824(d), Chapter 28, Title 24 of the Delaware Code by adding the following phrase after the word "shall" in the first sentence: "require the successful completion of additional training or education courses and/or".

Section 4. Amend §2803(17), Chapter 28, Title 24, Delaware Code, by striking the word "to a corporation or partnership" as the same appears in said paragraph 17.

Section 5. Amend §2821 by redesignating paragraphs (a) through (e) as paragraphs (b) through (f) and by adding a new paragraph (a) to read as follows:

"(a) An engineering corporation or partnership must have a certificate of authorization in order to practice, or offer to practice, engineering as defined in this chapter."

Approved June 11, 1997

CHAPTER 52

FORMERLY

HOUSE BILL NO. 56
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 3

AN ACT TO AMEND CHAPTER 2 OF TITLE 14 OF THE DELAWARE CODE RELATING TO ATTENDANCE WITHIN SCHOOL DISTRICTS.

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

Section 1. Amend § 202, Title 14 of the Delaware Code by adding the following phrase after the existing subsection (e):

"In the event that a person seeks to be considered a resident of a particular school district based on the residence of anyone other than his or her parent(s), in order to be considered a resident of that school district, the prospective student must have either a signed order from a court of appropriate jurisdiction granting custody to, or appointing as his or her guardian the resident with whom he or she is residing or offer suitable documentation, certifying that the child resides within the district by action of the State of Delaware. In addition, an arrangement approved by the district may also satisfy the residency requirement of this subsection. Children under the care or custody of the Department of Services for Children, Youth and Their Families are exempted from the provisions of this subsection. Children in the care or custody of the Department of Services for Children, Youth and Their Families shall attend schools in the district in which they are currently residing, regardless of their parent's place of residence."

Approved June 11, 1997

CHAPTER 53

FORMERLY

HOUSE BILL NO. 170

AN ACT TO AMEND CHAPTER 137, VOLUME 61, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF DELMAR" TO PROVIDE THAT CHARGES IMPOSED FOR GRASS CUTTING AND THE REHABILITATION AND IMPROVEMENT OF HOUSING WITHIN THE TOWN OF DELMAR SHALL BE LIENS AGAINST THE PROPERTIES SO BENEFITED FOR A PERIOD OF 10 YEARS.

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

Section 1. Amend Section 4, Chapter 137, Volume 61, Laws of Delaware, by adding a new subsection, to be designated as Subsection (b), and to read as follows:

"(b) All charges by the Town for public expenditures on private property for grass cutting and for the rehabilitation and improvement of housing within the Town, whether to the exteriors or interiors of such housing, shall constitute a lien, for a period of 10 years, upon the real estate in the Town of Delmar benefited by such grass cutting and housing rehabilitation or improvement expenditures."

Approved June 11, 1997

CHAPTER 54

FORMERLY

HOUSE BILL NO. 174

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 Section 5(A), Chapter 189, Volume 43 of the Laws of Delaware, as amended, by striking the phrase "from one o'clock P.M. until four o'clock P.M.," as it appears therein and by substituting in lieu thereof the phrase "from one o'clock P.M. until eight o'clock P.M.,".

Section 2. Amend Chapter 189, Volume 43 of the Laws of Delaware, as amended by Chapter 128, Volume 54 of the Laws of Delaware, by striking in its entirety Section 1A as enacted by Chapter 128, Volume 54 of the Laws of Delaware.

Section 3. Amend Section 3, Chapter 189, Volume 43 of the Laws of Delaware, as amended, by striking the third sentence of Section 3 as it appears therein and by substituting in lieu thereof the following:

"Compensation may be paid to members of the Town Council as provided by resolution of the Town Council."

Section 4. If any provision of this Act shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Act which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Act are hereby declared to be severable.

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

Approved June 11, 1997

CHAPTER 55

FORMERLY

SENATE BILL NO. 90

AN ACT TO AMEND CHAPTER 282 OF VOLUME 21 OF THE LAWS OF DELAWARE AS AMENDED ENTITLED "AN ACT TO RE-INCORPORATE THE TOWN OF LEIPSIC" BY PROVIDING FOR AN INCREASE IN THE LIMIT OF TAXATION.

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

Section 1. Amend §12 of Chapter 282 of Volume 21 of the Laws of Delaware as amended by striking out the figure "\$5000" therein and inserting in lieu thereof the figure "\$25,000".

Approved June 11, 1997

CHAPTER 56

FORMERLY

SENATE BILL NO. 45

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE IV, SECTION 29 OF THE DELAWARE CONSTITUTION OF 1897, AS AMENDED, RELATING TO THE TERM OF OFFICE OF JUSTICES OF THE PEACE.

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

Section 1. Amend Article IV, Section 29 of the Delaware Constitution of 1897, as amended, by deleting the Section 29 in its entirety and substituting in lieu thereof:

'Section 29. There shall be appointed, as hereinafter provided, such number of persons to the Office of the Justice of the Peace as directed by law, who shall be commissioned as follows:

(a) upon first appointment and confirmation, a Justice of the Peace shall be commissioned for four (4) years:

(b) upon second and subsequent appointments and confirmation, a Justice of the Peace shall be commissioned for six (6) years.'"

WHEREAS, the said proposed amendment was adopted by two-thirds of all members elected to each House of the 138th General Assembly.

NOW THEREFORE:

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

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

Effective June 3, 1997

CHAPTER 57

FORMERLY

SENATE BILL NO. 96
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE REGARDING TRANSFER
OF SALVAGE TITLES.

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

Section 1. Amend §2512, Chapter 25, Title 21 of the Delaware Code by renumbering paragraphs "(b)," "(c)," and "(d)" therein as paragraphs "(c)," "(d)" and "(e)" respectively and by adding thereto a new paragraph "(b)" to read as follows:

"(b) If the owner of any registered or unregistered motor vehicle, for which a title has been issued by the Department, receives a total loss insurance settlement for the vehicle, and chooses to retain ownership of the vehicle as owner retained salvage, the insurance company shall either comply with the requirements in paragraph "(a)" of this section, or require the owner of the vehicle to procure a salvage certificate from the Department prior to paying the total loss insurance settlement."

Section 2. Amend §2512, Title 21 of the Delaware Code by adding a new paragraph (f) to read as follows:

"(f) The record keeping requirements outlined in this section shall be applicable to scrap processors, salvage dealers, junk dealers and insurance companies or their authorized agents. The record keeping requirement, and penalties for failure to maintain such records, shall not apply to individual owners who choose to retain ownership of their total loss vehicle as owner retained salvage."

Approved June 16, 1997

CHAPTER 58

FORMERLY

HOUSE BILL NO. 30
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO HARNESS RACING.

BE IT 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 100, Title 3, Delaware Code, by adding thereto a new section to read as follows:

“§ 10049. Fraudulent Written Statements.

Whoever makes a false written statement which he/she knows to be false or does not know to be true in a written document filed with, registered or recorded in or otherwise a part of the records of the Delaware Harness Racing Commission, the Commission's designee, or a licensee conducting a harness racing meet under this chapter shall be guilty of a class A misdemeanor as defined in Title 11.”

Section 2. Amend Chapter 100, Title 3, Delaware Code, by adding thereto a new section to read as follows:

“§10050. Fraudulent Certificate of Registration or eligibility documents, Class G felony

Notwithstanding the provisions of §10049 of this chapter, whoever makes a false written statement which he/she knows to be false or does not know to be true in a Certificate of Registration issued by the United States Trotting Association, in any application for such a Certificate of Registration, or in any eligibility documents issued by the United States Trotting Association shall be guilty of a class G felony as defined in Title 11.”

Approved June 16, 1997

CHAPTER 59

FORMERLY

HOUSE BILL NO. 90
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 63, TITLE 16, DELAWARE CODE RELATING TO
EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW.

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 63, Title 16 of the Delaware Code by striking §§ 6302 through 6312
in their entirety and substituting new §§ 6302 through 6315 to read as follows:

"§ 6302. Definitions.

For the purposes of this chapter, definitions for the following terms and phrases
shall be as follows:

1) PERSON. - The term 'person' means any individual, trust, firm, joint
stock company, corporation (including a government corporation), partnership,
association, State, municipality, commission, political subdivision of State or
interstate body.

2) FACILITY. - The term 'facility' means all buildings, equipment,
structures and other stationary items that are located on a single site or on
contiguous or adjacent sites and which are owned or operated by the same person
(or by any person which controls, is controlled by, or under common control with,
such person). 'Facility' shall include man-made structures as well as all natural
structures in which chemicals are purposefully placed or removed through human
means such that it functions as a containment structure for human use. For
purposes of emergency release notification, the term includes motor vehicles,
rolling stock, and aircraft.

3) HAZARDOUS CHEMICAL. - The term 'hazardous chemical' means
any hazardous chemical as defined under § 1910.1200(c) of Title 29 of the Code
of Federal Regulations, except that such term does not include the following
substances:

a. Any food, food additive, color additive, drug or cosmetic regulated by
the Food and Drug Administration.

b. Any substance present as a solid in any manufactured item to the extent
exposure to the substance does not occur under normal conditions of use.

c. Any substance to the extent it is used for personal, family, or household
purposes, or is present in the same form and concentration as a product
packaged for distribution and use by the general public.

d. Any substance to the extent it is used in a research laboratory or a
hospital or other medical facility under the direct supervision of a
technically qualified individual.

e. Any substance to the extent it is used in routine agricultural operations
or is a fertilizer held for sale by a retailer to the ultimate customer.

4) PRESENT IN THE SAME FORM AND CONCENTRATION AS A
PRODUCT PACKAGED FOR DISTRIBUTION AND USE BY THE

GENERAL PUBLIC. - This phrase means a substance packaged in a similar manner and present in the same concentration as the substance when packaged for use by the general public, whether or not it is intended for distribution to the general public or used for the same purpose as when it is packaged for use by the general public.

5) EXTREMELY HAZARDOUS SUBSTANCE. - The term 'extremely hazardous substance' means a substance included in the list established under § 6303 of this chapter.

6) MIXTURE. - The term 'mixture' means a heterogeneous association of substances where the various individual substances retain their identities and can usually be separated by mechanical means. Includes solutions or compounds but does not include alloys or amalgams.

7) MOTOR VEHICLE FUEL. - The term 'motor vehicle fuel' means a petroleum or petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasoline, and is typically used in the operation of a motor engine.

8) DEPARTMENT. - The term 'Department' means the Department of Natural Resources and Environmental Control.

9) SECRETARY. - The term 'Secretary' means the Secretary of the Department of Natural Resources and Environmental Control.

10) ADMINISTRATOR. - The term 'Administrator' means the Administrator of the United States Environmental Protection Agency.

11) ENVIRONMENT. - The term 'environment' includes water, air and land and the interrelationship which exists among and between water, air, and land and all living things.

12) RELEASE. - The term 'release' means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous substance, or toxic chemical.

13) TOXIC CHEMICAL. - The term 'toxic chemical' means a substance included on the list established under § 6307 of this chapter.

14) LOCAL EMERGENCY PLANNING COMMITTEE. - The term 'Local Emergency Planning Committee' means the local emergency planning committee appointed by the State Emergency Response Commission.

15) MANUFACTURE. - The term 'manufacture' means to produce, prepare, import, or compound a toxic chemical.

16) PROCESS. - The term 'process' means the preparation of a toxic chemical, after its manufacture, for distribution in commerce:

i) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such chemical, or

ii) as part of an article containing the toxic chemical.

17) SOURCE REDUCTION. - The term 'source reduction' means any practice which -

i) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, energy recovery, treatment, or disposal; and

ii) reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training or inventory control. The term does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

§ 6303. Emergency planning notifications.

(a) A list of Extremely Hazardous Substances shall be established by the Secretary for the purposes of this chapter. In establishing this list, the Secretary shall take into account the toxicity, reactivity, volatility, dispersability, combustibility, or flammability of a substance. For purposes of the preceding sentence, the term "toxicity" shall include any short-term or long-term health effect which may result from a short-term exposure to the substance. These substances will be the primary focus of community emergency planning activities to be conducted by the local emergency planning committees as set forth in 42 USCS § 11003.

(b) The Secretary shall establish Threshold Planning Quantities for each Extremely Hazardous Substance established under paragraph (a) taking into account the criteria described in paragraph (a).

(c) The Secretary may revise the list and thresholds established under paragraphs (a) and (b) from time to time. Any revisions to the list shall take into account the criteria established in paragraph (a).

(d) Any facility having an Extremely Hazardous Substance present at the facility in an amount which equals or exceeds the Threshold Planning Quantity established for such substance shall be subject to the requirements of this section.

(e) Not later than six months after the date of the enactment of this section the owner or operator of each facility subject to the requirements of this section shall notify the Department and the Local Emergency Planning Committee that such facility is subject to the requirements of this section. Thereafter, if a substance on the list of extremely hazardous substances becomes present at such facility in an amount which equals or exceeds the threshold planning quantity established for such substance, or if there is a revision of such list and the facility has present a substance on the revised list in an amount which equals or exceeds the threshold planning quantity established for such substance, the owner or operator of the facility shall notify the Department and the local emergency planning committee within 60 days after such acquisition or revision that such facility is subject to the requirements of this section.

(f) Notification to the Department under paragraph (e) of this section shall serve as notification to the State Emergency Response Commission as set forth under 42 USCS § 11002 (c) and regulations established under that act.

(g) Notification under paragraph (e) of this section must also include identification of a facility representative who will participate in the emergency planning process as a facility emergency coordinator.

(h) The owner or operator of a facility subject to this section shall promptly inform the local emergency planning committee of any relevant changes occurring at such facility as such changes occur or are expected to occur.

(i) Upon request from the local emergency planning committee, the owner or operator of a facility subject to this section shall promptly provide information to such committee necessary for developing and implementing emergency plans.

(j) For purposes of emergency planning, the State Emergency Response Commission or the Secretary may designate additional facilities which shall be subject to the requirements of this section, if such designation is made after public notice and opportunity for comment. The Secretary shall notify the facility concerned of any facility designation under this paragraph.

§ 6304. Emergency release notifications.

(a) Emergency release notification requirements shall be as established under Title 7, Chapter 60, § 6028 of the Delaware Code.

(b) Concerning the requirements for immediate notice to the Community Emergency Coordinator as established under 42 USCS § 11004(b) and regulations established under that act, notification to the 911 emergency dispatch center shall serve as notification of the Community Emergency Coordinator.

(c) Concerning the requirements for immediate notice to the State Emergency Response Commission as established under 42 USCS § 11004(b) and regulations established under that act, notification to the Department shall serve as notification to the State Emergency Response Commission.

(d) Concerning the submission of written followup reports as established under 42 USCS § 11004(c) and regulations established under that act, written followup emergency notices shall be provided to the Department.

§ 6305. Material safety data sheets.

(a) The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act (15 U.S.C. 651 et seq.) or the Delaware Hazardous Chemical Information Act and regulations promulgated under that Act (Title 16, Chapter 24 of the Delaware Code) shall submit a material safety data sheet for each such chemical present at the facility in an amount which equals or exceeds the threshold quantities established under paragraph (c) of this section, or a list of such chemicals, as described in paragraph (d) of this section, to the Department.

(b) Submission to the Department under this section shall serve as submission to the appropriate local emergency planning committee, the State Emergency Response Commission and the fire department with jurisdiction over the facility as set forth under 42 USCS § 11021 and regulations established under that act.

(c) The threshold quantities for the purpose of this section shall be as follows:

(1) For substances identified as hazardous chemicals, except as provided in subparagraphs (c)(2) and (c)(3), the threshold shall be 55 gallons or 500 pounds, whichever is lower.

(2) For substances included in the list of extremely hazardous substances under § 6303 of this chapter, the threshold shall be 55 gallons, 500 pounds, or the Threshold Planning Quantity, whichever is lower.

(3) For a substance used solely for the purpose of heating a building or buildings at a facility, the threshold for that substance at that facility shall be 10,000 pounds.

(4) For the purposes of requests under paragraph (f), the threshold shall be zero.

(d) The list referred to under paragraph (a) shall include each of the following:

(1) A list of the hazardous chemicals for which a material safety data sheet is required under the Occupational Safety and Health Act of 1970 and regulations promulgated under the Act or the Delaware Hazardous Chemical Information Act and regulations promulgated under that Act (Title 16, Chapter 24 of the Delaware Code), grouped in categories of health and physical hazards as set forth under the Occupational Safety and Health Act of 1970 and regulations promulgated under the Act, or in such other categories as the Secretary may prescribe under paragraph (e).

(2) The chemical name or the common name of each such chemical as provided on the material safety data sheet.

(3) Any hazardous component of each such chemical as provided on the material safety data sheet.

(e) For purposes of the list under paragraph (d) of this section, the Secretary may modify the categories of health and physical hazards as set forth under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act by requiring information to be reported in terms of groups of hazardous chemicals which present similar hazards in an emergency.

(f) Upon request by the Local Emergency Planning Committee or the Department, the owner or operator of a facility subject to this section shall submit the material safety data sheet for a chemical to the person making the request.

(g) The initial material safety data sheet or list required under this section shall be submitted before the later of:

(1) 12 months after the date of the enactment of this requirement, or

(2) 3 months after the owner or operator of a facility is required to prepare or have available a material safety data sheet for the chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act or the Delaware Hazardous Chemical Information Act and regulations promulgated under that Act (Title 16, Chapter 24 of the Delaware Code), or

(3) 3 months after a chemical requiring a material safety data sheet becomes present in an amount which equals or exceeds the threshold quantity.

(h) Within 3 months following discovery by an owner or operator of significant new information concerning an aspect of a hazardous chemical for which a material safety data sheet was previously submitted, a revised sheet shall be submitted.

§ 6306. Emergency and hazardous chemical inventory reporting.

(a) The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act or the Delaware Hazardous Chemical Information Act and regulations promulgated under that Act shall prepare and submit an emergency and hazardous chemical inventory form, hereafter in this chapter referred to as an "inventory form", for each such chemical present at the facility in an amount which equals or exceeds the threshold quantities established under paragraph (d) to the Department.

(b) Submission to the Department under this section shall serve as submission to the appropriate local emergency planning committee, the State Emergency Response Commission and the fire department with jurisdiction over the facility as set forth under 42 USCS § 11022 and regulations established under that act.

(c) The inventory form shall be submitted on or before March 1 annually and shall contain data with respect to the preceding calendar year.

(d) The thresholds quantities for the purpose of this section shall be as follows:

(1) For substances identified as hazardous chemicals, except as provided in subparagraphs (d)(2) and (d)(3), the threshold shall be 55 gallons or 500 pounds, whichever is lower.

(2) For substances included in the list of extremely hazardous substances under § 6303 of this chapter, the threshold shall be 55 gallons, 500 pounds, or the Threshold Planning Quantity, whichever is lower.

(3) For a substance used solely for the purpose of heating a building or buildings at a facility, the threshold for that substance at that facility shall be 10,000 pounds.

(4) For the purposes of requests under paragraph (h), the threshold shall be zero.

(e) A hazardous chemical subject to the requirements of this section is any hazardous chemical for which a material safety data sheet or a listing is required under § 6305 of this chapter.

(f) Inventory forms shall contain the following information, as a minimum, for each hazardous chemical present at the facility:

(1) The chemical name or the common name of the chemical as provided on the material safety data sheet.

(2) The categories of health and physical hazards as set forth under the Occupational safety and Health Act of 1970 and regulations promulgated under that Act. The Secretary may modify the categories of health and physical hazards by requiring information to be reported in terms of groups of hazardous chemicals which present similar hazards in an emergency.

(3) An estimate of the maximum amount of the hazardous chemical present at the facility at any time during the preceding calendar year.

(4) An estimate of the average daily amount of the hazardous chemical present at the facility during the preceding calendar year.

(5) A brief description of the manner of storage of the hazardous chemical.

(6) The location at the facility of the hazardous chemical.

(7) An indication of whether the owner elects to withhold location information of a specific hazardous chemical from disclosure to the public under § 6308(h) of this chapter.

(g) With the advice and consent of the State Emergency Response Commission, the Secretary shall publish a uniform format for inventory forms, and may include additional items on the inventory forms as necessary to support the needs of emergency planning and response organizations.

(h) Upon request by the local emergency planning committee, the fire department with jurisdiction over the facility, or the Department, the owner or operator of a facility

subject to this section shall submit the inventory form for a chemical to the person making the request.

§ 6307. Toxic chemical release reporting.

(a) The owner or operator of a facility subject to the requirements of this section shall complete a toxic chemical release form as published under paragraph (k) for each toxic chemical listed under paragraph (e) that was manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold quantity established by paragraph (i) during the preceding calendar year at such facility. Such form shall be submitted to the Department annually on or before July 1 and shall contain data reflecting releases during the preceding calendar year.

(b) The requirements of this section shall apply to owners and operators of facilities that have the equivalent of 10 or more full-time employees and that are in Standard Industrial Classification Codes 20 through 39 (as in effect on July 1, 1985) and that manufactured, processed, or otherwise used a toxic chemical listed under paragraph (e) in excess of the quantity of that toxic chemical established under paragraph (i) during the calendar year for which a release form is required under this section.

(c) The Secretary may add or delete Standard Industrial Classification Codes for purposes of paragraph (b), but only to the extent necessary to provide that each Standard Industrial Code to which this section applies is relevant to the purposes of this section.

(d) The Secretary may apply the requirements of this section to the owners and operators of any particular facility that manufactures, processes, or otherwise uses a toxic chemical listed under paragraph (e) if the Secretary determines that such action is warranted on the basis of toxicity of the toxic chemical, proximity to other facilities that release the toxic chemical or to population centers, the history of releases of such chemical at such facility, or such other factors as the Secretary deems appropriate.

(e) A list of Toxic Chemicals subject to the requirements of this section shall be established by the Secretary.

(f) The Secretary may add or delete a chemical from the list described in paragraph (e) at any time.

(g) Additions. A chemical may be added if the Secretary determines, in his judgment, that there is sufficient evidence to establish any one of the following:

(1) The chemical is known to cause or can reasonably be anticipated to cause significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring, releases.

(2) The chemical is known to cause or can reasonably be anticipated to cause in humans-

(i) cancer or teratogenic effects, or

(ii) serious or irreversible-

(I) reproductive dysfunctions,

(II) neurological disorders,

(III) heritable genetic mutations, or

(IV) other chronic health effects.

(3) The chemical is known to cause or can reasonably be anticipated to cause, because of-

(i) its toxicity,

(ii) its toxicity and persistence in the environment, or

(iii) its toxicity and tendency to bioaccumulate in the environment,

a significant adverse effect on the environment of sufficient seriousness, in the judgment of the Secretary, to warrant reporting under this section. The number of chemicals included on the list described in paragraph (e) on the basis of the preceding sentence may constitute in the aggregate no more than 25 percent of the total number of chemicals on the list.

A determination under this paragraph shall be based on generally accepted scientific principles or laboratory tests, or appropriately designed and conducted epidemiological or other population studies, available to the Secretary.

(h) A chemical may be deleted if the Secretary determines there is not sufficient evidence to establish any of the criteria described in paragraph (g).

(i) The Threshold amounts for purposes of reporting toxic chemicals under this section are as follows:

(1) With respect to a toxic chemical used at a facility, 10,000 pounds of the toxic chemical per year.

(2) With respect to a toxic chemical manufactured or processed at a facility, 25,000 pounds of the toxic chemical per year.

(j) The Secretary may establish a threshold amount for a toxic chemical different from the amount established by paragraph (i). Such revised threshold shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this section. The amounts established under this paragraph may, at the Secretary's discretion, be based on classes of chemicals or categories of facilities.

(k) The Secretary shall publish a uniform toxic chemical release form for facilities covered by this section. If the Secretary does not publish such a form, owners and operators of facilities subject to the requirements of this section shall provide the information required under this section by letter postmarked on or before the date on which the form is due. Such form shall-

(1) provide for the name and location of, and principal business activities at, the facility;

(2) include an appropriate certification, signed by a senior official with management responsibility for the person or persons completing the report, regarding the accuracy and completeness of the report; and

(3) provide for submission of each of the following items of information for each listed toxic chemical known to be present at the facility at or above threshold amounts:

(i) Whether the toxic chemical at the facility is manufactured, processed, or otherwise used, and the general category or categories of use of the chemical.

(ii) An estimate of the maximum amount (in ranges) of the toxic chemical present at the facility at any time during the preceding calendar year.

(iii) For each wastestream, the waste treatment or disposal methods employed, and an estimate of the treatment efficiency typically achieved by such methods for that wastestream.

(iv) The annual quantity of the toxic chemical entering each environmental medium.

(l) Each owner or operator of a facility required to file an annual toxic chemical release form under this section for any toxic chemical shall include with each such annual filing a toxic chemical source reduction and recycling report for the preceding calendar year. The toxic chemical source reduction and recycling report required under this paragraph shall set forth each of the following on a facility-by-facility basis for each toxic chemical:

(1) The quantity of the chemical entering any waste stream (or otherwise released into the environment) prior to recycling, energy recovery, treatment, or disposal during the calendar year for which the report is filed and the percentage change from the previous year. The quantity reported shall not include any amount reported under subparagraph (8). When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made on best engineering judgement.

(2) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calendar year, the percentage change from the previous year, and the process of recycling used.

(3) The amount of the chemical from the facility which is used for energy recovery (at the facility or elsewhere) during such calendar year, the percentage change from the previous year, and the process of energy recovery used.

(4) The source reduction practices used with respect to that chemical during such year at the facility. Such practices shall be reported in accordance with the following categories unless the Secretary finds other categories to be more appropriate.

(i) Equipment, technology, process, or procedure modifications.

(ii) Reformulation or redesign of products.

(iii) Substitution of raw materials.

(iv) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

(5) The amount expected to be reported under subparagraphs (1) and (2) for the two calendar years immediately following the calendar year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported in subparagraphs (1) and (2).

(6) A ratio of production in the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical. In specific industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical.

(7) The techniques which were used to identify source reduction opportunities. Techniques listed should include, but are not limited to, employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction listed under subparagraph (4) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.

(8) The amount of any toxic chemical released into the environment which resulted from a catastrophic event, remedial action, or other one-time event, and is not associated with production processes during the reporting year.

(9) The amount of the chemical from the facility which is treated (at the facility or elsewhere) during such calendar year and the percentage change from the previous year.

(m) The Secretary may require the reporting of additional items of information as necessary to provide a comprehensive review of toxic chemical use, including the flow of toxic materials through a community to a facility; an understanding of the processes, release patterns, and potential exposures within a facility; and an understanding of the final disposition of toxic materials.

(n) To simplify reporting, the Secretary may modify the form established under paragraph (k) of this section to include the items of information established under paragraphs (k), (l) and (m) of this section.

(o) In order to provide the information required under this section, the owner or operator of a facility may use readily available data (including monitoring data) collected pursuant to other provisions of law, or, where such data are not readily available, reasonable estimates of the amounts involved. Nothing in this section requires the monitoring or measurement of the quantities, concentration, or frequency of any toxic chemical released into the environment beyond that monitoring and measurement required under other provisions of law or regulation. In order to assure consistency, the Secretary shall require that data be expressed in common units.

§ 6308. Data collection and management.

(a) The Department is hereby designated as the State agency responsible for the collection and management of all information reported under the requirements established within this chapter.

(b) The Department is hereby authorized to assess reasonable charges for public requests for data collected under this chapter to cover the costs associated with filling such requests.

(c) The State Emergency Response Commission shall oversee the collection and management of information by the Department under paragraph (a) of this section.

(d) The Department may establish procedures for the submission of information under this Chapter by computerized and electronic methods, including but not limited to the submission of information on magnetic media. The submission of information in accordance with such procedures by owners or operators of facilities covered by the requirements of this Chapter shall satisfy the associated requirement to submit the information in a paper format.

(e) The requirements of this chapter are intended to provide information to State and local government organizations to support emergency planning and response activities; to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering; to aid in the development of appropriate regulations, guidelines, and standards; and for other similar purposes. In addition, the reports and information collected under this chapter are to be made available to the public, including citizens of communities surrounding covered facilities, consistent with paragraphs (f), (g) and (h) of this section to promote public participation in identifying, preparing for, and managing chemical risks in the community.

(f) With regard to a hazardous chemical, an extremely hazardous substance, or a toxic chemical, any person required under this chapter to submit information to any other person may withhold from such submittal the specific chemical identity (including the chemical name and other specific identification) providing such person successfully

demonstrates, to the satisfaction of the Secretary and in accordance with regulations prescribed under § 6313, each of the following:

(1) Such person has not disclosed the information to any other person other than a member of a local emergency planning committee, an officer or employee of the United States or a State or local government, an employee of such person, or a person who is bound by a confidentiality agreement, and such person has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures.

(2) The information is not required to be disclosed, or otherwise made available, to the public under any other Federal or State law.

(3) Disclosure of the information is likely to cause substantial harm to the competitive position of such person.

(4) The chemical identity is not readily discoverable through reverse engineering.

(g) Any person withholding information under paragraph (f) of this section must submit to the Secretary the following:

(1) A copy of the relevant submittal.

(2) The information such person believes is entitled to be withheld under paragraph (f) of this section.

(3) A detailed explanation of how such information meets the criteria established under paragraph (f) of this section.

(h) Upon request by an owner or operator of a facility subject to the requirements of § 6306, the location of any specific chemical required to be contained in an inventory form under § 6306 shall be withheld from disclosure.

(i) Any such record, report or information accorded confidential treatment under this section may be disclosed or transmitted to other officers, employees or authorized representatives of Federal, State or local government organizations, including local emergency planning and response organizations, concerned with carrying out this chapter, or when relevant in any proceeding to effectuate the intent of this chapter. Any such record, report or information may also be disclosed or transmitted to health care professionals as necessary for possible emergency medical situations. (j) Any person to whom confidential information is provided under this section shall maintain the confidentiality of the information. Such persons may be required to agree in a written confidentiality agreement that the information will be used for no purpose other than to carry out the intent of this chapter.

§ 6309. Establishment of authority to collect fees.

The Department with advice and consent of the State Emergency Response Commission is hereby authorized to impose on and collect fees from facilities reporting under § 6306 of this chapter.

§ 6310. Reporting fees.

(a) Excluding reports on mixtures, the reporting fees shall be assessed as follows:

A filing fee not to exceed \$40 shall be assessed for each hazardous chemical reported on an inventory form under § 6306 of this title. A filing fee not to exceed \$80 shall be assessed for each extremely hazardous substance reported on an inventory form under § 6306 of this title.

(b) For reports on mixtures, the reporting fees shall be assessed as follows:

A filing fee not to exceed \$40 shall be assessed for each mixture reported on an inventory form under § 6306 of this title containing extremely hazardous substances in a concentration of less than 10 percent by weight. A filing fee not to exceed \$80 shall be assessed for each mixture reported on an inventory form under § 6306 of this title containing extremely hazardous substances in a concentration of 10 percent or more by weight.

(c) The maximum fee collected under this section shall not exceed \$5,000 per year per facility.

(d) Using procedures established by the Department, the owner and/or operator of each facility subject to the fee provisions of this section must calculate the facility reporting fee and submit such fee along with the associated inventory form to the Department on or before the deadline for submission of such form.

§ 6311. Fee collection and management.

(a) The fees herein authorized shall be assessed and collected annually based on information required to be submitted under § 6306 of this title covering the previous calendar year.

(b) The fees herein authorized shall be appropriated to the State Emergency Response Commission through the Department for the purpose of funding the local emergency planning committees and data collection and management activities related thereto.

(c) The Department shall oversee the assessment and collection of the fees herein authorized. These fees shall be placed in a liquid, interest-bearing account to be selected by the Commission.

(d) Fee monies obtained under this chapter shall remain available for the purposes of this chapter and shall not be subject to reversion.

(e) All Local Emergency Planning Committees and state agencies to be funded under this chapter shall submit to the State Emergency Response Commission for review and approval each year a budget worksheet for the next fiscal year.

§ 6312. Exemptions from reporting fee requirements.

(a) Federal, state, county and local government facilities and nonprofit organizations are exempt from the reporting fees under this chapter.

(b) Motor vehicle fuels at facilities which offer such fuels for retail sale shall also be exempt from the reporting fees under this chapter. However, hazardous chemicals or extremely hazardous substances at these facilities other than motor vehicle fuels for retail sale shall not be exempt from the reporting fees.

§ 6313. Regulations.

(a) The Secretary may prescribe such regulations as may be necessary to carry out this chapter.

(b) Regulations prepared by the Secretary under the provisions of this chapter shall be subject to review and approval by the State Emergency Response Commission prior to promulgation.

(c) Concerning the list of Extremely Hazardous Substances and Threshold Planning Quantities established under §6303 and the list of Toxic Chemicals established under §6307, the lists shall be established and maintained consistent with the corresponding lists of chemicals established and maintained by the Administrator under

42 USCS Chapter 116. In establishing regulations under this Chapter, consideration shall be given to maintaining consistency with Federal regulations established by the Administrator under 42 USCS Chapter 116.

(d) With advice and consent of the State Emergency Response Commission, the Secretary may establish additional exemptions or alternate threshold amounts for specific chemical substances or situations of chemical use or storage, provided the reporting burden or the concerns posed by such substances or situations do not justify reporting per the requirements specified in this chapter. With the advice and consent of the State Emergency Response Commission, the Secretary may also establish variances from the reporting requirements and procedures specified within this chapter, provided such variances are intended to promote more efficient implementation and do not unnecessarily jeopardize the purposes of this chapter.

§ 6314. Enforcement; penalties.

(a) Any duly authorized designee of the State Emergency Response Commission or any duly authorized designee of the Secretary of the Department of Natural Resources and Environmental Control may, upon presentation of appropriate credentials at any reasonable time, enter upon any private or public property for the purpose of investigating compliance with or enforcing any requirement or regulation authorized by this chapter, including, but not limited to, the inspecting and copying of any records, reports or information relating to the purposes of this chapter.

(b) Upon any refusal of entry, inspection or copying pursuant to this section, any duly authorized designee of the State Emergency Response Commission or any duly authorized designee of the Secretary of the Department of Natural Resources and Environmental Control may apply for and obtain a warrant to allow such entry, inspection or copying in the manner established by the rules and law of criminal procedure.

(c) In his discretion, the Secretary of the Department of Natural Resources and Environmental Control is hereby authorized to enforce this chapter and impose penalties as follows upon any person for violation of this chapter or any rule or regulation promulgated under this chapter relating thereto:

(1) Administrative penalties may be imposed as outlined in § 6005(b)(3) of Title 7.

(2) Civil penalties, notices of conciliation and orders may be imposed as outlined in § 6005(b)(1), § 6005(b)(2) and § 6005 (b)(3) of Title 7.

(3) Public hearings concerning penalties imposed under subparagraphs (c)(1) and (c)(2) of this section shall be conducted as outlined in § 6006 of Title 7.

(4) Appeals concerning penalties imposed under subparagraphs (c)(1) and (c)(2) of this section shall be conducted as outlined in §§ 6008 and 6009 of Title 7.

(5) Simultaneous violations of the requirements of this chapter or any rule or regulation promulgated under this chapter relating thereto shall be treated as a single violation for each day.

(6) Criminal penalties may be pursued as outlined in § 6013 of Title 7.

(d) In addition to penalties established under paragraph (c) of this section, interest of 1.5% per month may be assessed by the Secretary to firms that fail to remit the correct fee or the fee itself in accordance with the provisions of this chapter or any rule or regulation promulgated under this chapter relating thereto.

(e) Any person found to have violated the requirements of this chapter or any rule or regulation promulgated under this chapter relating thereto, or the reporting fee

requirements of this chapter or any rule or regulation promulgated under this chapter relating thereto, shall be liable for all expenses incurred by the Department of Natural Resources and Environmental Control in abating the violation as detailed in § 6005(c) of Title 7. Moneys collected under this subsection shall be appropriated to the Department of Natural Resources and Environmental Control to cover the costs associated with such activities.

(f) Moneys collected under subsections (c) and (d) of this section shall be placed in a liquid, interest-bearing account to be selected by the Commission.

(g) Moneys collected under subsections (c) and (d) of this section shall be appropriated to the State Emergency Response Commission for the purpose of funding related emergency planning and community right-to-know activities and shall not be subject to reversion.

(h) Nothing in this chapter shall prevent the Department from making efforts to obtain voluntary compliance by way of warning, notice or other educational means; this does not, however, require that such voluntary methods be used before proceeding by way of compulsory enforcement.

(i) Compliance with this chapter shall not constitute a defense for a violation of any other law or regulation of the State.

(j) The Department shall establish a policy for the calculation and assessment of penalties authorized to be imposed under subsection (c) of this section. This policy shall be subject to review and approval by the Commission prior to implementation.

§ 6315. Implementation and reevaluation of reporting fees.

(a) Effective July 1, 1991, the fees herein established shall be assessed at a rate of 66 percent on reports submitted and/or required to have been submitted in 1991 covering the 1990 calendar year.

(b) For the following years beginning with reports submitted under § 6306 of this title in 1992 covering activities during the 1991 calendar year, the fees herein established shall be assessed at a rate of 100 percent on reports submitted or required to have been submitted under § 6306 of this title by March 1 of each year covering the previous calendar year.

(c) At the conclusion of each 2-year period, the fees imposed under this Chapter shall be reevaluated by the State Emergency Response Commission which shall propose to the General Assembly adjustments as necessary to meet current and future needs."

Section 2. 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.

Approved June 16, 1997

CHAPTER 60

FORMERLY

HOUSE BILL NO. 246
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 100, TITLE 16 OF THE DELAWARE CODE RELATING
TO 911; ENHANCED EMERGENCY NUMBER SERVICE.

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

Section 1. Amend Section 10004, Chapter 100, Title 16 of the Delaware Code by adding
a new subsection, designated as subsection (c), which new subsection shall read as follows:

"(c). To the extent of the Commission's authority relative to assignment of 'N11'
telephone numbers, the Commission shall not authorize telegraph corporations, telephone
corporations or any corporation supplying telephone service within the state to:

"a. establish any three digit number with 11 as the last two digits for any
commercial purpose, or

b. establish any three digit number with 11 as the last two digits for public safety
purposes except as recommended by a review committee established by subsection (d).

(d). A committee to review the need for a three digit number for public safety purposes is
hereby established consisting of the following:

1. A representative from the Department of Public Safety appointed by
the Secretary of Public Safety.

2. A representative from the State Fire Prevention Commission appointed
by the Chair of the Commission.

3. A representative from the Delaware Volunteer Fireman's Association
appointed by the President of the Association.

4. A representative from the Delaware State Police appointed by the
Superintendent of State Police.

5. A representative from the Delaware State Police Chief's Council
appointed by the Chairman of the Council.

6. A representative from the Delaware 911 Users Group elected from its
members.

7. A representative appointed by the Governor.

The Committee shall select a chair from its members and review the use of such
numbers upon request. The committee by majority vote shall either approve or disapprove
the request, and shall submit its recommendation to the Commission. The Committee
shall conduct its meetings and hearings in accord with the Freedom of Information Act,
Chapter 100 of Title 29 of the Delaware Code."

Approved June 16, 1997

CHAPTER 61

FORMERLY

HOUSE BILL NO. 151
AS AMENDED BY HOUSE AMENDMENT NO. 1AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO MOTOR
VEHICLE RELATED OFFENSES.

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

Section 1. Amend §6705, Title 21 of the Delaware Code by redesignating existing subsection (g) of §6705 as subsection (h) and inserting the following as the new subsection (g) of §6705.

"No person, unless duly authorized by the Director of the Division of Motor Vehicles or an agent of the Director, shall remove or alter a license/registration plate from any motor vehicle, trailer or semitrailer, or part thereof, or have in possession any motor vehicle, trailer or semitrailer, or part thereof, where the license/registration has been removed without first obtaining permission, in writing from the said Director."

Section 2. Amend §6705, Title 21 of the Delaware Code by adding to the newly designated subsection (h) of §6705 the following sentence:

"In addition to any fine levied for conviction of theft under this section, the defendant shall be ordered to pay restitution to the victim of the theft."

Approved June 16, 1997

CHAPTER 62

FORMERLY

HOUSE BILL NO. 147
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO WEAPON
OFFENSES.

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

Section 1. Amend Chapter 14, Title 11 of the Delaware code by inserting thereto a new section designated as Section 1458, which shall read as follows:

"§ 1458. Removing a firearm from the possession of a law enforcement officer.

(a) A person shall not knowingly or recklessly remove or attempt to remove a firearm, mace, baton, or other deadly weapon from the possession of another person, or deprive the other person of its use if:

(1) the person has knowledge or reason to know that the other person is employed as:

(i) a law enforcement officer including, but not limited to all those defined as 'police officer' in Section 1911(a) of this title, who is authorized by law to make arrests

(ii) a sheriff, deputy sheriff, constable, judicial assistants, court bailiffs or other court security officers or court bailiff

(iii) an employee of the Department of Correction, the Division of Parole and Probation or the Department of Youth Rehabilitative Services, and

(iv) special investigators and state detectives with the Delaware Department of Justice, Office of the Attorney General; and

(v) armored car guards licensed pursuant to Title 24, Delaware Code, Sections 1317 or 1320; and

(2) the other person is lawfully acting within the course and scope of his or her employment.

(b) A person who violates this section is guilty of a Class C felony."

Approved June 16, 1997

CHAPTER 63

FORMERLY

HOUSE BILL NO. 138

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

AN ACT TO AMEND CHAPTER 47, TITLE 16 OF THE DELAWARE CODE RELATING
TO DRUG PARAPHERNALIA.

BE 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 Subsection 4795(a), Title 16 of the Delaware Code by placing a period
after the word "older" as it appears in that subsection and striking the rest of that subsection.

Section 3. Amend Section 4795, Title 16 of the Delaware Code by redesignating current
subsection "(b)" as subsection "(c)" and adding a new subsection "(b)" thereto to read as follows:

"(b) The provisions of subsection (a) of this section or any other law to
the contrary notwithstanding, the Court of Common Pleas shall have original jurisdiction
over any violation of:

- (1) subsection (b) of § 4754 of this title;
- (2) subsection (c) of § 4757 of this title; and
- (3) § 4771 of this title,

by persons 18 years of age or older, except that the Municipal Court of the City of
Wilmington shall have original jurisdiction concurrent with the Court of Common Pleas
for such violations by persons 18 years of age or older occurring within the City of
Wilmington."

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 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.

Approved June 16, 1997

CHAPTER 64

FORMERLY

HOUSE BILL NO. 214

AN ACT TO AMEND CHAPTER 158, VOLUME 36, LAWS OF DELAWARE AS AMENDED, BEING THE CHARTER OF THE CITY OF DOVER, RELATING TO SALARY, EMOLUMENTS AND REIMBURSEMENT OF EXPENSES TO THE MAYOR, COUNCIL, AND OTHER ELECTED OR APPOINTED OFFICIALS.

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

Section 1. Amend Section 12, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 28, Volume 65, Laws of Delaware, by striking the present Section 12 in its entirety and substituting in lieu thereof a new Section 12 to read as follows:

"Section 12. Compensation and Expenses -- Mayor and Council and Other Elected or Appointed Officials.

The Council shall determine the annual salary and emoluments of the Mayor and Council and other elected or appointed officials by ordinance. Members of the Council, the Mayor and other elected or appointed officials shall receive reimbursement for actual and necessary expenses incurred when on official business as prescribed by City ordinance or policy."

Approved June 16, 1997

CHAPTER 65

FORMERLY

SENATE BILL NO. 83

AN ACT TO AMEND 69 LAWS OF DELAWARE, CHAPTER 463 RELATING TO INSURANCE FRAUD.

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

Section 1. Amend 69 Laws of Delaware, Chapter 463 by striking Section 2 thereof in its entirety.

Approved June 16, 1997

CHAPTER 66

FORMERLY

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

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE TO PROVIDE THAT APPEALS FROM CONVICTIONS UNDER TITLE 21 OR OTHER MOTOR VEHICLE VIOLATIONS BE HEARD IN THE COURT OF COMMON PLEAS.

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

Section 1. Amend subsection (a), § 708, Title 21 of the Delaware Code by striking the words "Superior Court" as they appear in the first sentence and substituting in lieu thereof the words "Court of Common Pleas".

Section 2. This amendment to § 708, Title 21 of the Delaware Code shall take effect on September 1, 1997 and shall apply to all appeals filed on or after that date. Appeals pursuant to § 708(a) pending as of that date shall remain the jurisdiction of the Superior Court. Appeals pursuant to § 708(b) pending as of that date shall remain in the jurisdiction of the Court of Common Pleas.

Approved June 16, 1997

CHAPTER 67

FORMERLY

SENATE BILL NO. 157

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. Lori Lynn Minnich and Kerry William Wareham are hereby exempted from the provisions of Del.C. §106(a) which designates who may solemnize marriages, and that the Honorable Robert T. Strong, Mayor of the Village of Port Jefferson, New York, is hereby authorized to solemnize the marriage between Lori Lynn Minnich and Kerry William Wareham on June 21, 1997 in the City of New Castle, County of New Castle, State of Delaware. The Clerk of the Peace for the County of New Castle shall issue to Lori Lynn Minnich and Kerry William Wareham one official marriage license pursuant to this Act, the provisions of the 13 Del.C. §106 to the contrary notwithstanding.

Approved June 17, 1997

CHAPTER 68

FORMERLY

SENATE BILL NO. 150

AN ACT WAIVING THE STATUTORY PROVISIONS OF §107(a) OF CHAPTER 1, TITLE 13, DELAWARE CODE, AS IT RELATES TO THE MARRIAGE OF STEVEN SHELTON AND STEPHANIE CAMPBELL, NON-RESIDENTS OF THE STATE OF DELAWARE.

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

WHEREAS, Steven Shelton of Collierville, Tennessee wishes to marry Stephanie Campbell of Commercial Point, Ohio, both of whom are non-residents of the State of Delaware; and

WHEREAS, the bride and groom would like to be married in the First State at the Limestone Presbyterian Church on Saturday, August 16, 1997; and

WHEREAS, because of working circumstances of both parties, it is extremely 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 and to utilize the license within 30 days of acquiring it

NOW, THEREFORE:

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

Section 1. Steven Shelton of Collierville, Tennessee and Stephanie Campbell of Commercial Point, Ohio are hereby exempted from the provisions of §107(a), Chapter 1, Title 13, Delaware Code, and are specifically authorized to marry on August 16, 1997; the Clerk of the Peace of New Castle County shall issue to Steven Shelton and Stephanie Campbell 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 17, 1997

CHAPTER 69

FORMERLY

HOUSE BILL NO. 224
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 463, VOLUME 69, LAWS OF DELAWARE, AS AMENDED BY SECTION 81, CHAPTER 118, VOLUME 70 LAWS OF DELAWARE AND TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE FRAUD PREVENTION BUREAU OF THE OFFICE OF THE INSURANCE COMMISSIONER.

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

Section 1. Amend Chapter 463, Volume 69 Laws of Delaware as amended by

§ 81, Chapter 118, Volume 70, Laws of Delaware by striking "Section 4. Assessments" in its entirety.

Section 2. Amend Chapter 24, Title 18 of the Delaware Code by adding a new section to read as follows:

"§ 2415. Funding.

The costs of administration and operation of the Delaware Insurance Fraud Prevention Bureau shall be borne by all of the insurance companies admitted or authorized to transact the business of insurance in this State. The Commissioner shall assess \$550 annually against each insurance company to provide the funds necessary for the operation of the Bureau."

Approved June 17, 1997

CHAPTER 70

FORMERLY

SENATE BILL NO. 126

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO HIGHER
EDUCATION INCENTIVES FOR STUDENT ACHIEVEMENT.

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

Section 1. Amend §3404(d), Title 14, Delaware Code, by inserting the following sentence after the first sentence:

"Performance in the Delaware State Testing Program shall be considered as a factor in determining academic merit for the purposes of awarding this scholarship. The Higher Education Commission, after consulting with the Secretary of Education, shall consider alternative measures of student performance in the core academic subjects covered by the Delaware State Testing Program for non-public school students who apply for this scholarship; provided, however, that such measures shall be determined by the Commission to be equally rigorous, valid, and reliable measures of student achievement and further provided that non-public schools are encouraged to administer the Delaware State Testing Program to their students who desire state financial aid assistance."

Section 2. Amend §3482(d), Title 14, Delaware Code, by inserting the following sentence after the first sentence:

"Performance in the Delaware State Testing Program shall be considered as a factor in determining academic achievement for the purpose of awarding this scholarship. The Higher Education Commission, after consulting with the Secretary of Education, shall consider alternative measures of student performance in the core academic subjects covered by the Delaware State Testing Program for non-public school students who apply for this scholarship; provided, however, that such measures shall be determined by the Commission to be equally rigorous, valid, and reliable measures of student achievement and further provided that non-public schools are encouraged to administer the Delaware State Testing Program to their students who desire state financial aid assistance."

Section 3. Amend §3443(d), Title 14, Delaware Code, by inserting the following sentence after the first sentence:

"Performance in the Delaware State Testing Program shall be considered as a factor in determining academic achievement for the purpose of awarding this scholarship.

The Higher Education Commission, after consulting with the Secretary of Education, shall consider alternative measures of student performance in the core academic subjects covered by the Delaware State Testing Program for non-public school students who apply for this scholarship; provided, however, that such measures shall be determined by the Commission to be equally rigorous, valid, and reliable measures of student achievement and further provided that non-public schools are encouraged to administer the Delaware State Testing Program to their students who desire state financial aid assistance."

Section 4. This Act shall become effective when results of the Delaware State Testing Program are available for consideration by the Higher Education Commission in awarding scholarships.

Approved June 24, 1997

CHAPTER 71

FORMERLY

HOUSE BILL NO. 245

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE
CREATION OF THE DELAWARE QUALIFIED TUITION SAVINGS PROGRAM.BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DELAWARE:

Section 1. Amend Chapter 34, Title 14, Delaware Code by adding thereto a new subchapter X to be known as the Delaware Qualified Tuition Savings Program and to read as follows:

"Subchapter X. Delaware Qualified Tuition Savings Program.

§3483. Purpose.

It is the intent and purpose of the General Assembly through this subchapter to establish the Delaware Qualified Tuition Savings Program pursuant to Section 529 of Title 26 of the United States Code, or successor section and to create the Delaware Qualified Tuition Savings Board to implement and maintain the program through the adoption of rules and regulations for the administration of the program.

§ 3484. Administration, Authority.

(a) This subchapter shall be administered by the Delaware Qualified Tuition Savings Board, hereinafter referred to as the board. The State Pension Office and Higher Education Commission shall provide assistance to the board in the administration of the program as directed by the board chairperson.

(b) The board shall be composed of the following:

(1) The Chairperson of the Board of Pension Trustees, who shall serve as the board chairperson;

(2) The Secretary of Finance;

(3) The Chairperson of the Higher Education Commission; and

(4) Two public members, who by reason of their education and experience are qualified to serve, appointed by the Governor.

(c) The board shall adopt such rules and regulations as it deems necessary and proper to administer this subchapter and to ensure the program's compliance with Section 529 of Title 26 of the United States Code, or successor section.

(d) The board shall publish an annual report to the Governor and General Assembly detailing its activities on or before September 30 of each year.

(e) The terms of the public members shall be staggered. The first appointed public member shall serve for a term of 1 year and the second appointed public member shall serve for a term of 2 years. Thereafter, public members shall serve for a term of 3 years. Public members shall be eligible for reappointment.

§ 3485. Definitions. As used in this subchapter:

(a) 'Account' means an individual trust account or savings account established in accordance with this subchapter.

(b) 'Account Owner' means the individual or individuals other than the designated beneficiary identified at the time the account is opened as having the right to withdraw funds from the account.

(c) 'Designated Beneficiary' means, except as provided in Section 3490 of this subchapter, the individual designated at the time the account is opened as having the right to receive a qualified withdrawal for the payment of qualified higher education expenses, or if such designated beneficiary is replaced in accordance with Section 3490 of this subsection, such replacement.

(d) 'Financial Institution' means a bank, a commercial bank, a national bank, a savings bank, a savings and loan, a thrift institution, a credit union, an insurance company, a trust company, a mutual fund, an investment firm, or other similar entity authorized to do business in this State.

(e) 'Higher Education Institution' means an eligible education institution as defined in Section 135(c)(3) of Title 26 of the United States Code.

(f) 'Member of the Family' shall have the same meaning as contained in Section 529(e) of Title 26 of the United States Code, or successor section.

(g) 'Nonqualified Withdrawal' means a withdrawal from an account that is not:

(1) a qualified withdrawal; or

(2) a withdrawal made as the result of the death or disability of the designated beneficiary; or

(3) a withdrawal made as the result of a scholarship (or allowance or payment described in section 135(d)(1)(B) or (C) of Title 26 of the United States Code) received by the designated beneficiary, but only to the extent of the amount of such scholarship, allowance, or payment; or

(4) a rollover or change in the designated beneficiary described in Section 3490 of this subchapter.

(h) 'Program' means the Delaware Qualified Tuition Savings Program established by this Act.

(i) 'Qualified Higher Education Expenses' means tuition and other permitted expenses as presently set forth in Section 529(e) of Title 26 of the United States Code, or as hereafter permitted by such successor or amended section, for the enrollment or attendance of a designated beneficiary at a higher education institution.

(j) "Qualified Withdrawal" means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary, but only if the withdrawal is made in accordance with the requirements of the program.

§ 3486. Powers Of The Board.

The board shall have the following powers, duties, and functions:

(1) To establish, develop, implement, and maintain the program in a manner consistent with the provisions of this subchapter and Section 529 of Title 26 of the United States Code, or such successor section, to obtain the benefits provided by such section for the program and its participants;

(2) To adopt rules and regulations for the general administration of the program;

(3) To maintain, invest, and reinvest the funds contributed into the program consistent with the investment restrictions established by the board. The investment restrictions shall be consistent with the objectives of the program and the board shall exercise the judgment and care then prevailing which men and women of prudence, discretion and intelligence exercise in the management of their own affairs with due regard to the probable income and level of risk from investments of money belonging to the State in accordance with the policies established by the board. The board may consult with the Investment Subcommittee of the Board of Pension Trustees in the development of investment alternatives.

(4) To make and enter into any and all contracts, agreements, or arrangements, and to retain, employ and contract for the services of private and public financial institutions, depositories, consultants, investment advisors or managers, third party plan administrators, research and technical and other services, necessary or desirable for carrying out the purposes of this subchapter.

§ 3487. The Program.

(1) An account owner may establish an account by making an initial contribution to the program in the name of the designated beneficiary. At the time of the initial contribution, either the account owner or designated beneficiary must be a resident of the State as defined by the board. Once a contribution is made it becomes part of the program and subject to the provisions of this subchapter.

(2) Any person may make a contribution to an account once an account is opened.

(3) Contributions to an account shall be made only in cash.

(4) Total contributions to all accounts shall not exceed those reasonably necessary, considering the return on contributions, the age and circumstances of the designated beneficiary, to provide for the qualified higher education expenses of the beneficiary. The board shall establish maximum contribution limits applicable to program accounts and shall require such information from the account owner and the designated beneficiary to establish the limit as it relates to such account.

(5) Separate records and accounting shall be required by the program for each account and reports shall be made no less frequently than annually to the account owner and the designated beneficiary.

(6) The program shall be permitted to collect application, account, or administrative fees to defray the costs of the program. The application, account or administrative fees must be approved by the board.

§ 3488. Investment Direction.

(1) Except as permitted in Section 529 of Title 26 of the United States Code and regulations thereunder, no person shall have the right to direct the investment of any contributions to or earnings from the program.

(2) Neither the program, the board and each of its members, nor the State shall insure any account or guarantee any rate of return, or any interest rate on any contribution; nor shall they or any one of them be liable for any loss incurred by any person as a result of participating in the program.

(3) The board and each of its members shall be entitled to the immunities set forth in chapter 40, title 10 of this code, and in addition, no member of the board shall be liable for any act or omission made during his tenure on the board, or for any loss incurred by any person as a result of the participation by any board member in the program. Further, the State shall indemnify each board member who is a party to, or is threatened to be made a party to, any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, arising by reason of

such member's participation in the program, against any expenses (including attorney's fees if the Attorney General shall determine that such board member is not entitled to representation by the State), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in the best interest of the State, and with respect to any criminal action or proceeding, so long as he or she had no reasonable cause to believe that his or her conduct was unlawful. Any expenses incurred by such board member in defending a civil, administrative or investigative action, suit or proceeding shall be paid by the State in advance of the final disposition of such action, suit or proceeding upon authorization by a majority of the members of the board, and by the Governor of the State.

(4) The board in the exercise of its sole discretion and without liability is specifically authorized to remove the program's funds from any financial institution and to reinvest the funds in a similar or different investment alternative at another financial institution at any time.

§ 3489. Prohibitions.

(1) No account nor any interest in an account shall be assignable or pledged, or otherwise used to secure, or obtain a loan or other advancement.

(2) No refund of a qualified educational expense payment may be paid by a higher education institution directly to the designated beneficiary, or to the account owner. Any refund of qualified tuition expenses owed by a higher education institution on account of an overpayment of educational expenses must be refunded to the program for credit to the designated beneficiary's account.

(3) A qualified withdrawal that is used to pay for qualified education expenses must be paid jointly to the designated beneficiary and the higher education institution or directly to the higher education institution. A payment of qualified education expenses may not be made directly to the beneficiary.

(4) Total contributions to all accounts established on behalf of a particular beneficiary in excess of those reasonably necessary to meet the designated beneficiary's qualified higher education expenses are prohibited.

§ 3490. Designated Beneficiary.

(1) An account owner shall have the right at any time to change the designated beneficiary of an account to another individual who is a member of the family of the former designated beneficiary.

(2) An account owner shall have the right at any time to direct that all or a portion of an account be transferred to the account of another beneficiary if the designated beneficiaries are members of the same family.

(3) The right to change the designated beneficiary or to transfer between accounts contained in subsections (1) and (2) above may be denied if, under regulations adopted by the board, the exercise of the right would result in either excess contributions to an account or the exercise of impermissible investment direction by the account owner.

§ 3491. Account Withdrawals, Penalties.

(1) Withdrawal from an account may be made on 30 days' written notice to the board, or on such shorter notice as the board may by regulation provide. A withdrawal shall be designated as a qualified withdrawal or a nonqualified withdrawal, and the application shall provide such information and be made on such forms as the board shall find are necessary to enable the board to determine the nature of the withdrawal.

(2) An account withdrawal paid to or for the benefit of any person during any calendar year shall be reported to the person and the Internal Revenue Service. The report shall be made at the time and contain such information as required by law.

(3) The board shall establish a more than de minimis penalty, at the minimum amount necessary to satisfy the requirements of Section 529 of Title 26 of the United States Code, or successor section, for a nonqualified withdrawal on the portion of the withdrawal that constitutes income under Section 529 of Title 26 of the United States Code, or successor section.

(4) Penalties collected under this section may be used to defray the costs of the program.

Approved June 24, 1997

CHAPTER 72

FORMERLY

HOUSE BILL NO. 169

AN ACT TO AMEND CHAPTER 9, TITLE 7, OF THE DELAWARE CODE, RELATING TO
FEDERAL FISHERIES MANAGEMENT PLANS.

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

Section 1. Amend § 903(e), Title 7, Delaware Code, by adding thereto a new paragraph
to read as follows:

"(3) The Department may promulgate such other regulations concerning any
species of finfish, including marine mammals, that spend part or all of their life cycle
within the tidal waters of the State; provided that such regulations are consistent with
management plans approved by the U. S. Secretary of Commerce for the protection and
conservation of said finfish or marine mammal."

Approved June 25, 1997

CHAPTER 73

FORMERLY

SENATE BILL NO. 113

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 19 OF TITLE 7 OF THE DELAWARE CODE RELATING
TO SURF CLAMS AND HORSESHOE CRABS.

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

Section 1. Amend §1912(a), Title 7, Delaware Code, by striking the word "through" and
substituting in lieu thereof the phrase "21, 23, 24, 25 and"

Section 2. Amend §1912(b), Title 7, Delaware Code, striking the word "through" and
substituting in lieu thereof the phrase "21, 23, 24, 25, 26 and".

Approved June 25, 1997

CHAPTER 74

FORMERLY

HOUSE BILL NO. 304

AN ACT TO AMEND LAWS OF DELAWARE AND TITLE 7 OF THE DELAWARE CODE
RELATING TO BEVERAGE CONTAINERS.

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

Section 1. Amend Section 2 of Chapter 385, Volume 63, Laws of Delaware, as amended, by striking said section in its entirety.

Section 2. Amend § 6052(b), Chapter 60, Title 7 of the Delaware Code by deleting subsection (b) in its entirety and substituting in lieu thereof the following:

“(b) ‘Beverage container’ means any airtight non-aluminous container containing less than 2 gallons of a beverage under pressure of carbonation.”

Section 3. This Amendment is intended to make permanent the aluminum container exemption.

Approved June 25, 1997

CHAPTER 75

FORMERLY

SENATE BILL NO. 139

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE
UNIFORM COMMERCIAL CODE.

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

Section 1. Amend Article 8, Subtitle I, Title 6 of the Delaware Code by striking said Article in its entirety and substituting in lieu thereof the following:

"ARTICLE 8. INVESTMENT SECURITIES

PART 1. SHORT TITLE AND GENERAL MATTERS

§ 8-101. SHORT TITLE.

This Article may be cited as Uniform Commercial Code--Investment Securities.

§ 8-102. DEFINITIONS.

(a) In this Article:

(1) "Adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial asset.

(2) "Bearer form," as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an endorsement.

(3) "Broker" means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

(4) "Certificated security" means a security that is represented by a certificate.

(5) "Clearing corporation" means:

(i) a person that is registered as a "clearing agency" under the federal securities laws;

(ii) a federal reserve bank; or

(iii) any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.

(6) "Communicate" means to:

(i) send a signed writing; or

(ii) transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

(7) "Entitlement holder" means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of Section 8-501(b)(2) or (3), that person is the entitlement holder.

(8) "Entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

(9) "Financial asset," except as otherwise provided in Section 8-103, means:

(i) a security;

(ii) an obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(iii) any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this Article.

As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.

(10) "Good faith," for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this Article, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(11) "Endorsement" means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.

(12) "Instruction" means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed.

(13) "Registered form," as applied to a certificated security, means a form in which:

(i) the security certificate specifies a person entitled to the security; and

(ii) a transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

(14) "Securities intermediary" means:

(i) a clearing corporation; or

(ii) a person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(15) "Security," except as otherwise provided in Section 8-103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer:

(i) which is represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) which is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations; and

(iii) which:

(A) is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

(B) is a medium for investment and by its terms expressly provides that it is a security governed by this Article.

(16) "Security certificate" means a certificate representing a security.

(17) "Security entitlement" means the rights and property interest of an entitlement holder with respect to a financial asset specified in Part 5.

(18) "Uncertificated security" means a security that is not represented by a certificate.

(b) Other definitions applying to this Article and the sections in which they appear are:

Appropriate person	Section 8-107
Control	Section 8-106
Delivery	Section 8-301
Investment company security	Section 8-103
Issuer	Section 8-201
Overissue	Section 8-210
Protected purchaser	Section 8-303
Securities account	Section 8-501

(c) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

(d) The characterization of a person, business, or transaction for purposes of this Article does not determine the characterization of the person, business, or transaction for purposes of any other law, regulation, or rule.

§ 8-103. RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS.

(a) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(b) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate

company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this Article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by this Article and not by Article 3, even though it also meets the requirements of that Article. However, a negotiable instrument governed by Article 3 is a financial asset if it is held in a securities account.

(e) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(f) A commodity contract, as defined in Section 9-115, is not a security or a financial asset.

§ 8-104. ACQUISITION OF SECURITY OR FINANCIAL ASSET OR INTEREST THEREIN.

(a) A person acquires a security or an interest therein, under this Article, if:

(1) the person is a purchaser to whom a security is delivered pursuant to Section 8-301; or

(2) the person acquires a security entitlement to the security pursuant to Section 8-501.

(b) A person acquires a financial asset, other than a security, or an interest therein, under this Article, if the person acquires a security entitlement to the financial asset.

(c) A person who acquires a security entitlement to a security or other financial asset has the rights specified in Part 5, but is a purchaser of any security, security entitlement, or other financial asset held by the securities intermediary only to the extent provided in Section 8-503.

(d) Unless the context shows that a different meaning is intended, a person who is required by other law, regulation, rule, or agreement to transfer, deliver, present, surrender, exchange, or otherwise put in the possession of another person a security or financial asset satisfies that requirement by causing the other person to acquire an interest in the security or financial asset pursuant to subsection (a) or (b).

§ 8-105. NOTICE OF ADVERSE CLAIM.

(a) A person has notice of an adverse claim if:

(1) the person knows of the adverse claim;

(2) the person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim; or

(3) the person has a duty, imposed by statute or regulation, to investigate whether an adverse claim exists, and the investigation so required would establish the existence of the adverse claim.

(b) Having knowledge that a financial asset or interest therein is or has been transferred by a representative imposes no duty of inquiry into the rightfulness of a transaction and is not notice of an adverse claim. However, a person who knows that a representative has transferred a financial asset or interest therein in a transaction that is, or whose proceeds are

being used, for the individual benefit of the representative or otherwise in breach of duty has notice of an adverse claim.

(c) An act or event that creates a right to immediate performance of the principal obligation represented by a security certificate or sets a date on or after which the certificate is to be presented or surrendered for redemption or exchange does not itself constitute notice of an adverse claim except in the case of a transfer more than:

(1) one year after a date set for presentment or surrender for redemption or exchange; or

(2) six months after a date set for payment of money against presentation or surrender of the certificate, if money was available for payment on that date.

(d) A purchaser of a certificated security has notice of an adverse claim if the security certificate:

(1) whether in bearer or registered form, has been endorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

(2) is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on the certificate is not such a statement.

(e) Filing of a financing statement under Article 9 is not notice of an adverse claim to a financial asset.

§ 8-106. CONTROL.

(a) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(1) the certificate is endorsed to the purchaser or in blank by an effective endorsement; or

(2) the certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has "control" of an uncertificated security if:

(1) the uncertificated security is delivered to the purchaser; or

(2) the issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has "control" of a security entitlement if:

(1) the purchaser becomes the entitlement holder; or

(2) the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of subsection (c)(2) or (d)(2) has control even if the registered owner in the case of subsection (c)(2) or the entitlement holder in the case of subsection (d)(2) retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or

securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (c)(2) or (d)(2) without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

§ 8-107. WHETHER ENDORSEMENT, INSTRUCTION, OR ENTITLEMENT ORDER IS EFFECTIVE.

(a) "Appropriate person" means:

(1) with respect to an endorsement, the person specified by a security certificate or by an effective special endorsement to be entitled to the security;

(2) with respect to an instruction, the registered owner of an uncertificated security;

(3) with respect to an entitlement order, the entitlement holder;

(4) if the person designated in paragraph (1), (2), or (3) is deceased, the designated person's successor taking under other law or the designated person's personal representative acting for the estate of the decedent; or

(5) if the person designated in paragraph (1), (2), or (3) lacks capacity, the designated person's guardian, conservator, or other similar representative who has power under other law to transfer the security or financial asset.

(b) An endorsement, instruction, or entitlement order is effective if:

(1) it is made by the appropriate person;

(2) it is made by a person who has power under the law of agency to transfer the security or financial asset on behalf of the appropriate person, including, in the case of an instruction or entitlement order, a person who has control under Section 8-106(c)(2) or (d)(2); or

(3) the appropriate person has ratified it or is otherwise precluded from asserting its ineffectiveness.

(c) An endorsement, instruction, or entitlement order made by a representative is effective even if:

(1) the representative has failed to comply with a controlling instrument or with the law of the State having jurisdiction of the representative relationship, including any law requiring the representative to obtain court approval of the transaction; or

(2) the representative's action in making the endorsement, instruction, or entitlement order or using the proceeds of the transaction is otherwise a breach of duty.

(d) If a security is registered in the name of or specially endorsed to a person described as a representative, or if a securities account is maintained in the name of a person described as a representative, an endorsement, instruction, or entitlement order made by the person is effective even though the person is no longer serving in the described capacity.

(e) Effectiveness of an endorsement, instruction, or entitlement order is determined as of the date the endorsement, instruction, or entitlement order is made, and an endorsement, instruction, or entitlement order does not become ineffective by reason of any later change of circumstances.

§ 8-108. WARRANTIES IN DIRECT HOLDING.

(a) A person who transfers a certificated security to a purchaser for value warrants to the purchaser, and an endorser, if the transfer is by endorsement, warrants to any subsequent purchaser, that:

- (1) the certificate is genuine and has not been materially altered;
- (2) the transferor or endorser does not know of any fact that might impair the validity of the security;
- (3) there is no adverse claim to the security;
- (4) the transfer does not violate any restriction on transfer;
- (5) if the transfer is by endorsement, the endorsement is made by an appropriate person, or if the endorsement is by an agent, the agent has actual authority to act on behalf of the appropriate person; and
- (6) the transfer is otherwise effective and rightful.

(b) A person who originates an instruction for registration of transfer of an uncertificated security to a purchaser for value warrants to the purchaser that:

- (1) the instruction is made by an appropriate person, or if the instruction is by an agent, the agent has actual authority to act on behalf of the appropriate person;
- (2) the security is valid;
- (3) there is no adverse claim to the security; and
- (4) at the time the instruction is presented to the issuer:
 - (i) the purchaser will be entitled to the registration of transfer;
 - (ii) the transfer will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction;
 - (iii) the transfer will not violate any restriction on transfer; and
 - (iv) the requested transfer will otherwise be effective and rightful.

(c) A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants that:

- (1) the uncertificated security is valid;
- (2) there is no adverse claim to the security;
- (3) the transfer does not violate any restriction on transfer; and
- (4) the transfer is otherwise effective and rightful.

(d) A person who endorses a security certificate warrants to the issuer that:

- (1) there is no adverse claim to the security; and

(2) the endorsement is effective.

(e) A person who originates an instruction for registration of transfer of an uncertificated security warrants to the issuer that:

(1) the instruction is effective; and

(2) at the time the instruction is presented to the issuer the purchaser will be entitled to the registration of transfer.

(f) A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that the person is entitled to the registration, payment, or exchange, but a purchaser for value and without notice of adverse claims to whom transfer is registered warrants only that the person has no knowledge of any unauthorized signature in a necessary endorsement.

(g) If a person acts as agent of another in delivering a certificated security to a purchaser, the identity of the principal was known to the person to whom the certificate was delivered, and the certificate delivered by the agent was received by the agent from the principal or received by the agent from another person at the direction of the principal, the person delivering the security certificate warrants only that the delivering person has authority to act for the principal and does not know of any adverse claim to the certificated security.

(h) A secured party who redelivers a security certificate received, or after payment and on order of the debtor delivers the security certificate to another person, makes only the warranties of an agent under subsection (g).

(i) Except as otherwise provided in subsection (g), a broker acting for a customer makes to the issuer and a purchaser the warranties provided in subsections (a) through (f). A broker that delivers a security certificate to its customer, or causes its customer to be registered as the owner of an uncertificated security, makes to the customer the warranties provided in subsection (a) or (b), and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of the customer.

§ 8-109. WARRANTIES IN INDIRECT HOLDING.

(a) A person who originates an entitlement order to a securities intermediary warrants to the securities intermediary that:

(1) the entitlement order is made by an appropriate person, or if the entitlement order is by an agent, the agent has actual authority to act on behalf of the appropriate person; and

(2) there is no adverse claim to the security entitlement.

(b) A person who delivers a security certificate to a securities intermediary for credit to a securities account or originates an instruction with respect to an uncertificated security directing that the uncertificated security be credited to a securities account makes to the securities intermediary the warranties specified in Section 8-108(a) or (b).

(c) If a securities intermediary delivers a security certificate to its entitlement holder or causes its entitlement holder to be registered as the owner of an uncertificated security, the securities intermediary makes to the entitlement holder the warranties specified in Section 8-108(a) or (b).

§ 8-110. APPLICABILITY; CHOICE OF LAW.

(a) The local law of the issuer's jurisdiction, as specified in subsection (d), governs:

(1) the validity of a security;

(2) the rights and duties of the issuer with respect to registration of transfer;

(3) the effectiveness of registration of transfer by the issuer;

(4) whether the issuer owes any duties to an adverse claimant to a security;

(5) whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security; and

(6) the effectiveness of a restriction on transfer of a security or an interest therein.

(b) The local law of the securities intermediary's jurisdiction, as specified in subsection (e), governs:

(1) acquisition of a security entitlement from the securities intermediary;

(2) the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(3) whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(4) whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(c) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(d) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of another jurisdiction, the law of this State.

(e) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(2) If an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in paragraph (1), but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(3) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (1) or (2), the securities intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the entitlement holder's account.

(4) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (1) or (2) and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (3), the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary.

(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

§ 8-111. CLEARING CORPORATION RULES.

A rule adopted by a clearing corporation governing rights and obligations among the clearing corporation and its participants in the clearing corporation is effective even if the rule conflicts with this subtitle and affects another party who does not consent to the rule.

§ 8-112. CREDITOR'S LEGAL PROCESS.

(a) Except to the extent otherwise provided or permitted by §§ 169 and 324 of Title 8, §§ 365, 366 and Chapter 35 of Title 10, and subsection (d) hereof, the interest of a debtor in a certificated security may be reached by a creditor only by actual seizure of the security certificate by the officer making the attachment or levy. However, a certificated security for which the certificate has been surrendered to the issuer may be reached by a creditor by legal process upon the issuer.

(b) Except to the extent otherwise provided or permitted by §§ 169 and 324 of Title 8, §§ 365, 366 and Chapter 35 of Title 10, and subsection (d) hereof, the interest of a debtor in an uncertificated security may be reached by a creditor only by legal process upon the issuer at its chief executive office in the United States.

(c) The interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor's securities account is maintained, except as otherwise provided in subsection (d).

(d) The interest of a debtor in a certificated security for which the certificate is in the possession of a secured party, or in an uncertificated security registered in the name of a secured party, or a security entitlement maintained in the name of a secured party, may be reached by a creditor by legal process upon the secured party.

(e) A creditor whose debtor is the owner of a certificated security, uncertificated security, or security entitlement is entitled to aid from a court of competent jurisdiction, by injunction or otherwise, in reaching the certificated security, uncertificated security, or security entitlement or in satisfying the claim by means allowed at law or in equity in regard to property that cannot readily be reached by other legal process.

§ 8-113. STATUTE OF FRAUDS INAPPLICABLE.

A contract or modification of a contract for the sale or purchase of a security is enforceable whether or not there is a writing signed or record authenticated by a party against whom enforcement is sought, even if the contract or modification is not capable of performance within one year of its making.

§ 8-114. EVIDENTIARY RULES CONCERNING CERTIFICATED SECURITIES.

The following rules apply in an action on a certificated security against the issuer:

(1) Unless specifically denied in the pleadings, each signature on a security certificate or in a necessary endorsement is admitted.

(2) If the effectiveness of a signature is put in issue, the burden of establishing effectiveness is on the party claiming under the signature, but the signature is presumed to be genuine or authorized.

(3) If signatures on a security certificate are admitted or established, production of the certificate entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security.

(4) If it is shown that a defense or defect exists, the plaintiff has the burden of establishing that the plaintiff or some person under whom the plaintiff claims is a person against whom the defense or defect cannot be asserted.

§ 8-115. SECURITIES INTERMEDIARY AND OTHERS NOT LIABLE TO ADVERSE CLAIMANT.

A securities intermediary that has transferred a financial asset pursuant to an effective entitlement order, or a broker or other agent or bailee that has dealt with a financial asset at the direction of its customer or principal, is not liable to a person having an adverse claim to the financial asset, unless the securities intermediary, or broker or other agent or bailee:

(1) took the action after it had been served with an injunction, restraining order, or other legal process enjoining it from doing so, issued by a court of competent jurisdiction, and had a reasonable opportunity to act on the injunction, restraining order, or other legal process; or

(2) acted in collusion with the wrongdoer in violating the rights of the adverse claimant; or

(3) in the case of a security certificate that has been stolen, acted with notice of the adverse claim.

§ 8-116. SECURITIES INTERMEDIARY AS PURCHASER FOR VALUE.

A securities intermediary that receives a financial asset and establishes a security entitlement to the financial asset in favor of an entitlement holder is a purchaser for value of the financial asset. A securities intermediary that acquires a security entitlement to a financial asset from another securities intermediary acquires the security entitlement for value if the securities intermediary acquiring the security entitlement establishes a security entitlement to the financial asset in favor of an entitlement holder.

PART 2. ISSUE AND ISSUER

§ 8-201. ISSUER.

(a) With respect to an obligation on or a defense to a security, an "issuer" includes a person that:

(1) places or authorizes the placing of its name on a security certificate, other than as authenticating trustee, registrar, transfer agent, or the like, to evidence a share, participation, or other interest in its property or in an enterprise, or to evidence its duty to perform an obligation represented by the certificate;

(2) creates a share, participation, or other interest in its property or in an enterprise, or undertakes an obligation, that is an uncertificated security;

(3) directly or indirectly creates a fractional interest in its rights or property, if the fractional interest is represented by a security certificate; or

(4) becomes responsible for, or in place of, another person described as an issuer in this section.

(b) With respect to an obligation on or defense to a security, a guarantor is an issuer to the extent of its guaranty, whether or not its obligation is noted on a security certificate.

(c) With respect to a registration of a transfer, issuer means a person on whose behalf transfer books are maintained.

§ 8-202. ISSUER'S RESPONSIBILITY AND DEFENSES; NOTICE OF DEFECT OR DEFENSE.

(a) Even against a purchaser for value and without notice, the terms of a certificated security include terms stated on the certificate and terms made part of the security by

(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

§ 8-111. CLEARING CORPORATION RULES.

A rule adopted by a clearing corporation governing rights and obligations among the clearing corporation and its participants in the clearing corporation is effective even if the rule conflicts with this subtitle and affects another party who does not consent to the rule.

§ 8-112. CREDITOR'S LEGAL PROCESS.

(a) Except to the extent otherwise provided or permitted by §§ 169 and 324 of Title 8, §§ 365, 366 and Chapter 35 of Title 10, and subsection (d) hereof, the interest of a debtor in a certificated security may be reached by a creditor only by actual seizure of the security certificate by the officer making the attachment or levy. However, a certificated security for which the certificate has been surrendered to the issuer may be reached by a creditor by legal process upon the issuer.

(b) Except to the extent otherwise provided or permitted by §§ 169 and 324 of Title 8, §§ 365, 366 and Chapter 35 of Title 10, and subsection (d) hereof, the interest of a debtor in an uncertificated security may be reached by a creditor only by legal process upon the issuer at its chief executive office in the United States.

(c) The interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor's securities account is maintained, except as otherwise provided in subsection (d).

(d) The interest of a debtor in a certificated security for which the certificate is in the possession of a secured party, or in an uncertificated security registered in the name of a secured party, or a security entitlement maintained in the name of a secured party, may be reached by a creditor by legal process upon the secured party.

(e) A creditor whose debtor is the owner of a certificated security, uncertificated security, or security entitlement is entitled to aid from a court of competent jurisdiction, by injunction or otherwise, in reaching the certificated security, uncertificated security, or security entitlement or in satisfying the claim by means allowed at law or in equity in regard to property that cannot readily be reached by other legal process.

§ 8-113. STATUTE OF FRAUDS INAPPLICABLE.

A contract or modification of a contract for the sale or purchase of a security is enforceable whether or not there is a writing signed or record authenticated by a party against whom enforcement is sought, even if the contract or modification is not capable of performance within one year of its making.

§ 8-114. EVIDENTIARY RULES CONCERNING CERTIFICATED SECURITIES.

The following rules apply in an action on a certificated security against the issuer:

(1) Unless specifically denied in the pleadings, each signature on a security certificate or in a necessary endorsement is admitted.

(2) If the effectiveness of a signature is put in issue, the burden of establishing effectiveness is on the party claiming under the signature, but the signature is presumed to be genuine or authorized.

(3) If signatures on a security certificate are admitted or established, production of the certificate entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security.

(4) If it is shown that a defense or defect exists, the plaintiff has the burden of establishing that the plaintiff or some person under whom the plaintiff claims is a person against whom the defense or defect cannot be asserted.

§ 8-115. SECURITIES INTERMEDIARY AND OTHERS NOT LIABLE TO ADVERSE CLAIMANT.

A securities intermediary that has transferred a financial asset pursuant to an effective entitlement order, or a broker or other agent or bailee that has dealt with a financial asset at the direction of its customer or principal, is not liable to a person having an adverse claim to the financial asset, unless the securities intermediary, or broker or other agent or bailee:

(1) took the action after it had been served with an injunction, restraining order, or other legal process enjoining it from doing so, issued by a court of competent jurisdiction, and had a reasonable opportunity to act on the injunction, restraining order, or other legal process; or

(2) acted in collusion with the wrongdoer in violating the rights of the adverse claimant; or

(3) in the case of a security certificate that has been stolen, acted with notice of the adverse claim.

§ 8-116. SECURITIES INTERMEDIARY AS PURCHASER FOR VALUE.

A securities intermediary that receives a financial asset and establishes a security entitlement to the financial asset in favor of an entitlement holder is a purchaser for value of the financial asset. A securities intermediary that acquires a security entitlement to a financial asset from another securities intermediary acquires the security entitlement for value if the securities intermediary acquiring the security entitlement establishes a security entitlement to the financial asset in favor of an entitlement holder.

PART 2. ISSUE AND ISSUER

§ 8-201. ISSUER.

(a) With respect to an obligation on or a defense to a security, an "issuer" includes a person that:

(1) places or authorizes the placing of its name on a security certificate, other than as authenticating trustee, registrar, transfer agent, or the like, to evidence a share, participation, or other interest in its property or in an enterprise, or to evidence its duty to perform an obligation represented by the certificate;

(2) creates a share, participation, or other interest in its property or in an enterprise, or undertakes an obligation, that is an uncertificated security;

(3) directly or indirectly creates a fractional interest in its rights or property, if the fractional interest is represented by a security certificate; or

(4) becomes responsible for, or in place of, another person described as an issuer in this section.

(b) With respect to an obligation on or defense to a security, a guarantor is an issuer to the extent of its guaranty, whether or not its obligation is noted on a security certificate.

(c) With respect to a registration of a transfer, issuer means a person on whose behalf transfer books are maintained.

§ 8-202. ISSUER'S RESPONSIBILITY AND DEFENSES; NOTICE OF DEFECT OR DEFENSE.

(a) Even against a purchaser for value and without notice, the terms of a certificated security include terms stated on the certificate and terms made part of the security by

reference on the certificate to another instrument, indenture, or document or to a constitution, statute, ordinance, rule, regulation, order, or the like, to the extent the terms referred to do not conflict with terms stated on the certificate. A reference under this subsection does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even if the certificate expressly states that a person accepting it admits notice. The terms of an uncertificated security include those stated in any instrument, indenture, or document or in a constitution, statute, ordinance, rule, regulation, order, or the like, pursuant to which the security is issued.

(b) The following rules apply if an issuer asserts that a security is not valid:

(1) A security other than one issued by a government or governmental subdivision, agency, or instrumentality, even though issued with a defect going to its validity, is valid in the hands of a purchaser for value and without notice of the particular defect unless the defect involves a violation of a constitutional provision. In that case, the security is valid in the hands of a purchaser for value and without notice of the defect, other than one who takes by original issue.

(2) Paragraph (1) applies to an issuer that is a government or governmental subdivision, agency, or instrumentality only if there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(c) Except as otherwise provided in Section 8-205, lack of genuineness of a certificated security is a complete defense, even against a purchaser for value and without notice.

(d) All other defenses of the issuer of a security, including nondelivery and conditional delivery of a certificated security, are ineffective against a purchaser for value who has taken the certificated security without notice of the particular defense.

(e) This section does not affect the right of a party to cancel a contract for a security "when, as and if issued" or "when distributed" in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement pursuant to which the security is to be issued or distributed.

(f) If a security is held by a securities intermediary against whom an entitlement holder has a security entitlement with respect to the security, the issuer may not assert any defense that the issuer could not assert if the entitlement holder held the security directly.

§ 8-203. STALENESS AS NOTICE OF DEFECT OR DEFENSE.

After an act or event, other than a call that has been revoked, creating a right to immediate performance of the principal obligation represented by a certificated security or setting a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer, if the act or event:

(1) requires the payment of money, the delivery of a certificated security, the registration of transfer of an uncertificated security, or any of them on presentation or surrender of the security certificate, the money or security is available on the date set for payment or exchange, and the purchaser takes the security more than one year after that date; or

(2) is not covered by paragraph (1) and the purchaser takes the security more than two years after the date set for surrender or presentation or the date on which performance became due.

§ 8-204. EFFECT OF ISSUER'S RESTRICTION ON TRANSFER.

A restriction on transfer of a security imposed by the issuer, even if otherwise lawful, is ineffective against a person without knowledge of the restriction unless:

(1) the security is certificated and the restriction is noted conspicuously on the security certificate; or

(2) the security is uncertificated and the registered owner has been notified of the restriction.

§ 8-205. EFFECT OF UNAUTHORIZED SIGNATURE ON SECURITY CERTIFICATE.

An unauthorized signature placed on a security certificate before or in the course of issue is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security if the purchaser is without notice of the lack of authority and the signing has been done by:

(1) an authenticating trustee, registrar, transfer agent, or other person entrusted by the issuer with the signing of the security certificate or of similar security certificates, or the immediate preparation for signing of any of them; or

(2) an employee of the issuer, or of any of the persons listed in paragraph (1), entrusted with responsible handling of the security certificate.

§ 8-206. COMPLETION OR ALTERATION OF SECURITY CERTIFICATE.

(a) If a security certificate contains the signatures necessary to its issue or transfer but is incomplete in any other respect:

(1) any person may complete it by filling in the blanks as authorized; and

(2) even if the blanks are incorrectly filled in, the security certificate as completed is enforceable by a purchaser who took it for value and without notice of the incorrectness.

(b) A complete security certificate that has been improperly altered, even if fraudulently, remains enforceable, but only according to its original terms.

§ 8-207. RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO REGISTERED OWNERS.

(a) Before due presentment for registration of transfer of a certificated security in registered form or of an instruction requesting registration of transfer of an uncertificated security, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, receive notifications, and otherwise exercise all the rights and powers of an owner.

(b) This Article does not affect the liability of the registered owner of a security for a call, assessment, or the like.

§ 8-208. EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE, REGISTRAR, OR TRANSFER AGENT.

(a) A person signing a security certificate as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value of the certificated security, if the purchaser is without notice of a particular defect, that:

(1) the certificate is genuine;

(2) the person's own participation in the issue of the security is within the person's capacity and within the scope of the authority received by the person from the issuer; and

(a) A person who guarantees a signature of an endorser of a security certificate warrants that at the time of signing:

(1) the signature was genuine;

(2) the signer was an appropriate person to endorse, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person; and

(3) the signer had legal capacity to sign.

(b) A person who guarantees a signature of the originator of an instruction warrants that at the time of signing:

(1) the signature was genuine;

(2) the signer was an appropriate person to originate the instruction, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person, if the person specified in the instruction as the registered owner was, in fact, the registered owner, as to which fact the signature guarantor does not make a warranty; and

(3) the signer had legal capacity to sign.

(c) A person who specially guarantees the signature of an originator of an instruction makes the warranties of a signature guarantor under subsection (b) and also warrants that at the time the instruction is presented to the issuer:

(1) the person specified in the instruction as the registered owner of the uncertificated security will be the registered owner; and

(2) the transfer of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(d) A guarantor under subsections (a) and (b) or a special guarantor under subsection (c) does not otherwise warrant the rightfulness of the transfer.

(e) A person who guarantees an endorsement of a security certificate makes the warranties of a signature guarantor under subsection (a) and also warrants the rightfulness of the transfer in all respects.

(f) A person who guarantees an instruction requesting the transfer of an uncertificated security makes the warranties of a special signature guarantor under subsection (c) and also warrants the rightfulness of the transfer in all respects.

(g) An issuer may not require a special guaranty of signature, a guaranty of endorsement, or a guaranty of instruction as a condition to registration of transfer.

(h) The warranties under this section are made to a person taking or dealing with the security in reliance on the guaranty, and the guarantor is liable to the person for loss resulting from their breach. An endorser or originator of an instruction whose signature, endorsement, or instruction has been guaranteed is liable to a guarantor for any loss suffered by the guarantor as a result of breach of the warranties of the guarantor.

PART 4. REGISTRATION

§ 8-307. PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION OF TRANSFER.

Unless otherwise agreed, the transferor of a security on due demand shall supply the purchaser with proof of authority to transfer or with any other requisite necessary to obtain registration of the transfer of the security, but if the transfer is not for value, a transferor need not

comply unless the purchaser pays the necessary expenses. If the transferor fails within a reasonable time to comply with the demand, the purchaser may reject or rescind the transfer.

§ 8-401. DUTY OF ISSUER TO REGISTER TRANSFER.

(a) If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security, the issuer shall register the transfer as requested if:

(1) under the terms of the security the person seeking registration of transfer is eligible to have the security registered in its name;

(2) the endorsement or instruction is made by the appropriate person or by an agent who has actual authority to act on behalf of the appropriate person;

(3) reasonable assurance is given that the endorsement or instruction is genuine and authorized (Section 8-402);

(4) any applicable law relating to the collection of taxes has been complied with;

(5) the transfer does not violate any restriction on transfer imposed by the issuer in accordance with Section 8-204;

(6) a demand that the issuer not register transfer has not become effective under Section 8-403, or the issuer has complied with Section 8-403(b) but no legal process or indemnity bond is obtained as provided in Section 8-403(d); and

(7) the transfer is in fact rightful or is to a protected purchaser.

(b) If an issuer is under a duty to register a transfer of a security, the issuer is liable to a person presenting a certificated security or an instruction for registration or to the person's principal for loss resulting from unreasonable delay in registration or failure or refusal to register the transfer.

§ 8-402. ASSURANCE THAT ENDORSEMENT OR INSTRUCTION IS EFFECTIVE.

(a) An issuer may require the following assurance that each necessary endorsement or each instruction is genuine and authorized:

(1) in all cases, a guaranty of the signature of the person making an endorsement or originating an instruction including, in the case of an instruction, reasonable assurance of identity;

(2) if the endorsement is made or the instruction is originated by an agent, appropriate assurance of actual authority to sign;

(3) if the endorsement is made or the instruction is originated by a fiduciary pursuant to Section 8-107(a)(4) or (a)(5), appropriate evidence of appointment or incumbency;

(4) if there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; and

(5) if the endorsement is made or the instruction is originated by a person not covered by another provision of this subsection, assurance appropriate to the case corresponding as nearly as may be to the provisions of this subsection.

(b) An issuer may elect to require reasonable assurance beyond that specified in this section.

(c) In this section:

(1) "Guaranty of the signature" means a guaranty signed by or on behalf of a person reasonably believed by the issuer to be responsible. An issuer may adopt standards with respect to responsibility if they are not manifestly unreasonable.

(2) "Appropriate evidence of appointment or incumbency" means:

(i) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of the court or an officer thereof and dated within 60 days before the date of presentation for transfer; or

(ii) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by an issuer to be responsible or, in the absence of that document or certificate, other evidence the issuer reasonably considered appropriate.

§ 8-403. DEMAND THAT ISSUER NOT REGISTER TRANSFER.

(a) A person who is an appropriate person to make an endorsement or originate an instruction may demand that the issuer not register transfer of a security by communicating to the issuer a notification that identifies the registered owner and the issue of which the security is a part and provides an address for communications directed to the person making the demand. The demand is effective only if it is received by the issuer at a time and in a manner affording the issuer reasonable opportunity to act on it.

(b) If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security after a demand that the issuer not register transfer has become effective, the issuer shall promptly communicate to (i) the person who initiated the demand at the address provided in the demand and (ii) the person who presented the security for registration of transfer or initiated the instruction requesting registration of transfer a notification stating that:

(1) the certificated security has been presented for registration of transfer or instruction for registration of transfer of uncertificated security has been received;

(2) a demand that the issuer not register transfer had previously been received; and

(3) the issuer will withhold registration of transfer for a period of time stated in the notification in order to provide the person who initiated the demand an opportunity to obtain legal process or an indemnity bond.

(c) The period described in subsection (b)(3) may not exceed 30 days after the date of communication of the notification. A shorter period may be specified by the issuer if it is not manifestly unreasonable.

(d) An issuer is not liable to a person who initiated a demand that the issuer not register transfer for any loss the person suffers as a result of registration of a transfer pursuant to an effective endorsement or instruction if the person who initiated the demand does not, within the time stated in the issuer's communication, either:

(1) obtain an appropriate restraining order, injunction, or other process from a court of competent jurisdiction enjoining the issuer from registering the transfer; or

(2) file with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar, or other agent of the issuer involved from any loss it or they may suffer by refusing to register the transfer.

(e) This section does not relieve an issuer from liability for registering transfer pursuant to an endorsement or instruction that was not effective.

§ 8-404. WRONGFUL REGISTRATION.

(a) Except as otherwise provided in Section 8-406, an issuer is liable for wrongful registration of transfer if the issuer has registered a transfer of a security to a person not entitled to it, and the transfer was registered:

(1) pursuant to an ineffective endorsement or instruction;

(2) after a demand that the issuer not register transfer became effective under Section 8-403(a) and the issuer did not comply with Section 8-403(b);

(3) after the issuer had been served with an injunction, restraining order, or other legal process enjoining it from registering the transfer, issued by a court of competent jurisdiction, and the issuer had a reasonable opportunity to act on the injunction, restraining order, or other legal process; or

(4) by an issuer acting in collusion with the wrongdoer.

(b) An issuer that is liable for wrongful registration of transfer under subsection (a) on demand shall provide the person entitled to the security with a like certificated or uncertificated security, and any payments or distributions that the person did not receive as a result of the wrongful registration. If an overissue would result, the issuer's liability to provide the person with a like security is governed by Section 8-210.

(c) Except as otherwise provided in subsection (a) or in a law relating to the collection of taxes, an issuer is not liable to an owner or other person suffering loss as a result of the registration of a transfer of a security if registration was made pursuant to an effective endorsement or instruction.

§ 8-405. REPLACEMENT OF LOST, DESTROYED, OR WRONGFULLY TAKEN SECURITY CERTIFICATE.

(a) If an owner of a certificated security, whether in registered or bearer form, claims that the certificate has been lost, destroyed, or wrongfully taken, the issuer shall issue a new certificate if the owner:

(1) so requests before the issuer has notice that the certificate has been acquired by a protected purchaser;

(2) files with the issuer a sufficient indemnity bond; and

(3) satisfies other reasonable requirements imposed by the issuer.

(b) If, after the issue of a new security certificate, a protected purchaser of the original certificate presents it for registration of transfer, the issuer shall register the transfer unless an overissue would result. In that case, the issuer's liability is governed by Section 8-210. In addition to any rights on the indemnity bond, an issuer may recover the new certificate from a person to whom it was issued or any person taking under that person, except a protected purchaser.

§ 8-406. OBLIGATION TO NOTIFY ISSUER OF LOST, DESTROYED, OR WRONGFULLY TAKEN SECURITY CERTIFICATE.

If a security certificate has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after the owner has notice of it and the issuer registers a transfer of the security before receiving notification, the owner may not assert against the issuer a claim for registering the transfer under Section 8-404 or a claim to a new security certificate under Section 8-405.

§ 8-407. AUTHENTICATING TRUSTEE, TRANSFER AGENT, AND REGISTRAR.

A person acting as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of a transfer of its securities, in the issue of new security certificates or uncertificated securities, or in the cancellation of surrendered security certificates has the same obligation to the holder or owner of a certificated or uncertificated security with regard to the particular functions performed as the issuer has in regard to those functions.

PART 5. SECURITY ENTITLEMENTS**§ 8-501. SECURITIES ACCOUNT; ACQUISITION OF SECURITY ENTITLEMENT FROM SECURITIES INTERMEDIARY.**

(a) "Securities account" means an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset.

(b) Except as otherwise provided in subsections (d) and (e), a person acquires a security entitlement if a securities intermediary:

(1) indicates by book entry that a financial asset has been credited to the person's securities account;

(2) receives a financial asset from the person or acquires a financial asset for the person and, in either case, accepts it for credit to the person's securities account; or

(3) becomes obligated under other law, regulation, or rule to credit a financial asset to the person's securities account.

(c) If a condition of subsection (b) has been met, a person has a security entitlement even though the securities intermediary does not itself hold the financial asset without acting in collusion with the securities intermediary in violation of its duties under § 8-504.

(d) If a securities intermediary holds a financial asset for another person, and the financial asset is registered in the name of, payable to the order of, or specially endorsed to the other person, and has not been endorsed to the securities intermediary or in blank, the other person is treated as holding the financial asset directly rather than as having a security entitlement with respect to the financial asset.

(e) Issuance of a security is not establishment of a security entitlement.

§ 8-502. ASSERTION OF ADVERSE CLAIM AGAINST ENTITLEMENT HOLDER.

An action based on an adverse claim to a financial asset, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who acquires a security entitlement under Section 8-501 for value and without notice of the adverse claim.

§ 8-503. PROPERTY INTEREST OF ENTITLEMENT HOLDER IN FINANCIAL ASSET HELD BY SECURITIES INTERMEDIARY.

(a) To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, are not property of the securities intermediary, and are not subject to claims of creditors of the securities intermediary, except as otherwise provided in Section 8-511.

(b) An entitlement holder's property interest with respect to a particular financial asset under subsection (a) is a pro rata property interest in all interests in that financial asset held

by the securities intermediary, without regard to the time the entitlement holder acquired the security entitlement or the time the securities intermediary acquired the interest in that financial asset.

(c) An entitlement holder's property interest with respect to a particular financial asset under subsection (a) may be enforced against the securities intermediary only by exercise of the entitlement holder's rights under Sections 8-505 through 8-508.

(d) An entitlement holder's property interest with respect to a particular financial asset under subsection (a) may be enforced against a purchaser of the financial asset or interest therein only if:

(1) insolvency proceedings have been initiated by or against the securities intermediary;

(2) the securities intermediary does not have sufficient interests in the financial asset to satisfy the security entitlements of all of its entitlement holders to that financial asset;

(3) the securities intermediary violated its obligations under Section 8-504 by transferring the financial asset or interest therein to the purchaser; and

(4) the purchaser is not protected under subsection (e).

The trustee or other liquidator, acting on behalf of all entitlement holders having security entitlements with respect to a particular financial asset, may recover the financial asset, or interest therein, from the purchaser. If the trustee or other liquidator elects not to pursue that right, an entitlement holder whose security entitlement remains unsatisfied has the right to recover its interest in the financial asset from the purchaser.

(e) An action based on the entitlement holder's property interest with respect to a particular financial asset under subsection (a), whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against any purchaser of a financial asset or interest therein who gives value, obtains control, and does not act in collusion with the securities intermediary in violating the securities intermediary's obligations under Section 8-504.

§ 8-504. DUTY OF SECURITIES INTERMEDIARY TO MAINTAIN FINANCIAL ASSET.

(a) A securities intermediary shall promptly obtain and thereafter maintain a financial asset in a quantity corresponding to the aggregate of all security entitlements it has established in favor of its entitlement holders with respect to that financial asset. The securities intermediary may maintain those financial assets directly or through one or more other securities intermediaries.

(b) Except to the extent otherwise agreed by its entitlement holder, a securities intermediary may not grant any security interests in a financial asset it is obligated to maintain pursuant to subsection (a).

(c) A securities intermediary satisfies the duty in subsection (a) if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to obtain and maintain the financial asset.

(d) This section does not apply to a clearing corporation that is itself the obligor of an option or similar obligation to which its entitlement holders have security entitlements.

§ 8-505. DUTY OF SECURITIES INTERMEDIARY WITH RESPECT TO PAYMENTS AND DISTRIBUTIONS.

(a) A securities intermediary shall take action to obtain a payment or distribution made by the issuer of a financial asset. A securities intermediary satisfies the duty if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to attempt to obtain the payment or distribution.

(b) A securities intermediary is obligated to its entitlement holder for a payment or distribution made by the issuer of a financial asset if the payment or distribution is received by the securities intermediary.

§ 8-506. DUTY OF SECURITIES INTERMEDIARY TO EXERCISE RIGHTS AS DIRECTED BY ENTITLEMENT HOLDER.

A securities intermediary shall exercise rights with respect to a financial asset if directed to do so by an entitlement holder. A securities intermediary satisfies the duty if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary either places the entitlement holder in a position to exercise the rights directly or exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder.

§ 8-507. DUTY OF SECURITIES INTERMEDIARY TO COMPLY WITH ENTITLEMENT ORDER.

(a) A securities intermediary shall comply with an entitlement order if the entitlement order is originated by the appropriate person, the securities intermediary has had reasonable opportunity to assure itself that the entitlement order is genuine and authorized, and the securities intermediary has had reasonable opportunity to comply with the entitlement order. A securities intermediary satisfies the duty if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to comply with the entitlement order.

(b) If a securities intermediary transfers a financial asset pursuant to an ineffective entitlement order, the securities intermediary shall reestablish a security entitlement in favor of the person entitled to it, and pay or credit any payments or distributions that the person did not receive as a result of the wrongful transfer. If the securities intermediary does not reestablish a security entitlement, the securities intermediary is liable to the entitlement holder for damages.

§ 8-508. DUTY OF SECURITIES INTERMEDIARY TO CHANGE ENTITLEMENT HOLDER'S POSITION TO OTHER FORM OF SECURITY HOLDING.

A securities intermediary shall act at the direction of an entitlement holder to change a security entitlement into another available form of holding for which the entitlement holder is eligible, or to cause the financial asset to be transferred to a securities account of the entitlement holder with another securities intermediary. A securities intermediary satisfies the duty if:

(1) the securities intermediary acts as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder.

§ 8-509. SPECIFICATION OF DUTIES OF SECURITIES INTERMEDIARY BY OTHER STATUTE OR REGULATION; MANNER OF PERFORMANCE OF DUTIES OF SECURITIES INTERMEDIARY AND EXERCISE OF RIGHTS OF ENTITLEMENT HOLDER.

(a) If the substance of a duty imposed upon a securities intermediary by Sections 8-504 through 8-508 is the subject of other statute, regulation, or rule, compliance with that statute, regulation, or rule satisfies the duty.

(b) To the extent that specific standards for the performance of the duties of a securities intermediary or the exercise of the rights of an entitlement holder are not specified by other statute, regulation, or rule or by agreement between the securities intermediary and entitlement holder, the securities intermediary shall perform its duties and the entitlement holder shall exercise its rights in a commercially reasonable manner.

(c) The obligation of a securities intermediary to perform the duties imposed by Sections 8-504 through 8-508 is subject to:

(1) rights of the securities intermediary arising out of a security interest under a security agreement with the entitlement holder or otherwise; and

(2) rights of the securities intermediary under other law, regulation, rule, or agreement to withhold performance of its duties as a result of unfulfilled obligations of the entitlement holder to the securities intermediary.

(d) Sections 8-504 through 8-508 do not require a securities intermediary to take any action that is prohibited by other statute, regulation, or rule.

§ 8-510. RIGHTS OF PURCHASER OF SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER.

(a) An action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(b) If an adverse claim could not have been asserted against an entitlement holder under Section 8-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(c) In a case not covered by the priority rules in Article 9, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. Purchasers who have control rank equally, except that a securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

§ 8-511. PRIORITY AMONG SECURITY INTERESTS AND ENTITLEMENT HOLDERS.

(a) Except as otherwise provided in subsections (b) and (c), if a securities intermediary does not have sufficient interests in a particular financial asset to satisfy both its obligations to entitlement holders who have security entitlements to that financial asset and its obligation to a creditor of the securities intermediary who has a security interest in that financial

asset, the claims of entitlement holders, other than the creditor, have priority over the claim of the creditor.

(b) A claim of a creditor of a securities intermediary who has a security interest in a financial asset held by a securities intermediary has priority over claims of the securities intermediary's entitlement holders who have security entitlements with respect to that financial asset if the creditor has control over the financial asset.

(c) If a clearing corporation does not have sufficient financial assets to satisfy both its obligations to entitlement holders who have security entitlements with respect to a financial asset and its obligation to a creditor of the clearing corporation who has a security interest in that financial asset, the claim of the creditor has priority over the claims of entitlement holders."

PART 6. TRANSITION PROVISIONS

§ 8-601. EFFECTIVE DATE.

This Act takes effect on January 1, 1998.

§ 8-602. SAVINGS CLAUSE.

(a) This Act does not affect an action or proceeding commenced before this Act takes effect.

(b) If a security interest in a security is perfected at the date this Act takes effect, and the action by which the security interest was perfected would suffice to perfect a security interest under this Act, no further action is required to continue perfection. Except to the extent otherwise provided or permitted by subsection (d) hereof, if a security interest in a security is perfected at the date this Act takes effect but the action by which the security interest was perfected would not suffice to perfect a security interest under this Act, the security interest remains perfected for a period of one year after the effective date and continues perfected thereafter if appropriate action to perfect under this Act or otherwise under the Uniform Commercial Code is taken within that period. If a security interest is perfected at the date this Act takes effect and the security interest can be perfected by filing under this Act, a financing statement signed by the secured party instead of the debtor may be filed within that period to continue perfection or thereafter to perfect.

(c) Prior to the effective date of this Act, uncertificated interests in general and limited partnerships were not deemed to be securities subject to Article 8 of the Uniform Commercial Code. Security interests with respect to uncertificated interests in general and limited partnerships that are perfected when this Act becomes effective shall remain perfected until they lapse as provided in Article 9 of the Uniform Commercial Code and may be continued as permitted by Article 9 of the Uniform Commercial Code. For such uncertificated interests in general and limited partnerships, Article 9 of the Uniform Commercial Code in effect immediately prior to the effective date of this Act shall apply to any questions of priority if the positions of the parties were fixed prior to the effective date of this Act.

(d) If a security interest is perfected with respect to certificated securities under Article 8 of the Uniform Commercial Code prior to the effective date of this Act, and if the filing of a financing statement would be required for the perfection of the security interest after the effective date of this Act, the security interest remains perfected for a period of three years after the effective date of this Act and continues perfected thereafter if appropriate action to perfect under this Act or otherwise under the Uniform Commercial Code is taken within that period.

Section 2. Amend Subsection 6, Section 9-103, Subtitle I, Title 6 of the Delaware Code by striking said Subsection in its entirety, and substituting in lieu thereof the following:

"(6) Investment Property.

(a) This subsection applies to investment property.

(b) Except as otherwise provided in paragraph (f), during the time that a security certificate is located in a jurisdiction, perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in the certificated security represented thereby are governed by the local law of that jurisdiction.

(c) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in an uncertificated security are governed by the local law of the issuer's jurisdiction as specified in Section 8-110(d).

(d) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in a security entitlement or securities account are governed by the local law of the securities intermediary's jurisdiction as specified in Section 8-110(e).

(e) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in a commodity contract or commodity account are governed by the local law of the commodity intermediary's jurisdiction. The following rules determine a "commodity intermediary's jurisdiction" for purposes of this paragraph:

(i) If an agreement between the commodity intermediary and commodity customer specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(ii) If an agreement between the commodity intermediary and commodity customer does not specify the governing law as provided in subparagraph (i), but expressly specifies that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(iii) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraphs (i) or (ii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office servicing the commodity customer's account.

(iv) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraphs (i) or (ii), and an account statement does not identify an office serving the commodity customer's account as provided in subparagraph (iii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the commodity intermediary.

(f) Perfection of a security interest by filing, automatic perfection of a security interest in investment property granted by a broker or securities intermediary, and automatic perfection of a security interest in a commodity contract or commodity account granted by a commodity intermediary are governed by the local law of the jurisdiction in which the debtor is located as specified in subsections 9-103(3)(c) and (d). A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change."

Section 3. Amend Subsections (1)(h), (1)(i), (2) and (3), Section 9-105, Subtitle I, Title 6 of the Delaware Code by striking said Subsections in their entirety, and substituting in lieu thereof the following:

"(1) In this Article unless the context otherwise requires:

(h) "Goods" includes all things which are moveable at the time the security interest attaches or which are fixtures (Section 9-313), but does not include money, documents, instruments, investment property, commodity contracts, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops;

(i) "Instrument" means a negotiable instrument (defined in Section 3-104), or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary endorsement or assignment. The term does not include investment property;

(2) Other definitions applying to this Article and the sections in which they appear are:

"Account".	Section 9-106.
"Attach".	Section 9-203.
"Commodity contract".	Section 9-115.
"Commodity customer".	Section 9-115.
"Commodity intermediary".	Section 9-115.
"Construction mortgage".	Section 9-313(1).
"Consumer goods".	Section 9-109(1).
"Control".	Section 9-115.
"Equipment".	Section 9-109(2).
"Farm products".	Section 9-109(3).
"Fixture".	Section 9-313(1).
"Fixture filing".	Section 9-313(1).
"General intangibles".	Section 9-106.
"Inventory".	Section 9-109(4).
"Investment property".	Section 9-115.
"Lien creditor".	Section 9-301(3).
"Proceeds".	Section 9-306(1).
"Purchase money security interest".	Section 9-107.
"United States".	Section 9-103.

(3) The following definitions in other Articles apply to this Article:

"Broker".	Section 8-102.
"Certificated security".	Section 8-102.

"Check".	Section 3-104.
"Clearing corporation".	Section 8-102.
"Contract for sale".	Section 2-106.
"Control".	Section 8-106.
"Delivery".	Section 8-301.
"Entitlement holder".	Section 8-102.
"Financial asset".	Section 8-102.
"Holder in due course".	Section 3-302.
"Note".	Section 3-104.
"Sale".	Section 2-106.
"Securities intermediary".	Section 8-102.
"Security".	Section 8-102.
"Security certificate".	Section 8-102.
"Security entitlement".	Section 8-102.
"Uncertificated security".	Section 8-102.

Section 4. Amend Section 9-106, Subtitle 1, Title 6 of the Delaware Code by inserting in the second sentence thereof "investment property," after "instruments" and before "and money."

Section 5. Amend Article 9, Subtitle 1, Title 6 of the Delaware Code by adding thereto a new Section 9-115 as follows:

"Section 9-115. INVESTMENT PROPERTY.

(1) In this Article:

(a) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(b) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or other contract that, in each case, is:

(i) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to the federal commodities laws; or

(ii) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(c) "Commodity customer" means a person for whom a commodity intermediary carries a commodity contract on its books.

(d) "Commodity intermediary" means:

(i) a person who is registered as a futures commission merchant under the federal commodities laws; or

(ii) a person who in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to the federal commodities laws.

(e) "Control" with respect to a certificated security, uncertificated security, or security entitlement has the meaning specified in Section 8-106. A secured party has control over a commodity contract if by agreement among the commodity customer, the commodity intermediary, and the secured party, the commodity intermediary has agreed that it will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer. If a commodity customer grants a security interest in a commodity contract to its own commodity intermediary, the commodity intermediary as secured party has control. A secured party has control over a securities account or commodity account if the secured party has control over all security entitlements or commodity contracts carried in the securities account or commodity account.

(f) "Investment property" means:

- (i) a security, whether certificated or uncertificated;
- (ii) a security entitlement;
- (iii) a securities account;
- (iv) a commodity contract; or
- (v) a commodity account.

(2) Attachment or perfection of a security interest in a securities account is also attachment or perfection of a security interest in all security entitlements carried in the securities account. Attachment or perfection of a security interest in a commodity account is also attachment or perfection of a security interest in all commodity contracts carried in the commodity account.

(3) A description of collateral in a security agreement or financing statement is sufficient to create or perfect a security interest in a certificated security, uncertificated security, security entitlement, securities account, commodity contract, or commodity account whether it describes the collateral by those terms, or as investment property, or by description of the underlying security, financial asset, or commodity contract. A description of investment property collateral in a security agreement or financing statement is sufficient if it identifies the collateral by specific listing, by category, by quantity, by a computational or allocational formula or procedure, or by any other method, if the identity of the collateral is objectively determinable.

(4) Perfection of a security interest in investment property is governed by the following rules:

(a) A security interest in investment property may be perfected by control.

(b) Except as otherwise provided in paragraphs (c) and (d), a security interest in investment property may be perfected by filing.

(c) If the debtor is a broker or securities intermediary, a security interest in investment property is perfected when it attaches. The filing of a financing statement with respect to a security interest in investment property granted by a broker or securities intermediary has no effect for purposes of perfection or priority with respect to that security interest.

(d) If a debtor is a commodity intermediary, a security interest in a commodity contract or a commodity account is perfected when it attaches. The filing of a financing statement with respect to a security interest in a commodity

contract or a commodity account granted by a commodity intermediary has no effect for purposes of perfection or priority with respect to that security interest.

(5) Priority between conflicting security interests in the same investment property is governed by the following rules:

(a) A security interest of a secured party who has control over investment property has priority over a security interest of a secured party who does not have control over the investment property.

(b) Except as otherwise provided in paragraphs (c) and (d), conflicting security interests of secured parties each of whom has control rank equally.

(c) Except as otherwise agreed by the securities intermediary, a security interest in a security entitlement or a securities account granted to the debtor's own securities intermediary has priority over any security interest granted by the debtor to another secured party.

(d) Except as otherwise agreed by the commodity intermediary, a security interest in a commodity contract or a commodity account granted to the debtor's own commodity intermediary has priority over any security interest granted by the debtor to another secured party.

(e) Conflicting security interests granted by a broker, a securities intermediary, or a commodity intermediary which are perfected without control rank equally.

(f) In all other cases, priority between conflicting security interests in investment property is governed by Section 9-312(5), (6), and (7). Section 9-312(4) does not apply to investment property.

(6) If a security certificate in registered form is delivered to a secured party pursuant to agreement, a written security agreement is not required for attachment or enforceability of the security interest, delivery suffices for perfection of the security interest, and the security interest has priority over a conflicting security interest perfected by means other than control, even if a necessary endorsement is lacking."

Section 6. Amend Article 9, Subtitle I, Title 6 of the Delaware Code by adding thereto a new Section 9-116 as follows:

"Section 9-116. SECURITY INTEREST ARISING IN PURCHASE OR DELIVERY OF FINANCIAL ASSET.

(1) If a person buys a financial asset through a securities intermediary in a transaction in which the buyer is obligated to pay the purchase price to the securities intermediary at the time of the purchase, and the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary, the securities intermediary has a security interest in the buyer's security entitlement securing the buyer's obligation to pay. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

(2) If a certificated security, or other financial asset represented by a writing which in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment is delivered pursuant to an agreement between persons in the business of dealing with such securities or financial assets and the agreement calls for delivery versus payment, the person delivering the certificate or other financial asset has a security interest in the certificated security or other financial asset securing the seller's right to receive payment. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected."

Section 7. Amend Subsection (1) of Section 9-203, Subtitle I, Title 6 of the Delaware Code by deleting said Subsection in its entirety and substituting in lieu thereof the following:

"(1) Subject to the provisions of Section 4-208 on the security interest of a collecting bank, Sections 9-115 and 9-116 on security interests in investment property, and Section 9-113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

(a) the collateral is in the possession of the secured party pursuant to agreement, the collateral is investment property and the secured party has control pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned;

(b) value has been given; and

(c) the debtor has rights in the collateral."

Section 8. Amend Subsection (1)(d) of Section 9-301, Subtitle I, Title 6 of the Delaware Code by inserting ", " after the word "accounts", deleting the word "and" after the word "accounts" and before the word "general", and inserting "and investment property," after "intangibles," and before "a".

Section 9. Amend Subsections (1)(b), (f) and (g) of Section 9-302, Subtitle I, Title 6 of the Delaware Code by striking said Subsections in their entirety, and substituting in lieu thereof the following:

"(1) A financing statement must be filed to perfect all security interests except the following:

(b) a security interest temporarily perfected in instruments, certificated securities, or documents without delivery under Section 9-304 or in proceeds for a 10 day period under Section 9-306;

(f) a security interest of a collecting bank (Section 4-208) or arising under the Article on Sales (see Section 9-113) or covered in subsection (3) of this section;

(g) an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder."

Section 10. Amend Section 9-302, Subtitle I, Title 6 of the Delaware Code by adding thereto a new subsection (1)(h) as follows:

"(h) a security interest in investment property which is perfected without filing under Section 9-115 or Section 9-116."

Section 11. Amend Subsections (1), (4), and (5)(b) of Section 9-304, Subtitle I, Title 6 of the Delaware Code by striking said Subsections in their entirety, and substituting in lieu thereof the following:

"(1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this section and subsections (2) and (3) of Section 9-306 on proceeds.

(4) A security interest in instruments, certificated securities, or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument, a certificated security,

a negotiable document, or goods in possession of a bailee other than one who has issued a negotiable document therefor

(b) delivers the instrument or certificated security to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal, or registration of transfer."

Section 12. Amend Section 9-305, Subtitle 1, Title 6 of the Delaware Code by striking "(other than certificated securities)" in the first sentence of said Section.

Section 13. Amend Subsections (1) and (3) of Section 9-306, Subtitle 1, Title 6 of the Delaware Code by striking said Subsections in their entirety, and substituting in lieu thereof the following:

"(1) "Proceeds" includes whatever is received upon the sale, exchange, collection, or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Any payments or distributions made with respect to investment property collateral are proceeds. Money, checks, deposit accounts, and the like, are "cash proceeds". All other proceeds are "non-cash proceeds".

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected ten days after receipt of the proceeds by the debtor unless

(a) a filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds; or

(b) a filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds;

(c) the original collateral was investment property and the proceeds are identifiable cash proceeds; or

(d) the security interest in the proceeds is perfected before the expiration of the ten day period.

Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances permitted in this Article for original collateral of the same type."

Section 14. Amend Section 9-309, Subtitle 1, Title 6 of the Delaware Code by striking the Section in its entirety, and substituting in lieu thereof the following:

"Nothing in this Article limits the rights of a holder in due course of a negotiable instrument (Section 3-302) or a holder to whom a negotiable document of title has been duly negotiated (Section 7-501) or a protected purchaser of a security (Section 8-303), and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this Article does not constitute notice of the security interest to such holders or purchasers."

Section 15. Amend Subsections (1) and (7), Section 9-312, Subtitle 1, Title 6 of the Delaware Code by striking said Subsections in their entirety, and substituting in lieu thereof the following:

"(1) The rules of priority stated in other sections of this Part, and in the following sections, shall govern when applicable: Section 4-210 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds;

Section 9-103 on security interests related to other jurisdictions; Section 9-114 on consignments; Section 9-115 on security interests in investment property.

(7) If future advances are made while a security interest is perfected by filing, the taking of possession, or under Section 9-115 or Section 9-116 on investment property, the security interest has the same priority for the purposes of subsection (5) or Section 9-115(5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

Section 16. Amend Subsection (2), Section 1-105, Subtitle I, Title 6 of the Delaware Code by striking "8-106" and substituting in lieu thereof "8-110".

Section 17. Amend Subsection (2), Section 1-206, Subtitle I, Title 6 of the Delaware Code by striking "8-319" and substituting in lieu thereof "8-113".

Section 18. Amend Subsection (a)(6), Section 4-104, Subtitle I, Title 6 of the Delaware Code by striking "8-308" and substituting in lieu thereof "8-102".

Section 19. Amend Subsection (2), Section 5-114, Subtitle I, Title 6 of the Delaware Code by striking "8-306" and substituting in lieu thereof "8-108".

Section 20. Amend Section 10-104, Subtitle I, Title 6 of the Delaware Code by striking said Section in its entirety, and substituting in lieu thereof the following:

"The Article on Documents of Title (Article 7) does not repeal or modify any laws prescribing the form or contents of documents of title or the services or facilities to be afforded by bailees, or otherwise regulating bailees' businesses in respects not specifically dealt with herein; but the fact that such laws are violated does not affect the status of a document to title which otherwise complies with the definition of a document of title (Section 1-201)."

Approved June 25, 1997

CHAPTER 76

FORMERLY

SENATE BILL NO. 103

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO FIDUCIARY RELATIONS, THE "UNIFORM TESTAMENTARY ADDITIONS TO TRUSTS ACT".

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

Section 1. Amend Section 211 of Title 12 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§ 211. Testamentary Additions to Trusts.

(a) A will may validly devise or bequeath property to the trustee of a trust established or to be established (i) during the testator's lifetime by the testator, by the testator and some other person, or by some other person including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts, or (ii) at the testator's death by the testator's devise to the trustee, if the trust is identified in the testator's will and its terms are set forth in a written instrument, other than a will, executed before, concurrently with, or after the execution of the testator's will or in another individual's will if that other individual has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust. The devise or bequest is not invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or the testator's death.

(b) Unless the testator's will provides otherwise, property devised or bequeathed to a trust described in subsection (a) is not held under a testamentary trust of the testator but it becomes a part of the trust to which it is devised or bequeathed, and must be administered and disposed of in accordance with the provisions of the governing instrument setting forth the terms of the trust, including any amendments thereto made before or after the testator's death.

(c) Unless the testator's will provides otherwise, a revocation or termination of the trust before the testator's death causes the devise or bequest to lapse."

Section 2. This Act applies to a will of a testator who dies after the effective date of this Act.

Section 3. This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.

Section 4. This Act shall be known and may be cited as the "Uniform Testamentary Additions to Trusts Act".

Section 5. If any provision of this Act or its application is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end provisions of this Act are severable.

Approved June 25, 1997

CHAPTER 77

FORMERLY

SENATE BILL NO. 104

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(7), Chapter 18, Title 6 of the Delaware Code by adding immediately following the words "written or oral, of the" the words "member or".

Section 2. Amend § 18-101, Chapter 18, Title 6 of the Delaware Code by redesignating paragraph "(13)" as paragraph "(14)", and by adding a new paragraph designated as paragraph "(13)" in its appropriate numerical order to read as follows: "(13) "Personal representative" means, as to a natural person, the executor, administrator, guardian, conservator or other legal representative thereof and, as to a person other than a natural person, the legal representative or successor thereof."

Section 3. Amend § 18-104(a)(2), Chapter 18, Title 6 of the Delaware Code by inserting after the words "a domestic corporation," the words "or a domestic limited partnership, or a domestic limited liability company, or a domestic business trust," and by inserting after the words "a foreign corporation" the following: ", or a foreign limited partnership, or a foreign limited liability company".

Section 4. Amend § 18-104(a)(2), Chapter 18, Title 6 of the Delaware Code by inserting immediately before the words "or the limited liability company itself" the words "which is generally open during normal business hours to accept service of process and otherwise perform the functions of a registered agent".

Section 5. Amend § 18-106(a), Chapter 18, Title 6 of the Delaware Code by inserting the words ", whether or not for profit," after the word "activity".

Section 6. Amend § 18-109(d), Chapter 18, Title 6 of the Delaware Code by deleting the following words: ", or the exclusivity of arbitration in," and inserting after the words "the State of Delaware," the words ", or the exclusivity of arbitration in a specified jurisdiction or the State of Delaware,".

Section 7. Amend § 18-110, Chapter 18, Title 6 of the Delaware Code by adding in the first sentence of subsection (a) immediately following the word "appointment" the word ", removal", and by deleting the word "withdrawal" and substituting in lieu thereof the word "resignation", and by adding immediately following the words "right of any person" the words "to become or continue", and by adding in the second sentence of subsection (a), immediately following the words "any such application," the words "the limited liability company shall be named as a party, and", and by adding in the first sentence of subsection (b), immediately following the word "appointment" the word ", removal", and by deleting the word "withdrawal" and substituting in lieu thereof the word "resignation", and by deleting the word "Service" the first time it appears in subsection (b) and substituting in lieu thereof the words "In any such application, the limited liability company shall be named as a party, and service".

Section 8. Amend § 18-203, Chapter 18, Title 6 of the Delaware Code by (1) deleting the words "or at any other time there are no members," in the first sentence, (2) adding immediately prior to the "." at the end of the first sentence the words ", or upon the conversion of a domestic limited liability company approved in accordance with § 18-216 of this title", and (3) deleting the words "at any other time there are no members" in the second sentence and

substituting in lieu thereof the words "upon the conversion of a domestic limited liability company approved in accordance with § 18-216 of this title".

Section 9. Amend § 18-206(a), Chapter 18, Title 6 of the Delaware Code by adding immediately following the words "any certificate of transfer" the words ", any certificate of transfer and continuance".

Section 10. Amend § 18-206(a)(1), Chapter 18, Title 6 of the Delaware Code by adding immediately following the words "certificate of transfer" the words ", the certificate of transfer and continuance".

Section 11. Amend § 18-206(b), Chapter 18, Title 6 of the Delaware Code by adding the following sentence at the end thereof: "Upon the filing of a certificate of transfer and continuance, or upon the future effective date or time of a certificate of transfer and continuance, as provided for therein, the limited liability company filing the certificate of transfer and continuance shall continue to exist as a limited liability company of the State of Delaware with the effect provided in Section 18-213 of this title."

Section 12. Amend § 18-206(c), Chapter 18, Title 6 of the Delaware Code by adding immediately following the words "certificate of transfer" the words ", certificate of transfer and continuance".

Section 13. Amend § 18- 211, Chapter 18, Title 6 of the Delaware Code by (1) designating the existing section as subsection "(a)" and deleting the words "corrected certificate" at two places in the last sentence thereof and substituting in lieu thereof the words "certificate of correction" and (2) adding the following sentences as a new subsection "(b)": "(b) In lieu of filing a certificate of correction, a certificate may be corrected by filing with the Secretary of State a corrected certificate which shall be executed and filed as if the corrected certificate were the certificate being corrected, and a fee equal to the fee payable to the Secretary of State if the certificate being corrected were then being filed shall be paid and collected by the Secretary of State for the use of the State of Delaware in connection with the filing of the corrected certificate. The corrected certificate shall be specifically designated as such in its heading, shall specify the inaccuracy or defect to be corrected, and shall set forth the entire certificate in corrected form. A certificate corrected in accordance with this section shall be effective as of the date the original certificate was filed, except as to those persons who are substantially and adversely affected by the correction and as to those persons the certificate as corrected shall be effective from the filing date."

Section 14. Amend § 18-212(g), Chapter 18, Title 6 of the Delaware Code by (1) deleting the words "a limited liability company agreement" and substituting in lieu thereof the words "the domestication", and (2) adding immediately prior to the "." the following: ", and a limited liability company agreement shall be approved by the same authorization required to approve the domestication".

Section 15. Amend § 18-213, Chapter 18, Title 6 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

§ 18-213. TRANSFER OR CONTINUANCE OF DOMESTIC LIMITED LIABILITY COMPANIES.

(a) Upon compliance with the provisions of this section, any limited liability company may transfer to or domesticate in any jurisdiction, other than any state, that permits the transfer to or domestication in such jurisdiction of a limited liability company and, in connection therewith, may elect to continue its existence as a limited liability company in the State of Delaware.

(b) Notwithstanding anything to the contrary in this chapter or a limited liability company agreement, a transfer or domestication or continuance described in subsection (a) of this section shall be approved in writing by all of the managers and all of the members. If all of the managers and all of the members of the limited liability company shall approve the transfer or domestication described in subsection (a) of this

section, a certificate of transfer if the limited liability company's existence as a limited liability company of the State of Delaware is to cease, or a certificate of transfer and continuance if the limited liability company's existence as a limited liability company in the State of Delaware is to continue, executed in accordance with § 18-204 of this title, shall be filed in the Office of the Secretary of State in accordance with § 18-206 of this title. The certificate of transfer or the certificate of transfer and continuance shall state:

(1) The name of the limited liability company and, if it has been changed, the name under which its certificate of formation was originally filed;

(2) The date of the filing of its original certificate of formation with the Secretary of State;

(3) The jurisdiction to which the limited liability company shall be transferred or in which it shall be domesticated;

(4) The future effective date or time (which shall be a date or time certain) of the transfer or domestication to the jurisdiction specified in subsection (b)(3) of this section if it is not to be effective upon the filing of the certificate of transfer or the certificate of transfer and continuance;

(5) That the transfer or domestication or continuance of the limited liability company has been approved in accordance with the provisions of this section;

(6) In the case of a certificate of transfer, (i) that the existence of the limited liability company as a limited liability company of the State of Delaware shall cease when the certificate of transfer becomes effective, and (ii) the agreement of the limited liability company that it may be served with process in the State of Delaware in any action, suit or proceeding for enforcement of any obligation of the limited liability company arising while it was a limited liability company of the State of Delaware, and that it irrevocably appoints the Secretary of State as its agent to accept service of process in any such action, suit or proceeding;

(7) The address to which a copy of the process referred to in subsection (b)(6) of this section shall be mailed to it by the Secretary of State. In the event of service hereunder upon the Secretary of State, the procedures set forth in § 18-911(c) of this title shall be applicable, except that the plaintiff in any such action, suit or proceeding shall furnish the Secretary of State with the address specified in this subsection and any other address that the plaintiff may elect to furnish, together with copies of such process as required by the Secretary of State, and the Secretary of State shall notify the limited liability company that has transferred or domesticated out of the State of Delaware at all such addresses furnished by the plaintiff in accordance with the procedures set forth in § 18-911(c) of this title; and

(8) In the case of a certificate of transfer and continuance, that the limited liability company will continue to exist as a limited liability company of the State of Delaware after the certificate of transfer and continuance becomes effective.

(c) Upon the filing in the Office of the Secretary of State of the certificate of transfer or upon the future effective date or time of the certificate of transfer and payment to the Secretary of State of all fees prescribed in this chapter, the Secretary of State shall certify that the limited liability company has filed all documents and paid all fees required by this chapter, and thereupon the limited liability company shall cease to exist as a limited liability company of the State of Delaware. Such certificate of the Secretary of State shall be *prima facie* evidence of the transfer or domestication by such limited liability company out of the State of Delaware.

(d) The transfer or domestication of a limited liability company out of the State of Delaware in accordance with this section and the resulting cessation of its existence as a limited liability company of the State of Delaware pursuant to a certificate of transfer shall not be deemed to affect any obligations or liabilities of the limited liability company incurred prior to such transfer or domestication or the personal liability of any person incurred prior to such transfer or domestication, nor shall it be deemed to affect the choice of law applicable to the limited liability company with respect to matters arising prior to such transfer or domestication.

(e) If a limited liability company files a certificate of transfer and continuance, after the time the certificate of transfer and continuance becomes effective, the limited liability company shall continue to exist as a limited liability company of the State of Delaware, and the laws of the State of Delaware, including the provisions of this chapter, shall apply to the limited liability company, to the same extent as prior to such time."

Section 16. Amend § 18-214(c)(1), Chapter 18, Title 6 of the Delaware Code by deleting the following: ", incorporated".

Section 17. Amend § 18-214(g), Chapter 18, Title 6 of the Delaware Code by adding immediately prior to the "." the words " and shall constitute a continuation of the existence of the converting other entity in the form of a domestic limited liability company".

Section 18. Amend § 18-214(h), Chapter 18, Title 6 of the Delaware Code by (1) deleting the words "a limited liability company agreement" and substituting in lieu thereof the words "the conversion", and (2) adding immediately prior to the "." the following: ", and a limited liability company agreement shall be approved by the same authorization required to approve the conversion".

Section 19. Amend § 18-215(b), Chapter 18, Title 6 of the Delaware Code by deleting the words "the limitation on liabilities of such series" immediately prior to the "." at the end of such subsection and substituting in lieu thereof the words "such limitation on liabilities of a series".

Section 20. Amend § 18-215(i), Chapter 18, Title 6 of the Delaware Code by adding immediately prior to the "." at the end of such subsection the words "or cause the termination of the series, regardless of whether such member was the last remaining member associated with such series".

Section 21. Amend § 18-215(j), Chapter 18, Title 6 of the Delaware Code by (1) deleting the words appearing after the word "upon" in subsection (3), and substituting in lieu thereof the words "the written consent of the members of the limited liability company associated with such series or, if there is more than one class or group of members associated with such series, then by each class or group of members associated with such series, in either case, by members associated with such series who own more than two-thirds of the then-current percentage or other interest in the profits of the series of the limited liability company owned by all of the members associated with such series or by the members in each class or group of such series, as appropriate.", (2) redesignating subsection "(4)" as subsection "(5)", (3) deleting the word "or" as the last word of subsection "(3)", and (4) adding new subsection "(4)" in its appropriate numerical order to read as follows: "(4) At any time there are no members associated with the series, provided that, unless otherwise provided in the limited liability company agreement, the series is not terminated and is not required to be wound up if, within 90 days or such other period as is provided for in the limited liability company agreement after the occurrence of the event that terminated the continued membership of the last remaining member associated with the series, the personal representative of the last member associated with the series agrees in writing to continue the business of the series and to the admission of a personal representative of such member or its nominee or designee to the limited liability company as a member associated with the series, effective as of the occurrence of the event that terminated the continued membership of the last remaining member associated with the series; or".

Section 22. Amend § 18-215(k), Chapter 18, Title 6 of the Delaware Code by deleting the word "legal" and substituting in lieu thereof the word "personal".

Section 23. Amend § 18-215(l), Chapter 18, Title 6 of the Delaware Code by deleting the word "dissolution" and substituting in lieu thereof the word "termination".

Section 24. Amend § 18-301, Chapter 18, Title 6 of the Delaware Code by redesignating paragraph "(c)" as paragraph "(d)", and by adding a new paragraph designated as paragraph "(c)" in its appropriate alphabetical order to read as follows: "(c) In connection with the domestication of a non-United States entity (as defined in § 18-212 of this title) as a limited liability company in the State of Delaware in accordance with § 18-212 of this title or the conversion of an other entity (as defined in § 18-214 of this title) to a domestic limited liability company in accordance with § 18-214 of this title, a person is admitted as a member of the limited liability company at the time provided in and upon compliance with the limited liability company agreement."

Section 25. Amend § 18-301, Chapter 18, Title 6 of the Delaware Code by adding a new sentence at the end of newly designated § 18-301(d) to read as follows: "Unless otherwise provided in a limited liability company agreement, a person may be admitted as the sole member of a limited liability company without making a contribution or being obligated to make a contribution to the limited liability company or without acquiring a limited liability company interest in the limited liability company."

Section 26. Amend § 18-302, Chapter 18, Title 6 of the Delaware Code by adding a new § 18-302(d) to read as follows: "(d) Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on by members, the members may take such action without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting. Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on by members, the members may vote in person or by proxy."

Section 27. Amend § 18-404, Chapter 18, Title 6 of the Delaware Code by adding a new § 18-404(d) to read as follows: "(d) Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on by managers, the managers may take such action without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the managers having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting. Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on by managers, the managers may vote in person or by proxy."

Section 28. Amend § 18-407, Chapter 18, Title 6 of the Delaware Code by adding after the word "agents" appearing in the first sentence thereof the word "officers".

Section 29. Amend § 18-705, Chapter 18, Title 6 of the Delaware Code by (1) deleting the words "executor, administrator, guardian, conservator or other legal representative" and substituting in lieu thereof the words "personal representative", and (2) deleting the words "legal representative or successor" and substituting in lieu thereof the words "personal representative".

Section 30. Amend § 18-801, Chapter 18, Title 6 of the Delaware Code by (1) designating the existing text as subsection "(a)", (2) deleting in its entirety subsection (1) and substituting in lieu thereof: "(1) At the time specified in a limited liability company agreement, but if no such time is set forth in the limited liability company agreement, then the limited liability company shall have a perpetual existence.", (3) deleting the words appearing after the word "upon" in subsection (3), and substitute in lieu thereof the words "the written consent of the members of the limited liability company or, if there is more than one class or group of members, then by each class or group of members, in either case, by members who own more than two-thirds of the then-current percentage or other interest in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate.", (4) deleting subsection (4) in its entirety and substituting in lieu thereof the following: "(4) At any time there are no members, provided that, unless otherwise provided in a limited liability company agreement, the limited liability company is not dissolved and is not required to be wound up if, within 90 days or such other period as is provided for in the limited liability company agreement after the occurrence of the event that terminated the continued

membership of the last remaining member, the personal representative of the last remaining member agrees in writing to continue the limited liability company and to the admission of the personal representative of such member or its nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; or", and (5) adding to the section a new subsection "(b)" reading as follows: "(b) Unless otherwise provided in a limited liability company agreement, the death, retirement, resignation, expulsion, bankruptcy or dissolution of any member or the occurrence of any other event that terminates the continued membership of any member shall not cause the limited liability company to be dissolved or its affairs to be wound up, and upon the occurrence of any such event, the limited liability company shall be continued without dissolution, unless within 90 days following the occurrence of such event, members of the limited liability company or, if there is more than one class or group of members, then each class or group of members, in either case, by members who own more than fifty percent of the then-current percentage or other interest in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate, agree in writing to dissolve the limited liability company."

Section 31. Amend § 18-803(a), Chapter 18, Title 6 of the Delaware Code by deleting the word "legal" and substituting in lieu thereof the word "personal".

Section 32. Amend § 18-904(b)(2), Chapter 18, Title 6 of the Delaware Code by inserting after the words "a domestic corporation" the words "or a domestic limited partnership, or a domestic limited liability company, or a domestic business trust," and by inserting after the words "a foreign corporation" the following: ", or a foreign limited partnership, or a foreign limited liability company".

Section 33. Amend § 18-904(b)(2), Chapter 18, Title 6 of the Delaware Code by inserting at the end of the said subsection before the ".", the words ", which is generally open during normal business hours to accept service of process and otherwise perform the functions of a registered agent".

Section 34. Amend § 18-1105(a)(3), Chapter 18, Title 6 of the Delaware Code by adding after the words "certificate of transfer" the words "or a certificate of transfer and continuance".

Section 35. This Act shall become effective August 1, 1997.

Approved June 25, 1997

CHAPTER 78

FORMERLY

SENATE BILL NO. 107

AN ACT TO AMEND CHAPTER 17, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC LIMITED PARTNERSHIPS AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED PARTNERSHIPS.

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

Section 1. Amend § 17-101, Chapter 17, Title 6 of the Delaware Code by redesignating paragraphs "(14)" and "(15)" as paragraphs "(15)" and "(16)", respectively, and by adding a new paragraph designated as paragraph "(14)" in its appropriate numerical order to read as follows: "(14) . 'Personal representative' means, as to a natural person, the executor, administrator, guardian, conservator or other legal representative thereof and, as to a person other than a natural person, the legal representative or successor thereof."

Section 2. Amend § 17-104(a)(2), Chapter 17, Title 6 of the Delaware Code by inserting after the words "a domestic corporation," the words "or a domestic limited partnership, or a domestic limited liability company, or a domestic business trust," and by inserting after the words "a foreign corporation" the words: ", or a foreign limited partnership, or a foreign limited liability company".

Section 3. Amend § 17-104(a)(2), Chapter 17, Title 6 of the Delaware Code by inserting immediately before the words "or the limited partnership itself", the words "which is generally open during normal business hours to accept service of process and otherwise perform the functions of a registered agent,".

Section 4. Amend § 17-106(a), Chapter 17, Title 6 of the Delaware Code by deleting such subsection in its entirety and inserting in lieu thereof the following: "(a) A limited partnership may carry on any lawful business, purpose or activity, whether or not for profit, with the exception of the business of granting policies of insurance, or assuming insurance risks or banking as defined in § 126 of Title 8."

Section 5. Amend § 17-109(d), Chapter 17, Title 6 of the Delaware Code by deleting the following words: ", or the exclusivity of arbitration in," and inserting after the words "the State of Delaware," the words ", or the exclusivity of arbitration in a specified jurisdiction or the State of Delaware,".

Section 6. Amend § 17-110, Chapter 17, Title 6 of the Delaware Code by adding in the first sentence of subsection (a) immediately before the word "withdrawal" the words "removal or other" and by inserting immediately following the words "right of any person" the words "to become or continue", and by adding in the second sentence of subsection (a), immediately following the words "any such application," the words "the limited partnership shall be named as a party, and", and by adding in the first sentence of subsection (b), immediately before the word "withdrawal" the words "removal or other", and by deleting the word "Service" the first time that it appears in the second sentence of subsection (b) and substituting in lieu thereof the words "In any such application, the limited partnership shall be named as a party, and service".

Section 7. Amend § 17-203, Chapter 17, Title 6 of the Delaware Code by (1) deleting the words "or at any other time there are no limited partners," in the first sentence, (2) adding immediately prior to the "." at the end of the first sentence the words ", or upon the conversion of a domestic limited partnership approved in accordance with § 17-219 of this title", and (3) deleting the words "at any other time there are no limited partners" in the second sentence and

substituting in lieu thereof the words "upon the conversion of a domestic limited partnership approved in accordance with § 17-219 of this title".

Section 8. Amend § 17-204(a)(1), Chapter 17, Title 6 of the Delaware Code by deleting the words "and a certificate of transfer" and by inserting in lieu thereof the words", a certificate of transfer and a certificate of transfer and continuance."

Section 9. Amend § 17-206(a), Chapter 17, Title 6 of the Delaware Code by adding immediately following the words "any certificate of transfer" the words ", any certificate of transfer and continuance."

Section 10. Amend § 17-206(a)(1), Chapter 17, Title 6 of the Delaware Code by adding immediately following the words "certificate of transfer", the words ", the certificate of transfer and continuance".

Section 11. Amend § 17-206(b), Chapter 17, Title 6 of the Delaware Code by adding the following sentence at the end thereof:

Upon the filing of a certificate of transfer and continuance, or upon the future effective date or time of a certificate of transfer and continuance, as provided for therein, the limited partnership filing the certificate of transfer and continuance shall continue to exist as a limited partnership of the State of Delaware with the effect provided in Section 17-216 of this title."

Section 12. Amend § 17-206(c), Chapter 17, Title 6 of the Delaware Code by adding immediately following the words "certificate of transfer" the words ", certificate of transfer and continuance".

Section 13. Amend § 17-207(a), Chapter 17, Title 6 of the Delaware Code by adding immediately following the words "certificate of transfer" the words ", certificate of transfer and continuance".

Section 14. Amend § 17-213, Chapter 17, Title 6 of the Delaware Code by (1) designating the existing section as subsection "(a)" and deleting the words "corrected certificate" at two places in the last sentence thereof and substituting in lieu thereof the words "certificate of correction" and (2) adding the following sentences as a new subsection "(b)": "(b) In lieu of filing a certificate of correction, a certificate may be corrected by filing with the Secretary of State a corrected certificate which shall be executed and filed as if the corrected certificate were the certificate being corrected, and a fee equal to the fee payable to the Secretary of State if the certificate being corrected were then being filed shall be paid to and collected by the Secretary of State for the use of the State of Delaware in connection with the filing of the corrected certificate. The corrected certificate shall be specifically designated as such in its heading, shall specify the inaccuracy or defect to be corrected, and shall set forth the entire certificate in corrected form. A certificate corrected in accordance with this section shall be effective as of the date the original certificate was filed, except as to those persons who are substantially and adversely affected by the correction and as to those persons the certificate as corrected shall be effective from the filing date."

Section 15. Amend § 17-214(a), Chapter 17, Title 6 of the Delaware Code by adding the word "and" following the ";," appearing at the end of subsection (1), by deleting subsection (2) in its entirety, and by deleting "(3)" and substituting in lieu thereof "(2)".

Section 16. Amend § 17-215(g), Chapter 17, Title 6 of the Delaware Code by (1) deleting the words "a partnership agreement" and substituting in lieu thereof the words "the domestication" and (2) adding immediately prior to the ";," the following: ", and a partnership agreement shall be approved by the same authorization required to approve the domestication".

Section 17. Amend § 17-216, Chapter 17, Title 6 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§ 17-216. TRANSFER OR CONTINUANCE OF DOMESTIC LIMITED PARTNERSHIPS.

(a) Upon compliance with the provisions of this section, any limited partnership may transfer to or domesticate in any jurisdiction, other than any state, that permits the transfer to or domestication in such jurisdiction of a limited partnership and, in connection therewith, may elect to continue its existence as a limited partnership in the State of Delaware.

(b) Notwithstanding anything to the contrary in this chapter or a partnership agreement, the transfer or domestication or continuance described in subsection (a) of this section shall be approved in writing by all of the partners. If all of the partners of the limited partnership shall approve the transfer or domestication described in subsection (a) of this section, a certificate of transfer if the limited partnership's existence as a limited partnership of the State of Delaware is to cease, or a certificate of transfer and continuance if the limited partnership's existence as a limited partnership in the State of Delaware is to continue, executed in accordance with § 17-204 of this title, shall be filed in the Office of the Secretary of State in accordance with § 17-206 of this title. The certificate of transfer or the certificate of transfer and continuance shall state:

(1) The name of the limited partnership and, if it has been changed, the name under which its certificate of limited partnership was originally filed;

(2) The date of the filing of its original certificate of limited partnership with the Secretary of State;

(3) The jurisdiction to which the limited partnership shall be transferred or in which it shall be domesticated;

(4) The future effective date or time (which shall be a date or time certain) of the transfer or domestication to the jurisdiction specified in subsection (b)(3) of this section if it is not to be effective upon the filing of the certificate of transfer or the certificate of transfer and continuance;

(5) That the transfer or domestication or continuance of the limited partnership has been approved in accordance with the provisions of this section;

(6) In the case of a certificate of transfer, (i) that the existence of the limited partnership as a limited partnership of the State of Delaware shall cease when the certificate of transfer becomes effective and (ii) the agreement of the limited partnership that it may be served with process in the State of Delaware in any action, suit or proceeding for enforcement of any obligation of the limited partnership arising while it was a limited partnership of the State of Delaware, and that it irrevocably appoints the Secretary of State as its agent to accept service of process in any such action, suit or proceeding;

(7) The address to which a copy of the process referred to in subsection (b)(6) of this section shall be mailed to it by the Secretary of State. In the event of service hereunder upon the Secretary of State, the procedures set forth in § 17-911(c) of this title shall be applicable, except that the plaintiff in any such action, suit or proceeding shall furnish the Secretary of State with the address specified in this subsection and any other address that the plaintiff may elect to furnish, together with copies of such process as required by the Secretary of State, and the Secretary of State shall notify the limited partnership that has transferred or domesticated out of the State of Delaware at all such addresses furnished by the plaintiff in accordance with the procedures set forth in § 17-911(c) of this title; and

(8) In the case of a certificate of transfer and continuance, that the limited partnership will continue to exist as a limited partnership of the State of Delaware after the certificate of transfer and continuance becomes effective.

(c) Upon the filing in the Office of the Secretary of State of the certificate of transfer or upon the future effective date or time of the certificate of transfer and payment to the Secretary of State of all fees prescribed in this chapter, the Secretary of State shall certify that the limited partnership has filed all documents and paid all fees required by this chapter, and thereupon the limited partnership shall cease to exist as a limited partnership of the State of Delaware. Such certificate of the Secretary of State shall be prima facie evidence of the transfer or domestication by such limited partnership out of the State of Delaware.

(d) The transfer or domestication of a limited partnership out of the State of Delaware in accordance with this section and the resulting cessation of its existence as a limited partnership of the State of Delaware pursuant to a certificate of transfer shall not be deemed to affect any obligations or liabilities of the limited partnership incurred prior to such transfer or domestication or the personal liability of any person incurred prior to such transfer or domestication, nor shall it be deemed to affect the choice of law applicable to the limited partnership with respect to matters arising prior to such transfer or domestication.

(e) If a limited partnership files a certificate of transfer and continuance, after the time the certificate of transfer and continuance becomes effective, the limited partnership shall continue to exist as a limited partnership of the State of Delaware, and the laws of the State of Delaware, including the provisions of this chapter, shall apply to the limited partnership, to the same extent as prior to such time."

Section 18. Amend § 17-217(c)(1), Chapter 17, Title 6 of the Delaware Code by deleting the following: ", incorporated".

Section 19. Amend § 17-217(g), Chapter 17, Title 6 of the Delaware Code by adding immediately prior to the "." the words "and shall constitute a continuation of the existence of the converting other entity in the form of a domestic limited partnership".

Section 20. Amend § 17-217(h), Chapter 17, Title 6 of the Delaware Code by (1) deleting the words "a partnership agreement" and substituting in lieu thereof the words "the conversion" and (2) adding immediately prior to the ";" the following: ", and a partnership agreement shall be approved by the same authorization required to approve the conversion".

Section 21. Amend § 17-218, Chapter 17, Title 6 of the Delaware Code by adding immediately following the words "limited partners" in the title of such section the words ", general partners".

Section 22. Amend § 17-218(a), Chapter 17, Title 6 of the Delaware Code by adding immediately following the words "series of limited partners" the words ", general partners".

Section 23. Amend § 17-218(b), Chapter 17, Title 6 of the Delaware Code (1) by adding immediately following the words "creates one or more series" the words "or states that the liabilities of a general partner are limited to the liabilities of a designated series", (2) by adding immediately following the words "limitation on liabilities of a series" the words "or a general partner", (3) by adding immediately following the words "existing with respect to a particular series" the words "or general partner", (4) by adding immediately following the words "enforceable only against the assets of such series" the words "or a general partner associated with such series", and (5) by adding immediately prior to the "." the words "or any general partner not associated with such series".

Section 24. Amend § 17-218(c), Chapter 17, Title 6 of the Delaware Code (1) by adding immediately prior to the words "referenced in subsection (b)" the words "or a general partner as" and (2) by deleting immediately prior to the "." the words "of a series".

Section 25. Amend § 17-218(f), Chapter 17, Title 6 of the Delaware Code by adding immediately prior to the "." at the end of the second sentence of such subsection the words "or cause the termination of the series, regardless of whether such limited partner was the last remaining limited partner associated with such series".

Section 26. Amend § 17-218(g), Chapter 17, Title 6 of the Delaware Code by deleting the words "(h) and (j)" and substituting in lieu thereof the words "(i) and (k)".

Section 27. Amend § 17-218(i), Chapter 17, Title 6 of the Delaware Code by adding a new sentence immediately after the last sentence of the subsection to read as follows: "A series is terminated and its affairs shall be wound up upon the dissolution of the limited partnership under § 17-801 of this chapter or otherwise upon the first to occur of the following:

- (1) At the time specified in the partnership agreement;
- (2) Upon the happening of events specified in the partnership agreement;
- (3) Unless otherwise provided in the partnership agreement, upon the written consent of (a) all general partners associated with such series and (b) the limited partners associated with such series or, if there is more than one class or group of limited partners associated with such series, then by each class or group of limited partners associated with such series, in either case, by limited partners associated with such series who own more than two-thirds of the then current percentage or other interest in the profits of the limited partnership associated with such series owned by all of the limited partners associated with such series or by the limited partners in each class or group associated with such series, as appropriate;
- (4) An event of withdrawal of a general partner associated with the series unless at the time there is at least one other general partner associated with the series and the partnership agreement permits the business of the series to be carried on by the remaining general partner and that partner does so, but the series is not terminated and is not required to be wound up by reason of any event of withdrawal if (i) within 90 days or such other period as is provided for in the partnership agreement after the withdrawal either (A) if provided for in the partnership agreement, the then current percentage or other interest in the profits of the series specified in the partnership agreement owned by the remaining partners associated with the series agree in writing or vote to continue the business of the series and to appoint, effective as of the date of withdrawal, one or more additional general partners for the series if necessary or desired, or (B) if no such right to agree or vote to continue the business of the series of the limited partnership and to appoint one or more additional general partners for such series is provided for in the partnership agreement, then more than 50% of the then current percentage or other interest in the profits of the series owned by the remaining partners associated with the series or, if there is more than one class or group of remaining partners associated with the series, then more than 50% of the then current percentage or other interest in the profits of the series owned by each class or classes or group or groups of remaining partners associated with the series, agree in writing or vote to continue the business of the series and to appoint, effective as of the date of withdrawal, one or more additional general partners for the series if necessary or desired, or (ii) the business of the series is continued pursuant to a right to continue stated in the partnership agreement and the appointment, effective as of the date of withdrawal, of 1 or more additional general partners to be associated with the series if necessary or desired;
- (5) At the time there are no limited partners associated with the series, provided that, unless otherwise provided in the partnership agreement, the series is not terminated and is not required to be wound up if, within 90 days or such other period as is provided for in the partnership agreement after the occurrence of the event that caused the last limited partner associated with the series to cease to be a limited partner associated with the series, the personal representative of the last limited partner associated with the series and all of the general partners associated with the series agree in writing or vote to continue the business of the series and to the admission of the personal representative of such limited partner or its nominee or designee to the limited partnership as a limited partner associated with the series, effective as of the occurrence of the event that caused

the last limited partner associated with the series to cease to be a limited partner associated with the series; or

- (6) The termination of such series under subsection (l) of this section."

Section 28. Amend § 17-218(j), Chapter 17, Title 6 of the Delaware Code by deleting the word "legal" and substituting in lieu thereof the word "personal".

Section 29. Amend § 17-218, Chapter 17, Title 6 of the Delaware Code by redesignating subsections "(g)" through "(k)" as subsections "(h)" through "(l)", respectively, and by adding a new subsection designated as subsection "(g)" in its appropriate alphabetical order to read as follows: "(g) Section 17-602 of this title shall apply to a general partner with respect to any series with which the general partner is associated. A general partner shall cease to be a general partner with respect to a series and to have the power to exercise any rights or powers of a general partner with respect to such series upon an event of withdrawal of the general partner with respect to such series. Except as otherwise provided in a partnership agreement, either of the following events or any event in a partnership agreement that causes a general partner to cease to be associated with a series shall not, in itself, cause such general partner to cease to be associated with any other series or to be a general partner of the limited partnership:

- (1) The general partner withdraws with respect to the series in accordance with § 17-602 of this title; or
- (2) The general partner assigns all of his partnership interest with respect to the series."

Section 30. Amend § 17-218, Chapter 17, Title 6 of the Delaware Code to amend newly designated § 17-218(l) by deleting the word "dissolution" and substituting in lieu thereof the word "termination".

Section 31. Amend § 17-218, Chapter 17, Title 6 of the Delaware Code by adding a new subsection designated as subsection "(m)" in its appropriate alphabetical order to read as follows: "(m) If a foreign limited partnership that is registering to do business in the State of Delaware in accordance with § 17-902 of this chapter is governed by a partnership agreement that establishes or provides for the establishment of designated series of limited partners, general partners or partnership interests having separate rights, powers or duties with respect to specified property or obligations of the foreign limited partnership or profits and losses associated with specified property or obligations, that fact shall be so stated on the application for registration as a foreign limited partnership. In addition, the foreign limited partnership shall state on such application whether the debts, liabilities and obligations incurred, contracted for or otherwise existing with respect to a particular series, if any, or general partner associated with such series shall be enforceable only against the assets of such series or any general partner associated with such series, and not against the assets of the foreign limited partnership generally or any general partner not associated with such series."

Section 32. Amend § 17-301, Chapter 17, Title 6 of the Delaware Code by redesignating paragraph "(c)" as paragraph "(d)", and by adding a new paragraph designated as paragraph "(c)" in its appropriate alphabetical order to read as follows: "(c) In connection with the domestication of a non-United States entity (as defined in § 17-215 of this title) as a limited partnership in the State of Delaware in accordance with § 17-215 of this title or the conversion of an other entity (as defined in § 17-217 of this title) to a domestic limited partnership in accordance with § 17-217 of this title, a person is admitted as a limited partner of the limited partnership at the time provided in and upon compliance with the partnership agreement."

Section 33. Amend § 17-301, Chapter 17, Title 6 of the Delaware Code by adding a new sentence at the end of newly designated § 17-301(d) to read as follows: "Unless otherwise provided in a partnership agreement, a person may be admitted as the sole limited partner of a limited partnership without making a contribution or being obligated to make a contribution to the limited partnership or without acquiring a partnership interest in the limited partnership."

Section 34. Amend § 17-302, Chapter 17, Title 6 of the Delaware Code by adding a new § 17-302(e) to read as follows: "(e) Unless otherwise provided in a partnership agreement, on any matter that is to be voted on by limited partners, the limited partners may take such action without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the limited partners having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting. Unless otherwise provided in a partnership agreement, on any matter that is to be voted on by limited partners, the limited partners may vote in person or by proxy."

Section 35. Amend § 17-401(a), Chapter 17, Title 6 of the Delaware Code by adding a new sentence immediately prior to the last sentence of § 17-401(a) to read as follows: "Unless otherwise provided in a partnership agreement, a person may be admitted as the sole general partner of a limited partnership without making a contribution or being obligated to make a contribution to the limited partnership or without acquiring a partnership interest in the limited partnership."

Section 36. Amend § 17-403(c), Chapter 17, Title 6 of the Delaware Code by adding after the word "agents" appearing in the first sentence thereof the word ", officers".

Section 37. Amend § 17-405, Chapter 17, Title 6 of the Delaware Code by adding a new § 17-405(d) to read as follows: "(d) Unless otherwise provided in a partnership agreement, on any matter that is to be voted on by general partners, the general partners may take such action without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the general partners having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting. Unless otherwise provided in a partnership agreement, on any matter that is to be voted on by general partners, the general partners may vote in person or by proxy."

Section 38. Amend § 17-705, Chapter 17, Title 6 of the Delaware Code by (1) deleting the words "executor, administrator, guardian, conservator or other legal representative" and substituting in lieu thereof the words "personal representative" and (2) deleting the words "legal representative or successor" and substituting in lieu thereof the words "personal representative".

Section 39. Amend § 17-801(2), Chapter 17, Title 6 of the Delaware Code by deleting the said subsection in its entirety and substituting in lieu thereof "(2) Unless otherwise provided in a partnership agreement, upon the written consent of (a) all general partners and (b) the limited partners of a limited partnership or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than two-thirds of the then current percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate."

Section 40. Amend § 17-801(3), Chapter 17, Title 6 of the Delaware Code (1) by deleting the words ", within 90 days after the withdrawal, not less than a majority in interest of the remaining partners agree in writing to continue the business of the limited partnership and to" and by substituting in lieu thereof the words "(i) within 90 days or such other period as is provided for in a partnership agreement after the withdrawal either (A) if provided for in the partnership agreement, the then current percentage or other interest in the profits of the limited partnership specified in the partnership agreement owned by the remaining partners agree in writing or vote to continue the business of the limited partnership and to appoint, effective as of the date of withdrawal, one or more additional general partners if necessary or desired, or (B) if no such right to agree or vote to continue the business of the limited partnership and to appoint one or more additional general partners is provided for in the partnership agreement, then more than 50% of the then current percentage or other interest in the profits of the limited partnership owned by the remaining partners or, if there is more than one class or group of remaining partners, then more than 50% of the then current percentage or other interest in the profits of the limited partnership owned by each class or classes or group or groups of remaining partners, agree in writing or vote to continue the business of the limited partnership and to appoint, effective as of the date of withdrawal, one or more additional general partners if necessary or desired, or (ii) the business of the limited partnership is continued pursuant to a right to continue

stated in the partnership agreement and;" and (2) by deleting the word "or" as the last word of the subsection.

Section 41. Amend § 17-801, Chapter 17, Title 6 of the Delaware Code by redesignating paragraph "(4)" as paragraph "(5)", and by adding a new paragraph designated as paragraph "(4)" in its appropriate numerical order to read as follows: "(4) At the time there are no limited partners, provided that, unless otherwise provided in a partnership agreement, the limited partnership is not dissolved and is not required to be wound up if, within 90 days or such other period as is provided for in a partnership agreement after the occurrence of the event that caused the last limited partner to cease to be a limited partner, the personal representative of the last limited partner and all of the general partners agree in writing or vote to continue the business of the limited partnership and to the admission of the personal representative of such limited partner or its nominee or designee to the limited partnership as a limited partner, effective as of the occurrence of the event that caused the last limited partner to cease to be a limited partner; or".

Section 42. Amend § 17-803(a), Chapter 17, Title 6 of the Delaware Code by deleting the word "legal" and substituting in lieu thereof the word "personal".

Section 43. Amend § 17-904(b)(2), Chapter 17, Title 6 of the Delaware Code by inserting after the words "a domestic corporation", the words "or a domestic limited partnership, or a domestic limited liability company, or a domestic business trust," and by inserting after the words "a foreign corporation" the words: ", or a foreign limited partnership, or a foreign limited liability company".

Section 44. Amend § 17-904(b)(2), Chapter 17, Title 6 of the Delaware Code by inserting at the end of said subsection immediately before the "." the words ", which is generally open during normal business hours to accept service of process and otherwise perform the functions of a registered agent".

Section 45. Amend § 17-1107(a)(3), Chapter 17, Title 6 of the Delaware Code by adding after the words "certificate of transfer" the words "or a certificate of transfer and continuance."

Section 46. This Act shall become effective August 1, 1997.

Approved June 25, 1997

CHAPTER 79

FORMERLY

SENATE BILL NO. 105

AN ACT TO AMEND CHAPTER 19, TITLE 6 OF THE DELAWARE CODE RELATING TO COMMERCE AND TRADE; AND PROVIDING FOR A "UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT".

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

Section 1. Amend Title 6 of the Delaware Code by adding thereto a new Chapter 19 to read as follows:

"CHAPTER 19. DELAWARE UNIFORM UNINCORPORATED

NONPROFIT ASSOCIATION ACT

§ 1901. Definitions.

In this chapter:

(1) 'Member' means a person who, under the rules or practices of a nonprofit association, may participate in the selection of persons authorized to manage the affairs of the nonprofit association or in the development of policy of the nonprofit association.

(2) 'Nonprofit association' means an unincorporated organization consisting of two or more members joined by mutual consent for a common, nonprofit purpose. However, joint tenancy, tenancy in common, or tenancy by the entireties does not by itself establish a nonprofit association, even if the co-owners share use of the property for a nonprofit purpose.

(3) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(4) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

§ 1902. Supplementary General Principles of Law and Equity. Principles of law and equity supplement this chapter unless displaced by a particular provision of it.

§ 1903. Territorial Application. Real and personal property in this State may be acquired, held, encumbered, and transferred by a nonprofit association, whether or not the nonprofit association or a member has any other relationship to this State.

§ 1904. Real and Personal Property: Nonprofit Association as Legatee, Devisee, or Beneficiary.

(a) A nonprofit association in its name may acquire, hold, encumber, or transfer an estate or interest in real or personal property.

(b) A nonprofit association may be a legatee, devisee, or beneficiary of a trust or contract.

§ 1905. Statement of Authority as to Real Property.

(a) A nonprofit association may execute and file a statement of authority to transfer an estate or interest in real property in the name of the nonprofit association.

(b) An estate or interest in real property in the name of a nonprofit association may be transferred by a person so authorized in a statement of authority filed in the office in the county in which a transfer of the property would be recorded.

(c) A statement of authority must set forth:

(1) the name of the nonprofit association;

(2) the address in this State, including the street address, if any, of the nonprofit association, or, if the nonprofit association does not have an address in this State, its address out of state;

(3) the name or title of a person authorized to transfer an estate or interest in real property held in the name of the nonprofit association; and

(4) the action, procedure, or vote of the nonprofit association which authorizes the person to transfer the real property of the nonprofit association and which authorizes the person to execute the statement of authority.

(d) A statement of authority must be executed in the same manner as a deed by a person who is not the person authorized to transfer the estate or interest.

(e) A filing officer may collect a fee for filing a statement of authority in the amount authorized for recording a transfer of real property.

(f) An amendment, including a cancellation, of a statement of authority must meet the requirements for execution and filing of an original statement. Unless canceled earlier, a filed statement of authority or its most recent amendment is canceled by operation of law five years after the date of the most recent recording.

(g) If the record title to real property is in the name of a nonprofit association and the statement of authority is filed in the office of the county in which a transfer of real property would be recorded, the authority of the person named in a statement of authority is conclusive in favor of a person who gives value without notice that the person lacks authority.

§ 1906. Liability in Tort and Contract.

(a) A nonprofit association is a legal entity separate from its members for the purposes of determining and enforcing rights, duties, and liabilities in contract and tort.

(b) A person is not liable for a breach of a nonprofit association's contract merely because the person is a member, is authorized to participate in the management of the affairs of the nonprofit association, or is a person considered to be a member by the nonprofit association.

(c) A person is not liable for a tortious act or omission for which a nonprofit association is liable merely because the person is a member, is authorized to participate in the management of the affairs of the nonprofit association, or is a person considered as a member by the nonprofit association.

(d) A tortious act or omission of a member or other person for which a nonprofit association is liable is not imputed to a person merely because the person is a member of the nonprofit association, is authorized to participate in the management of the affairs of the nonprofit association, or is a person considered as a member by the nonprofit association.

(e) A member of, or a person considered to be a member by, a nonprofit association may assert a claim against the nonprofit association. A nonprofit association may assert a claim against a member or a person considered to be a member by the nonprofit association.

§ 1907. Capacity to Assert and Defend; Standing.

(a) A nonprofit association, in its name, may institute, defend, intervene, or participate in a judicial, administrative, or other governmental proceeding or in an arbitration, mediation, or any other form of alternative dispute resolution.

(b) A nonprofit association may assert a claim in its name on behalf of its members if one or more members of the nonprofit association have standing to assert a claim in their own right, the interests the nonprofit association seeks to protect are germane to its purposes, and neither the claim asserted nor the relief requested requires the participation of a member.

§ 1908. Effect of Judgment or Order. A judgment or order against a nonprofit association is not by itself a judgment or order against a member.

§ 1909. Disposition of Personal Property of Inactive NonProfit Association. If a nonprofit association has been inactive for three years or longer, a person in possession or control of personal property of the nonprofit association may transfer the property:

(1) if a document of a nonprofit association specifies a person to whom transfer is to be made under these circumstances, to that person; or

(2) if no person is so specified, to a nonprofit association or nonprofit corporation pursuing broadly similar purposes, or to a government or governmental subdivision, agency, or instrumentality.

§ 1910. Appointment of Agent to Receive Service of Process.

(a) A nonprofit association may file in the office of the Secretary of State a statement appointing an agent authorized to receive service of process.

(b) A statement appointing an agent must set forth:

(1) the name of the nonprofit association;

(2) the address in this State, including the street address, if any, of the nonprofit association, or, if the nonprofit association does not have an address in this State, its address out of state; and

(3) the name of the person in this State authorized to receive service of process and the person's address, including the street address, in this State.

(c) A statement appointing an agent must be signed and acknowledged by a person authorized to manage the affairs of a nonprofit association. The statement must also be signed and acknowledged by the person appointed agent, who thereby accepts the appointment. The appointed agent may resign by filing a resignation in the office of the Secretary of State and giving notice to the nonprofit association.

(d) A filing officer may collect a fee for filing a statement appointing an agent to receive service of process, an amendment, or a resignation in the amount charged for filing similar documents.

(e) An amendment to a statement appointing an agent to receive service of process must meet the requirements for execution of an original statement.

§ 1911. Claim Not Abated by Change of Members or Officers. A claim for relief against a nonprofit association does not abate merely because of a change in its members or persons authorized to manage the affairs of the nonprofit association.

§ 1912. Venue. For purposes of venue, a nonprofit association is a resident of a city or county in which it has an office.

§ 1913. Summons and Complaint: Service on Whom. In an action or proceeding against a nonprofit association a summons and complaint must be served on an agent authorized by appointment to receive service of process, an officer, managing or general agent, or a person

authorized to participate in the management of its affairs. If none of them can be served, service may be made on a member.

§ 1914. Uniformity of Application and Construction. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

§ 1915. Short Title. This chapter shall be known as and may be cited as the 'Delaware Uniform Unincorporated Nonprofit Association Act'.

§ 1916. Transition Concerning Real and Personal Property.

(a) If, before the effective date of this chapter, an estate or interest in real or personal property was purportedly transferred to a nonprofit association, on the effective date of this chapter the estate or interest vests in the nonprofit association unless the parties have treated the transfer as ineffective.

(b) If, before the effective date of this chapter, the transfer vested the estate or interest in another person to hold the estate or interest as a fiduciary for the benefit of the nonprofit association, its members, or both, on or after the effective date of this chapter the fiduciary may transfer the estate or interest to the nonprofit association in its name, or the nonprofit association, by appropriate proceedings, may require that the estate or interest be transferred to it in its name."

Section 2. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect any other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 3. This Act shall take effect upon its enactment.

Section 4. This Act shall not affect an action or proceeding commenced or right accrued before this Act takes effect.

Approved June 25, 1997

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(b) If, before the effective date of this chapter, the transfer vested the estate or interest in another person to hold the estate or interest as a fiduciary for the benefit of the nonprofit association, its members, or both, on or after the effective date of this chapter the fiduciary may transfer the estate or interest to the nonprofit association in its name, or the nonprofit association, by appropriate proceedings, may require that the estate or interest be transferred to it in its name."

Section 2. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect any other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 3. This Act shall take effect upon its enactment.

Section 4. This Act shall not affect an action or proceeding commenced or right accrued before this Act takes effect.

Approved June 25, 1997

CHAPTER 80

FORMERLY

SENATE BILL NO. 160

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO COMMERCE
AND TRADE, THE UNIFORM TRADE SECRETS ACT.

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

Section 1. Amend § 2002(b) Title 6, Delaware Code by striking said subsection in its
entirety and substituting the following as § 2002(b):

"(b) In exceptional circumstances, an injunction may condition
future use upon payment of a reasonable royalty for no longer than the
period of time for which use could have been prohibited. Exceptional
circumstances include, but are not limited to, a material and prejudicial
change of position prior to acquiring knowledge or reason to know of
misappropriation that renders a prohibitive injunction inequitable."

Section 2. Amend § 2003(a), Title 6, Delaware Code by striking said subsection in its
entirety and substituting the following as § 2003(a):

"(a) Except to the extent that a material and prejudicial change of
position prior to acquiring knowledge or reason to know of misappropriation
renders a monetary recovery inequitable, a complainant is entitled to recover
damages for misappropriation. Damages can include both the actual loss
caused by misappropriation and the unjust enrichment caused by
misappropriation that is not taken into account in computing actual loss. In
lieu of damages measured by any other methods, the damages caused by
misappropriation may be measured by imposition of liability for a
reasonable royalty for a misappropriator's unauthorized disclosure or use of
a trade secret."

Section 3. Amend § 2007, Title 6, Delaware Code by striking said section in its entirety
and substituting the following as § 2007:

"§ 2007 Effect on other law.

(a) Except as provided in subsection (b), this chapter displaces conflicting tort,
restitutionary, and other law of this State providing civil remedies for misappropriation of a trade
secret.

(b) This chapter does not affect:

- (1) contractual remedies, whether or not based upon misappropriation of
a trade secret;
- (2) other civil remedies that are not based upon misappropriation of a
trade secret; or
- (3) criminal remedies, whether or not based upon misappropriation of a
trade secret."

Section 4. If any provision of this Act or its application to any person or circumstance is
held invalid, the invalidity does not affect other provisions or applications of the Act which can be
given effect without the invalid provision or application, and to this end the provisions of this Act
are severable.

Section 5. This Act shall be effective upon its enactment.

Approved June 25, 1997

CHAPTER 81

FORMERLY

SENATE BILL NO. 161

AN ACT TO AMEND PART II, TITLE 12 OF THE DELAWARE CODE RELATING TO FIDUCIARY RELATIONS; AND PROVIDING FOR A "UNIFORM INTERNATIONAL WILLS ACTS".

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

Section 1. Amend Title 12, Delaware Code by designating §§ 201 through 214 thereof as "Subchapter I. Tenets and Principles".

Section 2. Amend Chapter 2, Part II, Title 12 of the Delaware Code by adding the following as Subchapter II:

"Subchapter II. Delaware Uniform International Wills Act.

§ 251. Definitions.

In this subchapter:

(1) 'International will' means a will executed in conformity with § 252 through § 255 of this subchapter.

(2) 'Authorized person' and 'person authorized to act in connection with international wills' means a person who by § 259 of this subchapter, or by the laws of the United States including members of the diplomatic and consular service of the United States designated by Foreign Service Regulations, is empowered to supervise the execution of international wills.

§ 252. International Will: Validity.

(a) A will is valid as regards form, irrespective particularly of the place where it is made, of the location of the assets and of the nationality, domicile, or residence of the testator, if it is made in the form of an international will complying with the requirements of this subchapter.

(b) The invalidity of the will as an international will does not affect its formal validity as a will of another kind.

(c) This subchapter does not apply to the form of testamentary dispositions made by 2 or more persons in one instrument.

(d) This subchapter deals only with the form of execution of an international will. Delaware law regarding the scope of testamentary power, revocation of wills, competency of witnesses, regulation of probate, interpretation and construction of wills, and the administration of decedents' estates remains applicable to an international will.

§ 253. International Will: Requirements.

(a) The will must be made in writing. It need not be written by the testator himself. It may be written in any language, by hand or by any other means.

(b) The testator shall declare in the presence of two credible witnesses and of a person authorized to act in connection with international wills that the document is his will and that he knows the contents thereof. The testator need not inform the witnesses, or the authorized person, of the contents of the will.

(c) In the presence of the witnesses, and of the authorized person, the testator shall sign the will or, if he has previously signed it, shall acknowledge his signature.

(d) If the testator is unable to sign, the absence of his signature does not affect the validity of the international will if the testator indicates the reason for his inability to sign and the authorized person makes note thereof on the will. In that case, it is permissible for any other person present, including the authorized person or one of the witnesses, at the direction of the testator, to sign the testator's name for him if the authorized person makes note of this on the will, but it is not required that any person sign the testator's name for him.

(e) The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

§ 254. International Wills: Other Points of Form.

(a) The signatures must be placed at the end of the will. If the will consists of several sheets, each sheet must be signed by the testator or, if he is unable to sign, by the person signing on his behalf or, if there is no such person, by the authorized person. In addition, each sheet must be numbered.

(b) The date of the will must be the date of its signature by the authorized person. That date must be noted at the end of the will by the authorized person.

(c) The authorized person shall ask the testator whether he wishes to make a declaration concerning the safekeeping of his will. If so and at the express request of the testator, the place where he intends to have his will kept must be mentioned in the certificate provided for in § 255 of this subchapter.

(d) A will executed in compliance with § 253 of this subchapter is not invalid merely because it does not comply with this section.

§ 255. International Will: Certificate.

The authorized person shall attach to the will a certificate to be signed by him establishing that the requirements of this subchapter for valid execution of an international will have been fulfilled. The authorized person shall keep a copy of the certificate and deliver another to the testator. The certificate must be substantially in the following form:

CERTIFICATE

I, _____ (name, address, and capacity), a person authorized to act in connection with international wills, certify that on _____ (date) at _____ (place)

(testator) _____

(name, address, date and place of birth) in my presence and that of the witness (a) _____ (name, address, date and place of birth) and

(b) _____ (name, address, date and place of birth)

has declared that the attached document is his will and that he knows the contents thereof.

I furthermore certify that:

(a) in my presence and in that of the witnesses

- (1) the testator has signed the will or has acknowledged his signature previously affixed.
- (2) *following a declaration of the testator stating that he was unable to sign his will for the following reason _____, I have mentioned this declaration on the will,

*and the signature has been affixed by _____ (name and address)

(b) the witnesses and I have signed the will;

(c) *each page of the will has been signed by

_____ and numbered;

(d) I have satisfied myself as to the identity of the testator and of the witnesses as designated above;

(e) the witnesses met the conditions requisite to act as such according to the law under which I am acting;

(f) *the testator has requested me to include the following statement concerning the safekeeping of his will:

PLACE OF EXECUTION

DATE

SIGNATURE and, if necessary, SEAL

* to be completed if appropriate

§ 256. International Will: Effect of Certificate.

In the absence of evidence to the contrary, the certificate of the authorized person is conclusive of the formal validity of the instrument as a will under this subchapter. The absence or irregularity of a certificate does not affect the formal validity of a will under this subchapter.

§ 257. International Will: Revocation.

An international will is subject to the rules of revocation of wills appearing at § 208 and § 209 of this Chapter.

§ 258. Source and Construction.

§ 251 through § 257 of this title derive from Annex to Convention of October 26, 1973, Providing a Uniform Law on the Form of an International Will. In interpreting and applying this subchapter, regard shall be had to its international origin and to the need for uniformity in its interpretation.

§ 259. Persons Authorized to Act in Relation to International Will; Eligibility; Recognition by Authorizing Agency.

Individuals who have been admitted to practice law before the courts of this state and who are in good standing as active law practitioners in this state, are hereby declared to be authorized persons in relation to international wills."

Section 3. This Act shall be known as and may be cited as the "Delaware Uniform International Wills Act".

Section 4. This Act shall apply to wills executed before and after the effective date of this Act.

Section 5. This Act shall be effective upon its adoption.

Approved June 25, 1997

CHAPTER 82

FORMERLY

HOUSE BILL NO. 243

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. Amend Chapter 5, Title 14, Delaware Code, by substituting the word "provided" for the word "except" in the first sentence of subsection (f) of Section 504A.

Section 2. Amend Chapter 5, Title 14, Delaware Code, by adding prior to the period "." at the end of the first sentence of subsection (f) of Section 504A the following punctuation and language:

" , provided further that a charter school may, with the approval of the Secretary and the State Board for the sole purpose of determining compliance with this proviso, contract with a sectarian or religious college or university incorporated in the State of Delaware and operating a program or programs for teacher education within the State of Delaware empowered to enter into contracts for such property and services, so long as the property contracted for is used in a non-religious and nonsectarian manner and the services contracted for are provided in a non-religious and nonsectarian manner and are of a non-religious and nonsectarian type."

Section 3. This Act shall take effect upon its enactment.

Approved June 25, 1997

CHAPTER 83

FORMERLY

HOUSE BILL NO. 311

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 5, Section 512B, subsection (b) (7), Title 4 of the Delaware Code, by adding at the end thereof the following:

" ; except that the holder of a brew-pub license may own, operate or be affiliated with a brewery or a microbrewery licensed under this chapter and actually located within this State."

Approved June 25, 1997

CHAPTER 84

FORMERLY

SENATE BILL NO. 147
AS AMENDED BY SENATE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 19, TITLE 18, TITLE 29, AND TITLE 30 OF THE DELAWARE CODE RELATING TO WORKERS' COMPENSATION.

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

Section 1. Amend Title 19 of the Delaware Code by repealing Chapter 21 in its entirety.

Section 2. Amend Chapter 23, Title 19, Delaware Code, by adding the following new sections thereto:

"§ 2301A. Industrial Accident Board.

(a) The Industrial Accident Board is continued. It shall consist of ten members, each of whom shall be appointed by the Governor for a term of six years and confirmed by the State Senate. The appointments shall be made so that there shall always be on the Board two residents of New Castle County outside of the City of Wilmington, one resident of the City of Wilmington, two residents of Kent County, two residents of Sussex County and three members-at-large residents of any of the subdivisions of the State, and not more than six of said members shall be of the same political party.

(b) Each member of the Board shall receive an annual salary of fifteen thousand dollars except for the chairperson, who shall receive an annual salary of eighteen thousand dollars. The members of the Board shall receive from the State their actual and necessary expenses while traveling on the business of the Board, but such expense shall be sworn to by the person who incurred the expense, and any such person falsely making any such report shall be guilty of perjury and punishable accordingly. The salary of the members of the Board shall be paid in the same manner as the salaries of state officers are paid.

(c) A majority of the members of the Board shall constitute a quorum for the exercise of any of the powers or authority conferred on the Board, except for hearings conducted pursuant to this title, in which case two members of the Board, shall constitute a quorum and a sufficient panel to decide such hearings. Any disagreement involving a procedural issue arising before or after a hearing may be decided by one member of the Board.

(d) The Board, any Board panel, or any Board member empowered to decide any matter pursuant to Part II of this title shall act in conformity with applicable provisions of the Administrative Procedures Act set forth in chapter 101 of title 29, including, but not limited to, § 10129 of title 29. Lawyers representing clients before the Board shall act in conformity with applicable provisions of The Delaware Lawyers' Rules of Professional Conduct, including, but not limited to, Rule 3.5 thereof. Disputes regarding pre-hearing or post-hearing matters shall be presented by written motion and decided by written order.

(e) The Governor shall appoint the Board's Chairperson from among the Board's Members and the Chairperson shall serve at the Governor's pleasure in such capacity.

(f) The Administrator of the Office of Workers' Compensation shall perform all the administrative duties of the Board, including but not limited to scheduling the docket, maintaining the Board's records, and providing the liaison between the public and the Board members. The Department may employ such clerical and other staff as it deems necessary.

(g) The Board shall have a seal for authentication of its orders, awards and proceedings, upon which shall be inscribed the words -- 'Industrial Accident Board -- Delaware -- Seal.'

(h) The Governor may at any time, after notice and hearing, remove any Board member for gross inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office.

(i) The Board shall have jurisdiction over cases arising under Part II of this title and shall hear disputes as to compensation to be paid under Part II of this title. The Board may promulgate its own rules of procedure for carrying out its duties consistent with Part II of this title and the provisions of the Administrative Procedures Act. Such rules shall be for the purpose of securing the just, speedy, and inexpensive determination of every petition pursuant to Part II of this title. The rules shall not abridge, enlarge or modify any substantive right of any party, and they shall preserve the rights of parties as declared by Part II of this title.

§ 2301B. Hearing Officers.

(a) There is hereby created within the Department of Labor the full-time position of Hearing Officer. With respect to cases arising under Part II of this title, the Hearing Officers shall have:

(1) All powers and duties conferred or imposed upon such Hearing Officers by law or by the Rules of Procedure for the Industrial Accident Board;

(2) The power to administer oaths and affirmations;

(3) The power, with consent of the parties, to hear and determine any pre-hearing matter pending before the Board. In such circumstances, the Hearing Officer's decision has the same authority as a decision of the Board and is subject to judicial review on the same basis as a decision of the Board;

(4) The power, with consent of the parties, to conduct hearings, including any evidentiary hearings required by Part II of this title, and to issue a final decision determining the outcome of such hearings. In such circumstances, the Hearing Officer's decision has the same authority as a decision of the Board and is subject to judicial review on the same basis as a decision of the Board;

(5) The Hearing Officer shall have the responsibility for advising the Board regarding legal issues and writing the Board's decision with respect to any hearing conducted by the Board at which such Hearing Officer has been assigned by the Department. The Hearing Officer shall not participate in the deliberations of the Board with respect to the determination of matters before the Board or vote on any matter to be decided by the Board but may be present during such deliberations for the purpose of providing legal advice.

(6) With respect to any matter to which they are assigned responsibility in accordance with Part II of this title, the same authority as the Board would have to conduct or dispose of such matter in accordance with Part II of this title and the Board's Rules of Procedure. In such circumstances, any reference in Part II of this title or the Board's Rules of Procedure to the Board shall also refer to the Hearing Officer when such Hearing Officer is assigned responsibility in accordance with Part II of this title.

(b) Hearing Officers shall be appointed by the Secretary of Labor and shall serve for a term of five years; provided, however, that the initial Hearing Officers may be appointed to terms shorter than five years but not less than three years to ensure staggered term expirations. Appointees shall be residents of the State, shall be duly admitted to practice law before the Supreme Court of this State, and shall not engage in the practice of law nor any business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of their duties. The number of Hearing Officers from 1 major political party shall not exceed a majority of 1. Individuals appointed as Hearing Officers shall under this section shall take the oath or affirmation prescribed by Article XIV, § 1 of the Delaware Constitution before they enter upon the duties of their office.

(c) Hearing Officers shall report to and be supervised by a Chief Hearing Officer, who shall be designated by the Secretary of Labor. Reappointments shall be at the discretion of the

Secretary of Labor. The salary of a Hearing Officer shall not be reduced during the term being served below the salary fixed at the beginning of that term.

(2) The removal of a Hearing Officer by the Secretary of Labor, after consultation with the Chairperson of the Board, during the term of appointment may be made for just cause. For the purposes of this subsection only, 'just cause' shall be defined as including, but not limited to, reduction in force, inefficiency, or unsatisfactory performance of duties. The employee may contest the removal and file for binding arbitration and an arbitrator will be appointed jointly by the Chairperson of the Merit Employees Relations Board and the State Personnel Director to determine the matter.

§ 2301C. Workers' Compensation Specialist.

There is hereby created within the Department of Labor the classified full-time position of Workers' Compensation Specialist. The Specialist shall assist unrepresented injured employees by providing information so that such employees can understand, assert, and protect their rights under Part II of this title. In addition, the Specialist may assist the Department in expediting the processing of petitions. However, assistance provided under this section shall not include representing claimants in hearings or offering legal advice.

§ 2301D. Annual Review of Industrial Accident Board Case Management.

(a) The General Assembly intends for the Industrial Accident Board, and the Hearing Officers thereof, to manage its caseload in a manner which recognizes the importance of determining matters before the Board in a speedy, efficient, and just manner. To that end, the General Assembly intends for the Board and the Hearing Officers thereof to cooperate closely with the Department of Labor, which is the Executive Branch agency responsible for the effective administration of the Board's activities pursuant to Part II of this title, in developing procedures and processes which accomplish that important purpose.

(b) To ensure public accountability for the speedy, efficient, and just determination of the matters before the Board, the Department of Labor shall conduct an annual review of the effectiveness of the management of the Board's caseload. Such annual review should be published on or before February 15 of each year, and the Board shall be involved in the development of such annual review. The review shall include:

1) An analysis of the caseload pending before the Board, including, but not limited to, an analysis of dispositional speed, caseload backlog, number of continuances granted and the grounds therefor, number of appeals and the reversal rate of the Board, and compliance with hearing and decisional deadlines set forth in Part II of this title or in Board rules, to ensure that the performance of the Board as a whole can be evaluated by the General Assembly, the Governor, and the public at large;

2) An analysis of the caseload pending before the Board, particularized as to the individual Hearing Officers of the Board to ensure that the performance of such Hearing Officers can be evaluated;

3) Departmental recommendations regarding methods, including, but not limited to, legislative action and Board rule changes, to improve the performance of the Board and Department in ensuring the speedy, efficient, and just determination of matters before the Board.

(c) To ensure that the annual review considers the perspectives of the diversity of Delawareans interested in the effective performance of the Board, an advisory group is hereby established to consult with the Department in its development of the Department annual review. Such advisory group shall be appointed by the Governor, shall be convened by the Secretary of Labor or his or her designee, and shall consist of: the two Chairpersons of the respective Labor Committees of each House of the General Assembly or their designees; three representatives of Delaware's business community; three representatives of labor; two representatives of the Delaware Bar, one of whom shall be primarily engaged in the representation of claimants before the Board and one of whom shall be primarily engaged in the representation of employers before

the Board; and two members of the Board. The members shall be appointed for a term of three years. Members shall receive no compensation."

Section 3. Amend Title 19, Delaware Code, Chapter 23 by striking the word "Board" as it appears in §§ 2303, 2313(a) and (d), 2344, 2372, 2374, 2375, 2376, 2377, 2391, the final paragraph of § 2392(c)(4), § 2392(d), and § 2395, and inserting the word "Department" in its place.

Section 4. Amend § 2301, Title 19, Delaware Code by inserting a new subsection (18) as follows: "'Department' means the Department of Labor."

Section 5. Amend § 2301, Title 19, Delaware Code to add a new subsection (19) to read as follows: "'Hearing Officer' means a Hearing Officer appointed pursuant to § 2301B. of this title."

Section 6. Amend § 2307, Title 19, Delaware Code by striking the figure "\$300" as it appears therein, and inserting the words "seven hundred and fifty dollars" in lieu thereof;

Section 7. Amend § 2312, Title 19, Delaware Code by striking the words "Industrial Accident Board" as they appear therein and inserting the word "Department" in lieu thereof.

Section 8. Amend the title of Subchapter V., Title 19, Delaware Code by striking the words "Second Injury and Contingency Fund" as they appear therein and inserting the words "Workers' Compensation Fund" in lieu thereof.

Section 9. Amend §§ 2313(c), 2327, 2347, 2362, 2365, and 2395, Title 19, Delaware Code by striking the words "Industrial Accident Board Second Injury and Contingency Fund" as they appear therein, and inserting the words "Workers' Compensation Fund" in lieu thereof.

Section 10. Amend § 2313(d), Title 19, Delaware Code by striking the words "in making recommendations to the General Assembly as provided in § 2121 of this title".

Section 11. Amend Chapter 23, Title 19, Delaware Code by adding a new § 2320 to Subchapter I to read as follows:

"§ 2320. Subpoena of witnesses; oaths; service of process; medical examination and testimony; various fees.

(a) At the request of any party, the Department shall issue subpoenas and the Board may administer oaths in any proceeding and in all other cases where it is necessary in the exercise of its powers and duties. The Board may examine persons as witnesses, take evidence, require the production of documents and do all other things conformable to law which are necessary to effectively discharge the duties of office.

(b) Any subpoena, process, or order of the Department or any notice or paper requiring service may be served by any sheriff, deputy sheriff, constable or any employee of the Department and return thereof made to the Department. Such officer shall receive the same fees as are provided by law for like service in civil actions, except that if service is made by an employee of the Department, the employee shall not receive any fee but shall be paid the employee's actual expenses.

(c) If any person, in proceedings before the Board disobeys or resists any lawful order or process, misbehaves during a hearing or so near the place thereof as to obstruct the hearing, neglects to produce after having been ordered to do so any pertinent document, refuses to appear after having been subpoenaed or upon appearing, refuses to take the oath as a witness or, after having taken the oath, refuses to be examined according to law, the Board shall certify the facts to any Judge of the Superior Court, who shall thereupon hear the evidence as to the acts complained of. If the evidence so warrants the Judge shall punish such person in the same manner and to the same extent as for a contempt committed before the Superior Court, or shall commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the Superior Court.

(d) The Board may in any case, upon the application of either party or on its own motion, appoint a disinterested and duly qualified physician to make any necessary medical examination of the employee and testify in respect thereto. The physician will be allowed a reasonable fee subject to the approval of the Board, which fee shall be taxed as costs.

(e) Witness fees and mileage shall be computed at the rate allowed to witnesses in the Superior Court. Costs legally incurred may be taxed against either party or apportioned between parties at the sound discretion of the Board, as the justice of the case may require.

(f) Fees of physicians for services under Part II of this title shall be subject to the approval of the Board.

(g) Attorney's fee.

(1) A reasonable attorney's fee in an amount not to exceed thirty percent of the award or \$2,250, whichever is smaller, shall be allowed by the Board to any employee awarded compensation under Part II of this title and taxed as costs against a party.

(2) In the event an offer to settle an issue pending before the Industrial Accident Board is communicated to the claimant or the claimant's 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 paragraph (1) of this subsection shall have no application. If multiple issues are pending 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.

(h) Except as otherwise provided in Part II of this title, all money or income received by the Department or the Board from taxes, fees and/or operations and all other sources whatsoever, directly or indirectly, shall be deposited to the credit of the State Treasurer and shall be credited to the General Fund of the State."

Section 12. Amend § 2327, Title 19, Delaware Code, by designating the existing § 2327 as subsection (a) and adding a new subsection (b) to read as follows:

"(b) This section shall apply only to employers insured by insurance carriers. It shall not apply to self-insured employers who shall be responsible for payment of their own claims under this section and who shall not be eligible for further reimbursement for payments made under this section after the effective date of the Workers' Compensation Improvement Act of 1997. Awards to self-insureds for reimbursements under this section are revoked as of the effective date of the Workers' Compensation Improvement Act of 1997."

Section 13. Amend § 2344, Title 19, Delaware Code by designating the existing § 2344 as subsection (a) and adding a new subsection (b) to read as follows:

"(b)(1) At the time of agreement, the employer shall obtain from the employee an agreement as to compensation, signed by the parties in interest, in such detail and form as the Department prescribes, stating the eligibility for workers' compensation benefits pursuant to § 2324 and § 2325. The agreement as to compensation shall require the employee to indicate any change in employment status which may affect benefits pursuant to § 2324 and § 2325. The agreement as to compensation shall include a clear recitation of the legal requirements for eligibility for benefits and shall require the claimant's acknowledgment of and agreement to abide by such requirements. This form, which shall bear a notarized signature of the employee or the signature of a witness, shall accompany the agreement and shall be filed with the Department of Labor for approval.

(2) For all payments of total or partial disability to claimants under this chapter, the insurance carrier or self-insured shall cause to be printed upon the reverse side of the check, above the endorsement, the following language: 'Your acceptance of this check for total or

partial disability is a representation by you that you are legally entitled to such payment and a false representation is punishable under federal and state laws.' The negotiation of a check for total or partial disability by an attorney or an agent of the attorney on behalf of a client is a representation that the attorney has printed the language set forth in this subsection for printing on claimant checks on checks distributed by the attorney to the attorney's clients.

(3) Any person who makes a false statement or misrepresentation with regard to his or her eligibility for workers' compensation benefits, or any attorney who makes a false representation pursuant to subsection (b)(2) of this section, is punishable pursuant to Title 18, Delaware Code, Chapter 24, and/or Title 11, Delaware Code, Section 913.

(4) If the Department or Board has reason to believe that any person is committing or has committed an act of insurance fraud, the Department or Board shall notify the Fraud Prevention Bureau of the Delaware Insurance Department.

(5) The provisions of this Section shall also apply to Workers' Compensation payments made pursuant to § 2347 and § 2327."

Section 14. Amend § 2345 and § 2346, Title 19, Delaware Code by striking said sections in their entirety and inserting in lieu thereof the following:

"§ 2345. Hearing upon disagreement on amount of compensation or benefits.

If the employer and employee, or the employee's dependents in the case of the employee's death, fail to reach agreement in regard to compensation under this chapter, or if after they reach such an agreement the Board shall refuse to approve the same, either party may notify the Department of the facts and the Department shall thereupon notice the time and place of hearing which shall be served on all parties in interest personally or by registered mail. The Board, or a Hearing Officer with consent of the parties, shall hear and determine the matter in accordance with the facts and the law and state its conclusions of fact and rulings of law.

§ 2346. Hearing upon disagreement on charges for medical and other services and benefits.

If any person charged with the payment of medical and other services and the provider to whom said payment is due fail to reach an agreement in regard to such charges, any interested party may notify the Department of the facts. The Department shall thereupon notice the time and place of hearing sent by registered mail to all parties in interest. The Board shall hear and determine the matter. No party to the proceedings shall have any liability for the payment of charges in excess of the amount deemed reasonable and necessary provided that the provider is subject to the jurisdiction of the Board and made a party to the proceedings. As provided in § 2320(d), the Board may, in any case, appoint a disinterested and duly-qualified physician to make any necessary medical examination of the employee and testify in respect thereto."

Section 15. Amend § 2347, Title 19, Delaware Code by striking the word "Board" as it appears in the third, sixth, and seventh sentences and inserting the word "Department" in its place. Further amend § 2347 by striking the words "by the Board" as they appear in the eighth and ninth sentences and inserting the words "by the Department" in lieu thereof. Further amend § 2347 by adding a new final paragraph to read as follows: "The first two sentences of the fifth paragraph of this section shall apply only to employers insured by insurance carriers. Nor shall they apply to self-insured employers who shall be responsible for payment of their own claims under this section."

Section 16. Amend § 2348, Title 19, Delaware Code, by striking it in its entirety and inserting in lieu thereof the following:

"§ 2348. Hearings: notice of awards; evidence.

(a) In all hearings before the Board, the Board shall make such inquiries and investigations as it deems necessary. Unless otherwise stipulated by counsel and approved by the Department, the hearings shall be held in the Division of Industrial Affairs Office nearest the site where the injury occurred or, if the accident occurred out of the State, in any county designated by the Department as convenient for the parties.

(b) In a controversy as to the responsibility of an employer or the employer's insurance carrier for the payment of compensation and other benefits under Part II of this title, any party in interest may petition the Board in writing for a hearing and award. The petition shall be sent to the Department's offices in Wilmington and shall set forth the reason for requesting the hearing and questions in dispute which the applicant expects to be resolved.

(c) The Department shall schedule a hearing by fixing its time and place, subject to review by the Board upon written objection by a party. The notice shall be given in hand or by certified mail, return receipt requested. Hearings pursuant to §§ 2324, 2325, and 2347 of this chapter shall be heard as expeditiously as practicable, but, absent compliance with subsection (h) hereof, in no case more than one hundred twenty (120) days from the date of Notice of Pre-Trial Conference to be issued by the Department. Unless excused for good cause shown, failure of any or all parties in interest to appear at a duly scheduled hearing or to petition for a continuance shall bar such parties from any further action concerning an adverse decision, a decision by default, or a dismissal of a petition for hearing and award.

(d) The Superior Court shall, in accordance with such rules as the Court may make, provide for the obtaining of evidence outside of the State to be used in hearings before the Board. Subject to the approval of a Hearing Officer, the parties in interest in any cause may agree upon different methods of taking such evidence.

(e) Subpoenas provided for in accordance with this chapter shall be effective throughout the State.

(f) Whenever a cause shall be remanded to the Board for a rehearing, all evidence theretofore taken before the Board in a previous hearing or hearings, shall become part of the evidence in the hearing upon remand.

(g) In those instances where an expedited hearing is requested, the petition for hearing shall set forth the facts in sufficient detail to support the request for an expedited hearing. If such a request is uncontested, the request shall be granted by the Department. If such a request is contested, the Board shall determine the matter.

(h) Requests for continuance may be granted only upon good cause shown by the party requesting the continuance. Good cause shall be set forth in the Rules of Procedure of the Industrial Accident Board. A request for continuance, may be granted or denied by the Department. If a party objects to the Department's decision or another party's motion, it may, by motion, seek Board review, and the Board shall determine the matter.

1. With respect to any extension of the one hundred twenty day hearing deadline established by subsection (c) hereof, a written motion requesting the continuance shall be filed setting forth the basis for a good cause continuance pursuant to the Rules of Procedure of the Industrial Accident Board which, in the movant's opinion, justify such relief. With respect to such an extension request, the Board shall issue a written order specifying that good cause for such an extension exists under a specific Rule of Procedure of the Industrial Accident Board.

2. With respect to any request for an extension of a hearing beyond one-hundred eighty (180) days from the date of the petition, the party seeking the continuance must demonstrate that good cause for such an extension exists under a specific Rule of the Industrial Accident Board and extraordinary circumstances exist which warrant the award of such continuance in the interests of justice. If such extension is to be granted, the Board's order shall be accompanied by the following:

a. A specific finding stating that good cause for such an extension exists under a Rule of Procedure of the Industrial Accident Board, and stating the reasons why a continuance, rather than the use of other case management measures (including but not limited to, precluding the presentation of certain witnesses or other evidence by the party responsible for the delay), is necessary in the interests of justice;

b. In any instance where such a continuance is sought by the petitioner, a specific finding that the petitioner has demonstrated that the petitioner has prosecuted its petition with due diligence; and

c. With respect to any party whose lack of diligence caused the need for a continuance, an order of such remedial action as is consistent with Rules of Procedure of the Board and is just under the circumstances.

Where a petitioner's or respondent's lack of diligence has caused the motion for a continuance, to remedy such lack of diligence and to ensure a speedy, efficient, and just resolution of the matter, the Board shall consider dismissing the petition or provisionally awarding the relief sought by the petition.

(i) At such hearing, it shall be incumbent upon all parties to present all available evidence and the Board shall give full consideration to all evidence presented. In addition, the Board may examine all witnesses. If either party or the Board seeks to utilize the medical testimony of an expert, it may do so provided that prompt and adequate notice to the opposing party or parties is given. Medical testimony of an expert may be presented by: deposition; by live testimony at the hearing; by telephonic testimony at the hearing; or by videotape.

(j) The Board may recess the hearing to a date certain and direct the parties, or any of them, to provide such further information as may be necessary to decide the matter.

(k) No later than fourteen days after a hearing, the Board shall render a written decision that succinctly and clearly states its findings of fact and conclusions of law. To that end, where appropriate, the Board may render a decision at the hearing and read such decision into the record for its incorporation in the hearing transcript. Each Board decision shall be filed among the Board's records, and a copy thereof shall be served personally on or sent by certified mail to each of the parties in interest or to the attorneys representing the parties, if such parties are represented by counsel. In any instance where a decision cannot be reached within fourteen days, the Board shall provide the parties with a written estimate of when the decision will be rendered. Such additional time shall not exceed an additional fourteen days."

Section 17. Amend § 2361(b), Title 19, Delaware Code by striking it in its entirety and substituting, in lieu thereof, the following:

"(b) Where payments of compensation have been made in any case under an agreement approved by the Board or by an award of the Board, no statute of limitation shall take effect until the expiration of 5 years from the time of the making of the last payment for which a proper receipt has been filed with the Department."

Section 18. Amend § 2361(c), Title 19, Delaware Code by striking the words "Secretary of the Board" as they appear therein and inserting the word "Department" in lieu thereof.

Section 20. Amend § 2392(c), Title 19, Delaware Code by striking the words "and the Board" as they appear in the first sentence;

Section 21. Amend § 2395, Title 19, Delaware Code by striking the words "Second Injury and Contingency Fund" as they appear in the title therein and inserting the words "Workers' Compensation Fund" in lieu thereof:

Section 22. Amend § 2395, Title 19, Delaware Code by striking the words 'and self-insureds' from the title of said section, striking subsection (b), changing the designation of subsection (c) to (b) and the designation of subsection (d) to (c), and adding new subsections (d) and (e) thereto to read as follows:

"(d) Should the Department subsequently determine that the amounts assessed are insufficient to meet the Fund's obligations during a calendar year, it may assess insurance carriers to cover any anticipated deficiency, based upon the allocations for that calendar year as determined pursuant to subsection (a) of this section.

(e) Should the Department subsequently determine that the amounts assessed are sufficient to meet the Fund's obligations during a calendar year, it shall not assess insurance carriers until a deficiency is projected based upon the anticipated expenditures for the next calendar year as determined pursuant to subsection (a) of this section."

Section 23. Amend § 2396, Title 19, Delaware Code by striking it in its entirety and substituting in lieu thereof a new section.

" § 2396. Workers' Compensation Fund. Reimbursement of carriers.

(a) The Workers' Compensation Fund is created for the purpose of making payments under § 2327, § 2334, or § 2347 of this title by any insurance carrier.

(b) The Department shall perform the administrative, ministerial, fiscal, and clerical functions of the Workers' Compensation Fund. The Fund shall be represented by a Deputy Attorney General in any proceedings that expose the Fund to liability. Any expenses incurred in defense of the Fund are payable from said Fund.

(c) With respect to payments made subject to reimbursement under subsection (a), insurance carriers, on or before December 15 and July 1 of each year, shall file with the Department a report setting forth the money expended for said payments during the previous six months. Reimbursement to such insurance carrier shall be made on the fifteenth day of January and the first day of August each year."

Section 24. Amend § 2397, Title 19, Delaware Code by striking it in its entirety.

Section 25. Amend § 507(2), Title 18, Delaware Code by striking the word "workmen's" as it appears therein and inserting the word "workers" in its place; further amend said section by striking the words "Industrial Accident Board; as they appear therein and inserting the words "Department of Labor" in lieu thereof.

Section 26. Amend § 6540(b), Title 18, Delaware Code by striking the word "workmen's" as it appears therein and inserting the word "workers" in its place.

Section 27. Amend § 8510(b), Title 29, Delaware Code by striking the numeral "21" as it appears therein and inserting the numeral "23" in its place.

Section 28. Amend § 8511(a), Title 29, Delaware Code by striking the words "Chapter 21 of" as they appear therein.

Section 29. Amend § 8511(b), Title 29, Delaware Code by striking the words "under Chapters 21 and 23" as they appear therein and inserting the words "under Chapter 23" in lieu thereof.

Section 30. Amend § 2502(b)(3), Title 30, Delaware Code by striking the words "Industrial Accident Board" as they appear therein and inserting the words "Department of Labor" in lieu thereof.

Section 31. Amend §§ 2379-2385, Title 19, Delaware Code to delete them in their entirety.

Section 32. This Act, which is hereby denominated the Workers' Compensation Improvement Act of 1997, shall become effective one hundred and eighty days after its enactment into Law; provided, however, that the Hearing Officers provided for in section 2 of the Act may be appointed and may perform their duties consistent with the Act upon enactment of the Act into law, if authorization for such action is included in the annual appropriations act.

Approved June 26, 1997

CHAPTER 85

FORMERLY

SENATE BILL NO. 75

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE GENERAL POWERS OF THE SECRETARY, DELAWARE HEALTH AND SOCIAL SERVICES.

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

Section 1. Amend Section 122, Title 16 of the Delaware Code by deleting subsection (3) (g) in its entirety and inserting in lieu thereof:

"Provide for the sanitary control of tourist camps, trailer camps, and other public camps;"

Section 2. Amend Section 122, Title 16 of the Delaware Code by adding thereto a new subsection (3) (u) to read as follows:

"u. 1. Promulgate and enforce standards to regulate food establishments which may include, but are not limited to, restaurants, caterers, temporary food vendors, grocery stores, food vending machines, ice manufacturers and cottage industries that prepare or handle food for human consumption whenever it is determined that said food represents a hazard to the public health.

2. To perform these functions, the Division of Public Health shall have the authority to collect reasonable fees necessary to defray costs of functions identified in section u.1.

3. For each facility required by regulations to hold a permit, the following fee shall be assessed:

Food Establishment Permit

<u>Type of Establishment</u>	<u>Fee</u>
Public Eating Place	\$100
Retail Food Store	\$100
Ice Manufacturers	\$30
Commercial Food Processors	\$30
Vending Machine Location	\$30

4. For each facility required by regulation to have a plan review, the following fee shall be assessed:

Food Establishment Plan Review

<u>Square Footage</u>	<u>Fee</u>
1000 or less	\$50
1001-5000	\$100
5001-10000	\$150
10001-15000	\$200

15001-above

\$250

5. Churches, schools, fire companies and other non-profit organizations are exempt from these fees."

Section 3. Amend Section 3504 of Title 16 of the Delaware Code by deleting said section in its entirety and inserting in lieu thereof:

"The Department of Health and Social Services may promulgate and enforce standards to regulate food processing establishments which may include, but are not limited to, canneries, factories and cottage industries that process food for human consumption whenever it is determined that said food represents a hazard to the public health."

Section 4. Amend Chapter 35, Title 16 of the Delaware Code by deleting in their entirety Sections 3505 and 3506 and renumbering the remaining sections accordingly.

Section 5. Amend Chapter 37, Title 16 of the Delaware Code, Poultry Processing, by deleting said chapter in its entirety.

Section 6. Amend Chapter 39, Title 16 of the Delaware Code, Tomato Processing, by deleting said chapter in its entirety.

Section 7. Amend Chapter 45, Title 16 of the Delaware Code, Food Storage, by deleting said chapter in its entirety. •

Approved June 26, 1997

CHAPTER 86

FORMERLY

HOUSE BILL NO. 197
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO BIRTH DEFECTS.

BE IT 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 2, Title 16 of the Delaware Code by striking Chapter 2 in its entirety and by substituting in lieu thereof the following:

"Chapter 2. Birth Defects Surveillance, Registration, and Treatment Program.

§ 201. Purpose.

(a) The intent of the General Assembly is to provide financial assistance for the treatment of children with birth defects and to require the establishment and maintenance of a birth defects surveillance system and registry for the State.

(1) Surveillance system and registry. Responsibility for establishing and maintaining the system and registry is delegated to the Department of Health and Social Services, along with the authority to exercise certain powers to implement the system and registry. To ensure an accurate and continuing source of data concerning birth defects, the General Assembly by this chapter requires certain health care practitioners and all hospitals and clinical laboratories to make available to the Department of Health and Social Services information contained in the medical records of patients who have a suspected or confirmed birth defect diagnosis. All confirmed birth defects shall be classified and coded using the medically recognized system of International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM), as well as the six-digit modified British Pediatric Association system (BPA/ICD-9), and all subsequent revisions to these publications which are used by the Centers for Disease Control and Prevention. It is intended that the product of these efforts will be a central data bank of accurate, precise, and current information regarding all birth defects diagnosed or treated, or both, in this State.

(2) Treatment. The cost of treating children for birth defects can be prohibitive and impose a substantial burden upon the children's families beyond the resources of those families and beyond the resources of state, federal, or private agencies. The treatment of such children is in the best interest and welfare of the people and the State. It is the intent of this chapter to provide assistance with the cost of treatment for children so afflicted.

Treatment paid for under this program shall be provided, insofar as possible, within the State. The Secretary of the Department of Health and Social Services shall establish rules and regulations for the eligibility of persons requesting services under this chapter, including the ability of those persons to pay for services, and for the disbursement of funds appropriated for this program. However, this chapter will in no way affect the rights, liabilities, or duties of the Secretary of the Department of Health and Social Services, or of persons or guardians of persons requesting services under this chapter, from operation of laws or prior existing laws and, in particular, 29 Del. C. § 7940.

§ 202. 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 content clearly indicates a different meaning.

(1) 'Department' means the State of Delaware Department of Health and Social Services.

(2) 'Birth defect' means any structural or biochemical abnormality, regardless of cause, diagnosed at any time before or after birth, that requires medical or surgical intervention or that interferes with normal growth or development.

(3) 'Surveillance' means the process of identifying and investigating birth defects in children under age 5.

(4) 'Registry' means a central data bank containing collected, classified, coded, and stored data relating to defects in children under

age 5.

§ 203. Birth Defects Surveillance and Registry Program.

The Department may adopt, promulgate, amend, and repeal any rules and regulations necessary to accomplish the purpose of this chapter. These rules and regulations may include provisions for:

(a) The establishment and maintenance of an up-to-date registry that shall document every diagnosis or treatment, or both, of any birth defect in any child under age 5 in this State;

(b) The establishment of a procedure for reporting to the Department, within 30 days of initial diagnosis or treatment, every occurrence of a birth defect in any child under age 5 in this State. The procedure shall include the reporting of specified information, through a combined system of active and passive surveillance, on every child under age 5 with one or more birth defects. Specified information shall be deemed necessary and appropriate to accomplish the purpose of this chapter and in accordance with the recommendations from the Centers for Disease Control and Prevention, for the following reasons:

1. To identify risk factors for birth defects;
2. To investigate the causes and prevalence of birth defects;
3. To develop preventive strategies to decrease occurrences of birth defects;
4. To analyze incidences, prevalence, and trends of birth defects through epidemiological studies; or
5. To investigate the morbidity and mortality rates resulting from birth defects.

(c) Those required to report to the Department occurrences of birth defects shall include:

(1) any physician, surgeon, dentist, podiatrist, or other health care practitioner who diagnoses or provides treatment, or both, for children under age 5 with birth defects;

(2) the designated representative of any hospital, dispensary, or other similar public or private institution that diagnoses or provides treatment, or both, for children under age 5 with birth defects; and

(3) the designated representative of any clinical laboratory that performs any test which identifies children under age 5 with birth defects;

(d) The establishment of a procedure for the publication and distribution of forms, instructions, and notices required by this chapter or necessary to accomplish the purpose of this chapter; and

(e) The establishment of a procedure to obtain follow-up information from those required to report occurrences of birth defects pursuant to this chapter. Any follow-up information, including family, physician, hospital, or laboratory contact deemed necessary by the Department, shall be submitted to the Department at least one time each year by those required to report occurrences of birth defects.

(f) The provisions of this chapter and any rules or regulations issued pursuant to this chapter shall not apply to any person or private institution that, as an exercise of religious freedom, treats the sick or suffering by spiritual means through prayer alone.

(g) A parent, custodian, or guardian of an infant having any birth defect may refuse disclosure to the surveillance system and registry of the infant's name and identifying information on the grounds that such birth defect identification is contrary to the religious tenets and practices of the infant's parent, custodian, or guardian.

§ 204. Confidentiality of reports.

(a) Any report of the diagnosis or treatment, or both, of a birth defect made pursuant to this chapter shall not be divulged nor made public in any way that might tend to disclose the identity of the person, or family of the person, to whom it relates. However, patient-identifying information may be exchanged among authorized agencies as approved by the Department and upon receipt by the Department of satisfactory assurances by those agencies of the preservation of the confidentiality of such information.

(b) No individual or organization providing information to the Department in accordance with this chapter shall be deemed to be liable for, or held liable for, divulging confidential information.

§ 205. Compulsion prohibited.

Nothing in this chapter shall be construed to compel any person to submit to any medical or public health examination, treatment, or supervision.

§ 206. Violations.

Any person or entity who is required to report the diagnosis or treatment, or both, of any birth defect in any child under age 5 and who violates any provision of this chapter shall be fined up to \$100.00 for each violation. Justices of the Peace Courts shall have jurisdiction of any offense under this chapter."

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

Approved June 26, 1997

CHAPTER 87

FORMERLY

HOUSE BILL NO. 236
AS AMENDED BY SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 21, DELAWARE CODE RELATING TO THE UNIFORM
COMMERCIAL DRIVERS ACT.

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

Section 1. Amend § 2603, Title 21, Delaware Code by striking subsection (21) in its entirety and substituting in lieu thereof the following:

"(21) 'Out-of-service order' means a declaration by the Federal Highway Administration or an authorized enforcement officer of a federal, state, local, or governmental agency from Puerto Rico, Canada or Mexico, that a driver, or a commercial motor vehicle, or motor carrier operation (as defined in the Federal Motor Carrier Safety Regulations), is out-of-service pursuant to § 386.72 (imminent hazard), § 392.5 (intoxicating beverage), § 395.13 (drivers declared out-of-service), or § 396.9 (inspection of motor vehicles in operation), of the Federal Motor Carrier Safety Regulations, or comparable laws of any governmental agency referred to above, or the North American Uniform Out-of-Service Criteria."

Section 2. Further Amend § 2603, Title 21, Delaware Code, by striking subsection (23) in its entirety and substituting in lieu thereof the following:

"(23) 'State' for the purpose of this Chapter means a state, territory or possession of the United States, the District of Columbia, the Republic of Mexico, the Commonwealth of Puerto Rico, and any province of the Dominion of Canada."

Section 3. Amend § 2612, Title 21, Delaware Code by inserting as new § 2612(h) the following:

"(h) After September 30, 1997, a driver who is convicted of violating an out-of-service order is disqualified for the following periods:

(1) First Violation. A driver shall be disqualified for a period of not less than 90 days nor more than one year, if the driver is convicted of a first violation of an out-of-service order. If any such driver is transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or is operating a motor vehicle designed to transport more than 15 passengers, including the driver, that driver shall be disqualified for a period of not less than 180 days nor more than two years.

(2) Second Violation. A driver shall be disqualified for a period of not less than one year, nor more than five years if, during any 10-year-period, the driver is convicted of two violations of out-of-service orders in separate incidents. If any such driver is transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or is operating a motor vehicle designed to transport more than 15 passengers, including the driver, that driver shall be disqualified for a period of not less than three years nor more than five years.

(3) Third or Subsequent Violations. A driver shall be disqualified for a period not less than three years nor more than five years if, during any ten year period the driver is convicted of three or more violations of out-of-service orders in separate incidents.

(4) Additional Penalties. In addition to disqualification, drivers may be fined not less than \$1,000 nor more than \$2,500 if convicted of violating an out-of-service order. Employers convicted of violating an out-of-service order may be fined not less than \$2,500 nor more than \$10,000."

Approved June 26, 1997

CHAPTER 88

FORMERLY

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

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO ASSAULTS
IN DETENTION FACILITIES.

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

Section 1. Amend §1254(a), Title 11, Delaware Code by deleting the word "guard", and inserting the words "correctional officer".

Section 2. Amend §1254(b), Title 11, Delaware Code by deleting the word "guard", and inserting the words "correctional officer".

Section 3. Amend §1254, Title 11 of the Delaware Code by redesignating paragraph (c) as paragraph (d) and inserting a new paragraph (c) to read as follows:

"(c) Any person who, being confined in a detention facility, intentionally strikes with urine, feces or other bodily fluid, a correctional officer or other State employee of a detention facility acting in the lawful performance of duties shall be guilty of a Class D felony.

Notwithstanding Chapter 45 of this Title, any person convicted for a violation of this subsection shall be imprisoned for a mandatory minimum period of one year which shall commence upon final conviction. Such sentence shall not be suspended nor shall the defendant be eligible for parole or probation.

When charged with a violation of this subsection, the defendant shall be tested for diseases transmittable through bodily fluids. The cost of such tests to be assessed as costs upon conviction. The results of such tests shall be provided only to the Attorney General, the victim of the assault, the defendant and the Department's medical care provider."

Approved June 26, 1997

CHAPTER 89

FORMERLY

HOUSE BILL NO. 249
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO TRAFFIC LAWS.

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

Section 1. Amend § 4101, Title 21, Delaware Code by inserting as new § 4101(d) the following:

“(d) Liability for failure of owner to comply with traffic light signals.

(1) The Department of Public Safety and/or the governing body of any city or any county, may provide by regulation or ordinance for the establishment of a program imposing monetary liability on the owner of a motor vehicle for failure to comply with traffic light signals in accordance with the provisions of this subsection. This subsection allows the Department of Transportation, and/or the governing body of any city or county, to install and operate traffic light signal violation monitoring systems; provided, however, that in the event the installation other than by the Department of Transportation on State maintained streets or roads, the Department of Transportation must first approve such installation.

(2) The owner of the vehicle shall be liable for a monetary penalty imposed pursuant to this subsection if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal. Enforcement, arrest, bail, appeal, procedures for payment of penalties and distribution of penalty payments collected shall be governed in the same manner as any parking or other non-moving violation under Chapter 7 of Title 21 and such penalties shall be subject to the voluntary assessment provisions of 21 Del. C. § 709.

(3) Proof of a violation of this subsection shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this subsection. A certificate, sworn to or affirmed by a technician employed by a governmental body authorized to impose penalties pursuant to this subsection, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic light signal violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to regulation, ordinance or other law adopted pursuant to this subsection.

(4) The owner of any vehicle found to be in violation of this subsection (d) shall be held prima facie responsible for such violation in the same manner as provided for under 21 Del. C. § 7003.

(5) For purposes of this subsection (d) only, ‘owner’ means the registered owner of such vehicle on record with the Division of Motor vehicles, provided, however, that in the event that the owner is a vehicle leasing company licensed to do business in this state; the ‘owner’ for purposes of this subsection shall mean the person shown on the records of the Division of Motor Vehicles to be the lessee of such vehicle. Vehicle rental companies are excluded from the definition of ‘owner’ for purposes of this subsection (d) only. For purposes of this subsection, ‘traffic light signal violation monitoring system’ means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, a

videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this subsection.

(6) Imposition of a penalty pursuant to this subsection shall not be deemed a conviction of the owner and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No monetary penalty imposed under this subsection shall exceed fifty dollars but court costs and assessments for the Victim's Compensation Fund and the Videophone Fund may be imposed in addition to the maximum monetary penalty.

(7) A summons for a violation of this subsection may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Division of Motor Vehicles."

Section 2. Amend §4101, Title 21, of the Delaware Code by inserting as new 4101(e) the following:

"(c) Notwithstanding any other provision in this section, if the motor vehicle which is found by the traffic light signal violation monitoring system to have failed to comply with a traffic light signal is commercially licensed, then the owner of that vehicle shall be sent notice of the date, time and location of the violation with two photographs thereof. Within ten days of the receipt of said notice, the owner of the vehicle shall provide the law enforcement agency which has issued the summons with the name and address of the driver of the vehicle at the date, time and location of the violation and within the same time period, shall provide the driver of the vehicle with the photographs of the violation. After receipt by the law enforcement agency which has issued the summons of the name and address of the driver of the vehicle at the time of the violation, the driver of the vehicle shall be prima facie responsible for such violation in the same manner as provided for under 21 Del. C. §7003 and shall be subject to the provisions of this section. Failure of the owner of the vehicle found to be in violation of subsection (d) to provide the name and address of the driver at the time of the violation within the period prescribed shall cause the owner to be held responsible as set forth in subsection (d)(4)."

Approved June 26, 1997

CHAPTER 90

FORMERLY

HOUSE BILL NO. 146

AN ACT TO AMEND CHAPTER 31, 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 § 3105, Chapter 31, Title 19 of the Delaware Code by striking the dollar amount "\$8,000" as it appears in the first sentence therein and in its place inserting the dollar amount "\$13,000".

Section 2. Amend § 3105, Chapter 31, Title 19 of the Delaware Code by striking the dollar amount "\$6,000" as it appears in the second sentence therein and in its place inserting the dollar amount "\$10,000".

Section 3. This Act shall take effect July 1, 1997.

Approved June 26, 1997

CHAPTER 91

FORMERLY

SENATE BILL NO. 80
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 13, TITLE 10, DELAWARE CODE RELATING TO JUDGES OF THE COURT OF COMMON PLEAS.

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

Section 1. Amend Section 1302(d), Title 10, Delaware Code by striking it in its entirety and inserting in lieu thereof a new Section 1302(d) to read as follows:

“(d) The Judge appointed by the Governor as Chief Judge shall be the administrative head of the Court during the term of his or her appointment.”

Section 2. Amend 1303(a), Title 10, Delaware Code by striking the last sentence thereof, and by adding two new sentences in its place as follows: “The Governor shall appoint one Judge of the Court as Chief Judge of the Court to hold office during the term of his appointment. Nothing in this section shall affect the ability of the current Chief Judge of the Court of Common Pleas to serve in that capacity for the duration of his current term of office.”

Section 3. The Governor, by and with the consent of a majority of all the members elected to the Senate, shall appoint the Chief Judge of the Court of Common Pleas from among the Judges of the Court of Common Pleas sitting as of June 28, 1997 to serve as Chief Judge until the end of his or her existing term as a Judge of that Court. Such Chief Judge shall be removable during such term only on the same basis as a Judge nominated by the Governor and confirmed by the Senate to serve a full term as the head of a state court would be removable during his or her term. Future appointments pursuant to § 1302(d), Title 10, Delaware Code shall be for 12 years.

Approved June 30, 1997

CHAPTER 92

FORMERLY

HOUSE BILL NO. 153

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 22 OF THE DELAWARE CODE RELATING TO PARKING
AUTHORITIES.

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

Section 1. Amend §504(b)(1) Title 22 by striking subsection (1) in its entirety and
substituting in lieu thereof the following:

"(1) To have existence as a corporation in perpetuity unless the articles of
incorporation limit the duration of the corporation's existence to a specified date.

Approved June 30, 1997

CHAPTER 93

FORMERLY

HOUSE BILL NO. 252

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO ESCAPE.

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

Section 1. Amend §1251, Title 11 of the Delaware Code, by deleting the period
appearing at the end of the first sentence and by inserting in lieu thereof the following:

" , including placement in non-secure facilities by the Division of Youth
Rehabilitative Services."

Approved June 30, 1997

CHAPTER 94

FORMERLY

HOUSE BILL NO. 264

AN ACT TO AMEND CHAPTER 272, VOLUME 63, LAWS OF DELAWARE, AS AMENDED, RELATING TO THE TOWN OF CAMDEN.

BE IT 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 272, Volume 63, Laws of Delaware, as amended, by deleting the heading immediately preceding Section 7, "Method of Making Nominations for Town Councilman" and substituting in lieu thereof the following:

"Method of Nominating Candidates for Mayor and Town Council."

Section 2. Further amend Chapter 272, Volume 63, Laws of Delaware, as amended, by creating a new Section 6 to read as follows:

"CANDIDACY FOR MAYOR OR TOWN COUNCIL."

Section 6. Each candidate for Mayor or Town Council shall be nominated as follows:

(a) Each candidate shall notify the Town Council in writing of his or her candidacy for the office of Mayor or Town Council.

(b) All such notifications of candidacy shall be filed in person at the Town Hall during regular business hours, not earlier than the opening of business on the first Monday of December and prior to the close of business on the last Friday of January. Town Hall will be open until 8:00 p.m. on the third Wednesday of January for candidates to file. All notifications of candidacy shall be publicly presented to the Town Council at the regularly scheduled meeting of Council in February of each year.

(c) Town Council shall make provisions for voting machines to be used and shall also cause to be printed sufficient absentee ballots in order for each citizen of the Town to vote at the Annual Municipal Election. Such ballot shall contain the names of all persons nominated and shall designate the office for which each is a candidate. Absentee ballots shall be made available for completion beginning the 2nd Monday of February through the close of business on the day immediately preceding the Annual Municipal Election."

Section 3. Further amend Chapter 272, Volume 63, Laws of Delaware, as amended, by deleting subsection (d), Section 7, in its entirety and substituting in lieu thereof the following:

"(d) At such Annual Municipal Election or special election of the Town, every person shall have one (1) vote, provided that he or she: (1) has attained the age of eighteen (18) years on the date of the Annual Municipal Election; (2) is domiciled in the Town of Camden; and (3) has properly registered to vote in the Town of Camden. For purposes of this Section, a person is 'domiciled' in Camden when he or she physically resides within the corporate limits of the Town with the actual intent to make that residence his or her fixed permanent home; however, any person who is enlisted or engaged in any government service of the United States or any military organization of this State or of the United States, which service requires him or her to reside outside the limits of the Town, shall be considered to be domiciled in the Town during the period of his or her service; so long as it remains his or her actual intention to retain the Camden residence as his or her fixed and permanent home. The Town of Camden shall maintain a voter registration book at Town Hall which shall contain the following information: (1) the names of the registered voters arranged in alphabetical order; (2) the address of each registered voter; (3) the birth date of each registered voter; and (4) the date that the registrant became domiciled in the Town of Camden."

CHAPTER 95

FORMERLY

HOUSE BILL NO. 279

AN ACT TO AMEND CHAPTER 339, VOLUME 62, LAWS OF DELAWARE, AS AMENDED, RELATING TO 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 paragraph (1) of subsection (b) ("Alteration of Boundaries") of Section 1 ("Boundaries and Town Plot") of Chapter 339, Volume 62, Laws of Delaware by adding, at the end thereof, a new paragraph to read as follows:

"The Council may, in the resolution proposing the inclusion of territory(s) and calling for a special election, or by separate resolution, propose the zoning classification(s) of the territory(s) (or portions thereof) proposed to be annexed, and direct the taking of such actions (including the publication of notice and the holding of public hearings) prior to the holding of the special election, as necessary to enable the Town Council to designate the zoning classification(s) of the annexed territory(s) (or portions thereof) contingent upon a majority of the votes cast in the special election being in favor of such annexation."

Section 2. Amend paragraphs (7) and (8) of Section (b) ("Alteration of Boundaries"), Section 1 ("Boundaries and Town Plot"), Chapter 339, Volume 62, Laws of Delaware, by redesignating the same as paragraphs (8) and (9) respectively, and inserting a new paragraph (7) as follows:

"(7) In the event that, prior to the special election, the Town Council shall have designated the zoning classification(s) of the territory(s) (or portions thereof) proposed to be annexed, such designation being contingent upon a majority of the votes cast in such special election being in favor of such annexation, all as provided in Section 1 (b) (1) above, the Town Council shall, in the resolution annexing such territory pursuant to Section 1 (b) (6) above, or by separate resolution adopted contemporaneously therewith, designate the zoning classification(s) of any territory(s) (or portions thereof) being annexed into the Town. Such zoning classification(s) so designated shall not be amended or changed by the Town Council, without written consent of the record owner(s) of such lands, for a period of three years following the date of the final annexation resolution adopted pursuant to Section 1 (b) (6)."

Section 3. Amend subparagraph (2) ("Contracts with the Town"), of paragraph (d) ("Prohibitions"), of Section 3 ("Mayor, Town Council"), Chapter 339, Volume 62, Laws of Delaware, by deleting the words "\$250.00" and substituting in place thereof the words "one thousand dollars (\$1,000.00)".

Section 4. Amend subparagraph (d) ("Duties of Secretary") of Section 4 ("Organization of Council"), Chapter 339, Volume 62, Laws of Delaware by inserting the words ", during the temporary absence or disability of the Mayor and Vice-Mayor, act as Mayor and while so acting be vested with all the powers, duties, and authority of the Mayor;" after the word "... of Council at all meetings...".

Section 5. Amend subparagraph (2) of paragraph (b) ("Chief of Police") of Section 6, Chapter 339, Volume 62, Laws of Delaware, by striking the same in its entirety and substituting in lieu 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 have operational control of the daily routine of the Police Department. The Chief of Police shall be subordinate and answerable to the Town Manager."

Section 6. Amend subparagraph (4) of paragraph (a) ("Assessments") of Section 7 ("Assessment, Appeals"), Chapter 339, Volume 62, Laws of Delaware, by deleting the words "first Council meeting in April" and substituting in place thereof the words "first Monday in March".

Section 7. Amend paragraph (c) ("Assessment Appeals") of Section 7 ("Assessment, Appeals") Chapter 339, Volume 62, Laws of Delaware, by deleting the same in its entirety and substituting in place thereof the following:

"(c) Assessment Appeals

The Town Council shall annually fix the sum to be assessed upon each and every citizen owning taxable real property within the limits of said Town, and the sum so fixed shall be one and the same for every class and description of citizens. A Committee composed of two or more Council members shall, after receiving the three copies of assessment from the Board of Assessment as hereinbefore provided and after assessing the real estate of the members of the Board of Assessment, cause two of the copies of the assessment to be hung up in two such public and convenient places as Council shall designate in said Town where they shall remain for at least ten days prior to the first Monday in April for public inspection, and hold a Court of Appeals on Appeal Day which shall continue open from 4:00 p.m. until 7:00 p.m. of said day at the Town Manager's office in said Town or at such other place as may be designated in the two copies of the assessment hung up as aforesaid at which time and place the Committee of two or more Council members shall hear appeals from the said assessment and may make recommendations to Council on such corrections, additions to, or alterations in said assessment as the Committee determines to be proper. The Committee may adjourn the Court of Appeals to the following day if all appeals cannot be heard on the regular Appeal Day above provided for. At the next ensuing regular or special meeting the Town Council will review the recommendation(s) of the Committee and make such corrections, authorize such additions to or alterations in said assessments as they determine to be proper. Notice of the hanging up of said two assessment lists, and also at the same time, notice of the time and place of hearing appeals, shall be given by posting notices in at least five public places in the Town of Smyrna and advertising at least once in a newspaper of general circulation in the Town at least ten days prior to the first Monday in April. The determination and decision of the Town Council upon any appeal or upon any matter relating to such assessment shall be final and conclusive. No member of Council shall sit to hear his own appeal but such appeal shall be heard and determined by the other members of Council."

Section 8. Amend subparagraph (2) ("Tax Lien") of paragraph (c) ("Collection") of §8 ("Taxation of Collection") of Chapter 339, Volume 62, Laws of Delaware, by deleting the same in its entirety and substituting in place thereof the following:

"(2) Lien for Taxes and Charges. All taxes laid and imposed under the provisions of this Charter, as well as charges, costs, and/or other assessments added to the assessment list under §8(b)(2) above shall be, constitute, and continue as a lien against such real property from the time such list is approved by the Council under §8(b)(3) for a period of ten years from the date prescribed by this Charter for the delivery of the assessment or duplicate to the Town Manager; provided that if the real estate remains the property of the person(s) who was/were the owner(s) at the time it was so assessed, the lien shall continue until the same is collected in full. The lien of such taxes shall have priority over all other liens except as provided under 29 Del.C. §2906(b) or any future corresponding provision of law.

Except as provided otherwise herein, the provisions of 9 Del.C. Chapter 87 ("Collection of Delinquent Taxes"), as it may from time to time hereafter be amended, shall be deemed and held to apply to all taxes laid and/or imposed, and to all charges, costs, or other assessments added to the assessment list delivered to the Town Manager for collection under §8(b)(4) above;"

Section 9. Further amend paragraph (c) ("Collection") of Section 8 ("Taxation and Collection") of Chapter 339, Volume 62, Laws of Delaware by adding a new subparagraph (3) to read as follows:

"(3) Costs and Attorneys Fees. In any proceeding (including but not limited to attachment, monition, tax sale, or debt action) by the Town Manager for the collection of taxes and/or charges owed to the Town which have been added to the assessment list pursuant to §8 (b)(2) above and which thereby constitute a lien against said property under §8 (c)(2) hereafter, the Town Manager shall be entitled to collect, in addition to the amounts due and the penalties thereon, all documented court costs, attorneys fees, and other reasonable and necessary out-of-pocket expenses incurred by the Town in such collection proceedings."

Section 10. Amend paragraph (a) ("Police") of §19 ("Police and Jail") of Chapter 39, Volume 62, Laws of Delaware by adding a new third paragraph to read as follows:

"Each member of the police force shall be vested with all power and authority within the Town limits and within one mile of said limits (and, in case of the pursuit of an offender, without limit) of a State Police Officer."

Section 11. Amend Section 20 ("Contracts to be Advertised") of Chapter 339, Volume 62, Laws of Delaware by deleting subparagraphs (b) and (c) in their entirety and by deleting the "(a)" in the first paragraph.

Section 12. Further amend Section 20 ("Contracts to be Advertised") of Chapter 68, Volume 70, Laws of Delaware by deleting the words "ten thousand dollars (\$10,000)" and in place thereof inserting the words "fifty thousand dollars (\$50,000)".

Section 13. Amend Section 21 ("Transitional Provisions, Separability") of Chapter 339, Volume 62, Laws of Delaware by redesignating such section as "Section 22" and inserting a new Section 21 to read as follows:

"21. Subdivision and Land Development.

21.1 Power to Regulate. In order to provide for the orderly growth and development of the Town, to promote the health, safety and 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 or within subdivided land shall be of such widths and grades and in such locations as may be deemed necessary to accommodate prospective traffic, that adequate easements or rights-of-way shall be provided for drainage and utilities, that reservations of areas designed for their use of 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 is made for water supply, fire protection, sanitary sewage and 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, and/or improvements, money in lieu of land and/or improvements, 'impact fees', or otherwise, those subject to such regulation to provide, at their own expense, such municipal or public improvements (including enlargement, expansion, improvement, or enhancement of existing municipal or public improvements) either on-site within the proposed subdivision or off-site and outside the proposed subdivision, which have a rational nexus to the proposed land subdivision, combining, or partitioning, including, by way of example and not in limitation, the paving and/or widening of streets, installation of sidewalks, curbs, storm sewers, water lines, sanitary sewer lines, electric distribution lines, street signs, traffic signals, access roads, traffic lanes for turning, acceleration, and deceleration, 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 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.

21.2 Recording Unapproved Plans. In the event an ordinance of the Town so provides, no plat, plot, or plan of land shall be received for filing or recording by the Recorder of Deeds in and for Kent County unless and until such plat, plot, or plan shall have been approved by the Town body so authorized to grant such approvals and the fact of such approval shall have been endorsed in writing upon such plan. If such ordinance so provides, any plat, plot or plan recorded without approval in writing from the Town body so authorized to grant such approval shall be voidable by any court of competent jurisdiction."

Approved June 30, 1997

CHAPTER 96

FORMERLY

SENATE BILL NO. 109

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO SPECIAL REGISTRATION PLATES.

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

Section 1. Amend Title 21, Section 2134 by inserting in sub-section (b) after the phrase "pickup trucks," the phrase "motorcycles,".

Approved June 30, 1997

CHAPTER 97

FORMERLY

SENATE BILL NO. 128

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE REGARDING CERTAIN CRIMES.

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

Section 1. Amend Title 11 of the Delaware Code by adding thereto a new section, to be designated as Section 907B, to read as follows:

"§907B. Criminal impersonation of a police officer; class F felony, class C felony.

(a) A person is guilty of criminal impersonation of a police officer when the person, intending to facilitate the commission of a crime, or while in immediate flight therefrom:

(1) intentionally and without lawful authority impersonates or otherwise pretends to be a police officer; or

(2) without lawful authority does any act intended to create or reinforce a false impression that the person is a police officer.

(b) Criminal impersonation of a police officer is a class E felony, unless during the course of the commission of the crime, or while in immediate flight therefrom, the person or another participant in the crime:

(1) causes physical injury to any person who is not a participant in the crime; or

(2) commits class A felony or class B felony as defined by this Title, or any sexual offense as defined by §761(d) of this Title, in which case it is a class C felony.

(c) Nothing in this section shall preclude a separate charge, conviction or sentence for any other crime."

Approved June 30, 1997

CHAPTER 98

FORMERLY

SENATE BILL NO. 130

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE REGARDING SENTENCING
IN CRIMINAL CASES.

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

Section 1. Amend Title 11 of the Delaware Code by adding thereto a new section, to be designated as Section 234, to read as follows.

“§234. Definition of Terms Requiring Certain Sentences.

When used for the purpose of describing or requiring a sentence of incarceration imposed pursuant to this Title, the terms “minimum” “mandatory,” “minimum mandatory” and “mandatory minimum” shall be construed as being synonymous.”

Section 2. Amend Section 2104(c)(1) of Title 11 of the Delaware Code by inserting between the phrases “for which a” and “mandatory minimum” as they appear in said section the following:

“mandatory, minimum, minimum mandatory, or”

Section 3. Amend Section 2104(c)(2) of Title 11 of the Delaware Code by inserting between the phrases “for which a” and “mandatory minimum” as they appear in said section the following:

“mandatory, minimum, minimum mandatory, or”

Section 4. Amend Section 2104(c) by adding immediately after the last sentence of said subsection the following:

“The provisions of this subsection shall not apply to pleas or convictions for any felony set forth in Title 21 of this Code.”

Section 5. Amend Section 4204(d) of Title 11 of the Delaware Code by striking the words “mandatory or may not be suspended” as they currently appear in said section, and by substituting in lieu thereof the following:

“a mandatory sentence, a minimum sentence, a minimum mandatory sentence or a mandatory minimum sentence, or may not otherwise be suspended.”

Section 6. Amend Section 4205(d) of Title 11 of the Delaware Code by inserting between the phrases “when a minimum” and “is required by” as they appear in said section the following:

“, mandatory, mandatory minimum or minimum mandatory”

Approved June 30, 1997

CHAPTER 99

FORMERLY

SENATE BILL NO. 129

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE REGARDING
ABANDONMENT OF AN INFIRM ADULT.

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

Section 1. Amend Section 3902(19) of Title 31 of the Delaware Code by deleting the "." following the word "adult" at the end of subparagraph b. and by substituting in lieu thereof the following "; or".

Section 2. Amend Section 3902(19) of Title 31 of the Delaware Code by adding a new subparagraph thereto, to be designated as subparagraph "c.", to read as follows:

"c. Intentional and permanent abandonment or desertion in any place of an infirm adult by a caregiver who does not make reasonable efforts to ensure that essential services, as defined in this section, will be provided for said infirm adult."

Approved June 30, 1997

CHAPTER 100

FORMERLY

SENATE BILL NO. 145

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 65, TITLE 11, OF THE DELAWARE CODE RELATING
TO CREATION OF A SPECIAL FUND FOR MONIES CONFISCATED AS
CONTRABAND.

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

Section 1. Amend Chapter 65, Title 11 of the Delaware Code by designating the current Section 6562 as Section 6562A of said chapter and by adding the following section to be designated as Section 6562B.

"Section 6562B. Confiscated Contraband Interdiction Fund

The General Assembly hereby declares that in order to provide funds to combat the unlawful trafficking of drugs, unlawful gambling activities, and gang activities, within the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center it is necessary to create a separate special fund at each of the three institutions. All monies collected as contraband from the inmate population at each of the three institutions shall be set aside into a special fund. Each special fund set up at the three institutions is hereby created and shall be known as the Confiscated Contraband Interdiction.

(A) Use of Funds

The use of the money from this special fund must be for the purpose declared herein as such requires the use of United States Currency for the purchase, training and maintenance of the Canine Unit at the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center; and the purchase

of equipment used in the investigation of crimes committed within the Delaware Correctional Center.

(B) Creation of Fund

Upon the confiscation of any monies as a result of shakedowns and other security investigations, the same shall be paid over to the Support Services Manager at the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center to be placed in the special fund.

(C) Disbursement of Fund

The disbursement of the funds from this account shall be made by the Support Services Manager upon approval by the Warden of the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center. All requests for funds must be by written application and on a form designed for such purpose.

(1) This application and authorization form must include the following:

- (a) The amount of funds requested;
- (b) The anticipated purpose for which such funds are requested;
- (c) The name of the person requesting the funds and the name of the person who shall be responsible for keeping accurate records as to the use of the funds.
- (d) The Warden of the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center shall determine whether or not the expressed purpose for the expenditure requested is within the purposes allowed under this section; and further, whether the proposed expenditure of funds for the expressed purpose will be in the best interests for each of the three institutions. If the Warden at each institution determines that the proposed expenditure meets those criteria, he may authorize the expenditure in whole or in part and only then shall the funds be expended as requested.

(D) Accounting of Funds

Funds obtained by the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center pursuant to this subchapter shall be used only for the purposes set out in Subsection (A). Any and all funds shall be accounted for by the Support Services Manager on or before June 30 of each year. The Administrative Officer shall submit a full and complete accounting for the use of such funds to the Warden at each of the institutions.

(a) Funds from the special fund may be used for the following:

- (1) Purchase of Canine Dogs
- (2) Equipment for the maintenance of the Canine Unit.
- (3) Equipment needed to investigate criminal activities the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and at the Delaware Correctional Center.
- (4) Medical expenses for the animals in the Canine Unit.
- (5) Purchases made by the Institutional Investigator in the pursuance of an investigation into contraband, the introduction of contraband into the Multi-Purpose Criminal Justice Facility, the Sussex Correctional Institution and the Delaware Correctional Center and gang related activities.

E. Review of Records

Any funds requested and disbursed shall be accounted for through an itemized report due no later than July 31 of each year from the Support Services Manager to each of the Wardens at the three institutions from the prior fiscal year.

F. Excess Funds

If at any time the funds aggregated in the Special Fund exceeds \$10,000, the excess shall be deposited in the General Fund."

Approved June 30, 1997

CHAPTER 101

FORMERLY

SENATE BILL NO. 94

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE REGARDING PHARMACISTS.

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

Section 1. Amend Chapter 25, Title 24 of the Delaware Code by adding therein a new section 2518(A), which shall read as follows:

"Section 2518(A) Counseling of Pharmacists

(a) If the Executive Secretary and President 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 Section 2518 of this Chapter, the Executive Secretary may decide to counsel the pharmacist regarding the violation. The Executive Secretary shall notify the pharmacist of his/her findings and of this decision not to proceed by formal disciplinary action. Such notification shall explain the finding of the Executive Secretary and shall request the presence of the pharmacist at a counseling session. During the counseling session, the Executive Secretary shall discuss the violation with the pharmacist as well as any necessary plans of correction.

(b) Attendance at a counseling session shall be voluntary; but if the pharmacist fails to be counseled or fails to take the corrective action specified by the Executive Secretary, the Executive Secretary's notification letter shall be conclusive evidence that such violation occurred and may be used in a subsequent hearing regarding the pharmacist unless challenged by the pharmacist. In the event any pharmacist challenges the findings of the Executive Secretary, such pharmacist shall be entitled to a hearing in accordance with Section 2518 of this Chapter as to whether such violations occurred. In the event the pharmacist requests a hearing, the hearing shall be conducted as a disciplinary hearing under Section 2518 of this Chapter.

(c) The counseling of pharmacists under this Section shall not be considered disciplinary action, and provided the pharmacist attends and complies with any corrective action required by the Executive Secretary, 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 pharmacist is counseled unless such future incident involves the same or similar allegations(s) as that for which the pharmacist was counseled hereunder."

Approved June 30, 1997

CHAPTER 102

FORMERLY

SENATE BILL NO. 20
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE
MEDICAL PRACTICES ACT.

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

Section 1. Amend §1710, Chapter 17, Title 24 of the Delaware Code by adding a new subsection (k) which shall read as follows:

"(k) 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."

Section 2. Amend §1713, Title 24 of the Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"§1713. 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, as well as the proportional expenses, incurred to 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."

Section 3. Amend Chapter 17, Title 24 of the Delaware Code by adding a new §1714, which new Section shall read as follows:

"§1714. Records.

The Division of Professional Regulation shall keep a register of all approved applications for certificates to practice medicine, licenses to practice as physician's assistants, licenses to practice respiratory therapy, and all other licenses and or certificates granted by the Board, 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.

It shall be the responsibility of all certificate holders and licensees to notify the Division of Professional Regulation of any change of address."

Section 4. Amend paragraph (1), subsection (a), §1720, Title 24 of the Delaware Code by striking said paragraph (1) and renumbering each succeeding paragraph accordingly.

Section 5. Amend §1722, Title 24 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"§1722. Issuance and renewal of certificate to practice; registration.

(a) The Board shall issue a certificate to practice medicine in this State and a current registration to each applicant who has passed the examination required by this Chapter and who

has met all the requirements of this Chapter and who pays the fee established under §1713 of this Chapter.

(b) The Division shall keep a current register of all persons authorized to practice medicine in this State and of all certificates issued under this Section. All persons issued certificates to practice medicine shall inform the Division of any change of address.

(c) Each license shall be renewed biennially, in such manner as is determined by the Division of Professional Regulation, 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.

(d) The Board, in its rules and regulations, shall determine the period of time within which persons authorized to practice medicine in this State may still renew their registration, notwithstanding the fact that such person has failed to renew on or before the renewal date."

Section 6. Amend paragraph (1), subsection (a), §1725, Title 24 of the Delaware Code by striking the words "of \$25" and substituting the words "established by the Division of Professional Regulation" in lieu thereof.

Section 7. Amend subsection (b), §1727, Title 24 of the Delaware Code by striking the word "his" and substituting the words "his or her" in lieu thereof.

Section 8. Amend subsection (a), §1728, Title 24 of the Delaware Code by striking the word "he" and substituting the words "he or she" in lieu thereof.

Section 9. Amend subsection (a), §1728, Title 24 of the Delaware Code by striking the word "his" and substituting the words "his or her" in lieu thereof.

Section 10. Amend paragraph (7), subsection (a), §1730, Title 24 of the Delaware Code by striking said paragraph in its entirety, and substituting the following in lieu thereof:

"(7) To issue subpoenas, compel the attendance of witnesses and to administer oaths;"

Section 11. Amend paragraph (16), subsection (a), §1730, Title 24 of the Delaware Code by striking the sentence beginning with the words "The Board may, by regulation," and ending with the words "registration of physicians' assistants." and substituting the following in lieu thereof: "The Division of Professional Regulation shall establish fees for registering physician's assistants and renewing the registration of physician's assistants on a biennial basis. Such fees charged 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 administering the regulation and registration of physician's assistants."

Section 12. Amend subsection (a), §1731, Title 24 of the Delaware Code by striking the word "his" as the same appears in said subsection, and substituting the words "his or her" in lieu thereof.

Section 13. Amend paragraph (10), subsection (b), §1731, Title 24 of the Delaware Code by striking the word "his" and substituting the words "his or her" in lieu thereof.

Section 14. Amend paragraph (16), subsection (b), §1731, Title 24 of the Delaware Code by striking the word "him" and substituting the words "him or her" in lieu thereof.

Section 15. Amend §1731A., Title 24 of the Delaware Code by adding a new subsection (h) which shall read as follows:

"(h) Upon a determination that an investigation is necessary, the Executive Director with the approval of the assisting Board members, who shall be a physician and a public member whenever the investigation relates to the quality of medical care provided by a physician or to the competency of the physician under investigation to engage safely in the practice of medicine and surgery, shall have the authority, as a part of the investigation, to inquire from any organization which undertakes physician peer review or physician quality assurance evaluations whether or not there has been any peer review, quality assurance or similar process instituted involving the physician or physicians under investigation that has resulted in any action. If such an action has

resulted, a subpoena may issue for a list of the medical records reviewed by the peer review process and for a list of the quality assurance indicators and or other issues which were the basis for such review. The list of medical records produced shall identify each record with a unique medical identifier and not the patient name. If necessary thereafter, the Executive Director may by subpoena compel the production of the medical records relevant to the action. However, the hospital, organization or institution shall remove specific patient identifying information from such records prior to complying with such subpoena. If, after having reviewed the results of compliance with such a subpoena, it is deemed necessary by the physician Board member and public Board member, the Executive Director may by subpoena compel the production of the patient name from the physician. No person, hospital, organization or institution furnishing information to the Board pursuant to such subpoena with respect to any patient shall be reason of furnishing such information be liable in damages to any person or subject to any other recourse, civil or criminal."

Section 16. Amend §1732, Title 24 of the Delaware Code by striking the word "his" wherever it occurs in said Section, and substituting the words "his or her" in lieu thereof.

Section 17. Amend subsection (c), §1732, Title 24 of the Delaware Code by striking the word "he" and substituting the words "he or she" in lieu thereof.

Section 18. Amend subsection (c), §1732, Title 24 of the Delaware Code by striking the word "him" and substituting the words "him or her" in lieu thereof.

Section 19. Amend §1732, Title 24 of the Delaware Code by adding a new subsection (d) which shall read as follows:

"(d) The Executive Director, on behalf of the Board, and to assist him or her in his or her investigation of alleged unprofessional conduct, medical malpractice, or inability to practice medicine, shall have the authority to subpoena patient medical records of and patient medical records reviewed by all Delaware hospitals, organizations, and health care institutions quality assurance, peer review or other similar committees including such records of the Delaware Medical Society and its Committees. Such subpoena shall be subject to §1731A.(h), Title 24 of the Delaware Code."

Section 20. Amend §1733, Title 24 of the Delaware Code by striking the word "his" wherever it occurs in said Section, and substituting in lieu thereof the words "his or her".

Section 21. Amend §1734, Title 24 of the Delaware Code by striking the words "his", "he" wherever they occur in said Section, and substituting in lieu thereof the words "his or her", "he or she".

Section 22. Amend §1735, Title 24 of the Delaware Code by striking the word "him" as the same occurs in said Section and substituting in lieu thereof the words "him or her".

Section 23. Amend §1735, Title 24 of the Delaware Code by striking the word "him" as the same occurs in said Section and substituting in lieu thereof the words "him or her".

Section 24. Amend §1738, Title 24 of the Delaware Code by striking the word "his" as the same occurs in said Section and substituting in lieu thereof the words "his or her".

Section 25. Amend subsection (b), §1768, Title 24 of the Delaware Code by adding the following sentence at the end of said subsection:

"This Section shall not be construed to create any type of privilege or right to refuse to honor a subpoena issued by or on behalf of the Board of Medical Practice pursuant to §1731A.(h), Title 24 of the Delaware Code."

Section 26. Amend subsection (c), §1770A., Title 24 of the Delaware Code by striking said subsection in its entirety and renumbering each succeeding subsection accordingly.

CHAPTER 103

FORMERLY

SENATE BILL NO. 136

AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 24, DELAWARE CODE RELATING TO REAL ESTATE
BROKERS, SALESPERSONS AND APPRAISERS

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

Section 1. Amend subsection (c), § 2903, Title 24, Delaware Code by striking the words "no disciplinary action shall be taken without the affirmative vote of at least 5 members" and substituting the words "no certificate issued under this Chapter shall be suspended or revoked nor any civil penalty imposed without the affirmative vote of at least 5 members" in lieu thereof.

Section 2. Amend subsection (a), § 2912, Title 24, Delaware Code by striking the words "suspend or revoke any certificate issued under the provisions of this chapter or reprimand any licensee" and substituting the words "discipline a certificate-holder in accordance with the provisions of § 2914 of this Title" in lieu thereof.

Section 3. Amend § 2913, Title 24, Delaware Code by striking the words "suspending or revoking any certificate" in the first paragraph and substituting the words "imposing disciplinary action upon a certificate-holder" in lieu thereof, and further by striking the words "the certificate shall be suspended or revoked" in the last paragraph and substituting the words "such certificate-holder shall be subject to discipline in accordance with the provisions of § 2914 of this Title" in lieu thereof.

Section 4. Amend present § 2914, Title 24, Delaware Code by redesignating it § 2915 and redesignating each succeeding section accordingly.

Section 5. Add a new § 2914, Title 24, Delaware Code designated as "Remedial Actions and Disciplinary Sanctions" which new section shall read as follows:

"(a) The Commission may impose any of the following sanctions, partially, singly or in combination, when it finds that one of the conditions or violations set forth in § 2912 of this Title applies to a certificate-holder regulated under this Chapter:

- (1) publicly reprimand;
- (2) issue a public letter of reprimand;
- (3) place a certificate-holder on probationary status and require the certificate-holder to:
 - a. report regularly to the Commission upon the matters which are the basis for the probation; and/or
 - b. limit all practice and professional activities to those areas prescribed by the Commission; and/or
 - c. continue or renew his/her professional education until the required degree of skill has been attained in those areas which are the basis of the probation. Documentation of this professional education must be submitted to the Commission;
- (4) impose a civil penalty;
- (5) suspend or revoke any certificate issued under this Chapter.

(b) The Commission may withdraw or reduce conditions of probation when it finds that deficiencies requiring such action have been remedied.

(c) Where the Commission has placed a certificate-holder on probationary status under certain restrictions or conditions, and the Commission has determined that such restrictions or conditions are being or have been violated by the certificate-holder, it may, after a hearing on the matter, suspend or revoke the certificate-holder's certificate.

(d) No civil penalty imposed by the Commission may exceed \$1,000 for each violation of this Chapter, nor shall the Commission impose a civil penalty on a certificate-holder where the certificate of such certificate-holder has been revoked by the Commission for such violation. The power and authority of the Commission to impose such civil penalties is not to be effected by any other proceeding, civil or criminal, concerning the same violation, nor shall the imposition of such civil penalty preclude the Commission from imposing other sanctions short of revocation. The certificate of any certificate-holder upon whom a civil penalty has been imposed by the Commission may be suspended by order of the Commission until the civil penalty is paid. The Commission may seek judicial enforcement of civil penalty imposed by the Commission.

(e) The Commission may temporarily suspend a certificate-holder's certificate in advance of a final adjudication, or during the appeals process, with 24 hours' written notice to the certificate-holder, but only in cases where there is a clear and immediate danger to the health, safety or welfare of the public if the certificate-holder is allowed to continue to practice. Such suspension may be appealed to the Superior Court.

(f) Where a certificate has been suspended due to the disability of the certificate-holder, the Commission may reinstate such certificate, if, after a hearing, the Commission is satisfied that the certificate-holder is able to practice with reasonable skill and safety.

(g) As a condition for reinstatement of a suspended certificate, or removal from probationary status, the Commission may impose such disciplinary or corrective measures as are authorized under this Chapter."

Section 6. Amend present § 2921, Title 24, Delaware Code (to be redesignated § 2922 pursuant to Section 3 of this Bill) by striking said Section in its entirety and substituting the following in lieu thereof:

"§ 2921. Real Estate Guaranty Fund.

(a) The Commission shall establish and maintain a Real Estate Guaranty Fund (hereinafter referred to as the "Fund") from which, subject to this section, any person who obtains a final judgment against a real estate broker or salesperson holding a certificate issued under this chapter, for loss or damage sustained by reason of theft or forgery (as defined in Title 11) or by reason of any fraud, misrepresentation or deceit by or on the part of any such real estate broker or salesperson or any employee thereof who does not hold a certificate, may recover, on order of the Commission, compensation in an amount not exceeding in the aggregate the sum of \$25,000 in connection with any 1 transaction or claim, regardless of the number of persons aggrieved or parcels of real estate involved in such transaction or claim.

(b) When an aggrieved person commences an action which may result in collection from the Fund, his/her attorney shall notify the Commission in writing within 60 days of the commencement of the action. The written notification shall identify the parties to the action, the court in which the action is brought and the date the action was commenced, and shall state the relief sought in the action and shall state that the action may result in a claim against the Fund. A copy of the complaint, counterclaim or cross-claim, if any, setting forth the allegations of the action, shall be enclosed with such written notification. Upon receiving notice of an action pursuant to this subsection, the Commission shall have the right to enter an appearance, intervene in or defend the action and may appeal from any judgment entered against a real estate broker or salesperson holding a certificate issued under this chapter.

(c) If the aggrieved person obtains a final judgment against a real estate broker or salesperson holding a certificate issued under this chapter for loss or damage sustained by reason of theft or forgery (as defined in Title 11) or by reason of fraud, misrepresentation or deceit by or on the part of such real estate broker or salesperson or employee thereof who does not hold a certificate, such aggrieved person may file a verified claim with the Commission seeking an order directing payment from the Fund of any amount unpaid upon the judgment, subject to the limitations stated in subsection (a) of this section and this subsection. The Commission shall proceed upon such claim in a summary manner, and upon the hearing thereof the aggrieved person shall be required to show:

(1) that he/she is not a spouse of the judgment debtor, or the personal representative of said spouse;

(2) that he/she has complied with all the requirements of this section;

(3) that he/she has obtained a final judgment as set out in this subsection, stating the amount thereof and the amount owing thereon at the date of the filing of his/her verified claim; and

(4) that he/she has fully pursued and exhausted all available remedies and taken all reasonable steps to collect the amount of the judgment, stating the total amount collected.

If the Commission is satisfied that the aggrieved person has satisfied all the requirements of this section and is entitled to recover compensation from the Fund, it shall enter an order requiring payment from the Fund of whatever sum it shall find to be payable upon the claim, subject to the limitations of subsection (a) of this section. The Commission in its discretion may authorize payment of an amount from the Fund less than the claim made pursuant to this subsection.

(d) If the Commission pays from the Fund any amount in settlement of a claim or toward satisfaction of a judgment against a real estate broker or salesperson holding a certificate issued under this chapter, the certificate of such broker or salesperson may be suspended or revoked by the Commission; and, in the discretion of the Commission, such broker or salesperson shall be ineligible to receive a new certificate until he has repaid in full, plus interest at the legal rate, the amount paid from the Fund on his account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.

(e) If at any time the money on deposit in the Fund is insufficient to satisfy any duly authorized claim or portion thereof the Commission shall, when sufficient money has been deposited in the Fund, satisfy such unpaid claims or portions thereof in the order that such claims or portions thereof were originally filed pursuant to subsection (d) of this section, plus accumulated interest at the legal rate.

(f) Any person filing with the Commission any notice, statement or other document required under subsection (b) or (d) of this section, which is false or untrue or contains any material misstatement of fact shall be fined not less than \$300 nor more than \$3,000.

(g) When, upon the order of the Commission or pursuant to a compromise, the Commission has caused to be paid from the Fund any sum to a judgment creditor, the Commission shall be subrogated to all of the rights of the judgment creditor up to the amount paid; and the judgment creditor shall assign all of his/her right, title and interest in the judgment up to such amount paid to the Commission, and any sums recovered by the Commission on the judgment shall be deposited to the Fund.

(h) Each real estate broker and real estate salesperson entitled to renew his/her certificate on or after July 1, 1975, shall, when so renewing his/her certificate on or after July 1, 1975, pay in addition to the appropriate renewal fee a further fee of \$25 which shall be credited to the Fund, and any person who receives a real estate broker's or real estate salesperson's certificate for the first time after July 1, 1975, shall pay said additional fee of \$25 in addition to

all other fees payable; provided, that in no case shall any real estate broker or salesperson be required to pay said fee of \$25 more than once, unless assessed as provided in subsection (j) of this section.

(i) The Commission shall at all times after December 31, 1997, maintain the Fund at a level in excess of \$250,000; and to this intent all moneys received pursuant to subsection (h) of this section shall be credited to said Fund and held in a special account other than the General Fund prescribed by § 6102(a) of Title 29. Said account shall be an interest-bearing account and the interest accruing from the funds on deposit in the account shall be credited to the Commission to defray the costs of administering the Fund; for seminars within the State and for continuing education for licensees within the State; and to reimburse Commissioners, their administrative staff and legal counsel for expenses paid to attend meetings of the National Association of Real Estate License Law Officials.

(j) If the balance of the Fund should fall below the \$250,000 level, the Commission shall, at the next certificate renewal date, assess each real estate broker and real estate salesperson a prorata fee in such amount that the Fund will be returned to the \$250,000 level.

(k) Any person aggrieved by any action, decision, order or regulation of the Commission may appeal to the Superior Court in the manner prescribed by this Chapter.

(l) Upon receipt of a written complaint filed against a certificate holder pursuant to this Chapter, the Commission shall inform the complainant(s) that a Real Estate Guaranty Fund is available and of the steps necessary to comply with the provisions of this section to recover compensation from the Fund."

Approved June 30, 1997

CHAPTER 104

FORMERLY

SENATE BILL NO. 123

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE NURSING PRACTICE ACT.

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

Section 1. Amend subsection (7), §1925, Chapter 19, Title 24 of the Delaware Code by renumbering said subsection (7) as new subsection (8) and establishing a new subsection (7) to read as follows:

"(7) Knowingly employ a graduate of a professional or practical nursing program or a registered nurse or a practical nurse to engage in the practice of nursing without a valid temporary permit or license from the Board; or"

Approved June 30, 1997

CHAPTER 105

FORMERLY

SENATE BILL NO. 122

AN ACT TO AMEND CHAPTER 17, TITLE 24 OF THE DELAWARE CODE REGARDING THE BOARD OF MEDICAL PRACTICE.

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

Section 1. Amend subsection (b), §1710, Chapter 17, Title 24 of the Delaware Code, by striking the second sentence of said subsection (b), beginning with the words "Said public members", and substituting in lieu thereof the following:

"Said public members shall not be nor ever have been licensed in any health-related field; shall not be the spouse of someone licensed in any health-related field; and, at the time of appointment, shall not be a member of the immediate family of someone licensed in any health-related field; shall not be employed by a company engaged in a directly health-related business, and shall not have a material financial interest in the providing of goods and services to persons engaged in the practice of medicine."

Approved June 30, 1997

CHAPTER 106

FORMERLY

SENATE BILL NO. 101

AN ACT TO AMEND TITLE 24 CHAPTER 39 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:

Section 1. Amend subsection (2), §3902, Title 24 of the Delaware Code, by striking said subsection (2) in its entirety and substituting in lieu thereof a new subsection (2) to read as follows:

"(2) 'Clinical social work' shall mean the application of social work theory and methods, which may include the person-in-environment perspective, to the assessment, diagnosis, prevention, and treatment of biopsychosocial dysfunction, disability, and impairment, including mental and emotional disorders, developmental disabilities, and substance abuse. The application of social work method and theory includes, but is not restricted to, assessment (excluding administration of the psychological tests which are reserved exclusively for use by licensed psychologists pursuant to Chapter 35, Title 24, Delaware Code), diagnosis, treatment planning, and psychotherapy with individuals, couples, families and groups, case management, advocacy, crisis intervention, and supervision of, and consultation about, clinical social work practice."

Section 2. Amend subsection (4), §3902, Title 24 of the Delaware Code, by striking said subsection (4) in its entirety, and substituting in lieu thereof the following:

"(4) 'Practitioner' as used in this Chapter shall mean a licensed clinical social worker."

Section 3. Amend §3903, Title 24 of the Delaware Code, by adding at the end of said Section the following sentence:

"Clinical social workers whose sole source of employment or income is through an agency of the State or federal government shall be exempt from licensure under this Chapter."

Section 4. Amend §3909, Title 24 of the Delaware Code, by striking said §3909 in its entirety and substituting in lieu thereof a new §3909 to read as follows:

"§3909. Reciprocity.

An applicant for licensure who is licensed as a clinical social worker in another State shall meet all of the qualifications for licensure under §3907 and §3908 of this title. The applicant shall contact the American Association of State Social Work Boards, or its successor, and obtain and provide to the Board a certified statement as to whether there are any outstanding or ongoing disciplinary actions and/or ethical violations 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 in this State until the proceeding or complaint has been resolved. Applicants for licensure as licensed clinical social workers 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 information as evidence at any hearing or other proceeding to which the applicant may be subject. Each application for licensure shall be accompanied by payment of the application fee."

Section 5. Amend §3912, Title 24 of the Delaware Code, by adding at the end of said Section the following paragraph:

"If a licensee shall be unable to complete the required continuing education hours during any biennial licensing period, the Board may extend, for good cause shown by the licensee, the time to complete the required number of hours up to one hundred and twenty days after the close of the biennial licensing period. The Board shall set forth by regulation the procedures that shall be applicable to such extensions. Such regulations may provide that each application for an extension be accompanied by an appropriate administrative fee as determined by the Division of Professional Regulation."

Section 6. Amend subsection (a), §3918, Title 24 of the Delaware Code, by striking said subsection (a) in its entirety, and substituting in lieu thereof the following:

"(a) Where the Board has reason to believe that a person is holding himself or herself out to be a clinical social worker within this State without having lawfully obtained a license, or that a person previously licensed under this Chapter is holding himself or herself out to be a clinical social worker, notwithstanding that the person's 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 conduct, 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 possession of, the Board."

Section 7. Amend subsection (c), §3918, Title 24 of the Delaware Code, by striking the first sentence of said subsection (c), and substituting in lieu thereof the following:

"(c) Where a person not currently licensed as a clinical social worker under this Chapter is convicted of violating this Chapter, 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."

Approved June 30, 1997

CHAPTER 107

FORMERLY

SENATE BILL NO. 125

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO LICENSE QUALIFICATIONS.

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

Amend § 2707 (b) (7), Title 21, of the Delaware Code by striking the words "in this State" in the first sentence of the first paragraph and the first sentence in the second paragraph.

Approved June 30, 1997

CHAPTER 108

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 74

AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 53, TITLE 24 OF THE DELAWARE CODE RELATING TO MASSAGE AND BODYWORK.

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

Section 1. Amend subsection (a), §5307, Title 24 of the Delaware Code by striking the last sentence of said subsection (a), and substituting in lieu thereof the following:

"Massage and bodywork therapists, licensed under this Chapter, may practice massage and/or bodywork therapy on referral from a licensed medical or osteopathic physician or chiropractor by prescription as deemed appropriate by the referring physician or chiropractor. Massage technicians certified under this Chapter are prohibited from practicing on referral from a licensed medical or osteopathic physician or chiropractor."

Section 2. Amend paragraph (6), subsection (a), §5313, Title 24 of the Delaware Code by striking the period (.) at the end of paragraph (6) and substituting a semi-colon (;) in lieu thereof.

Section 3. Amend subsection (a), §5313, Title 24 of the Delaware Code by adding a new paragraph (7) which new paragraph shall read as follows:

"(7) Has engaged directly or indirectly in the division, transferring, assigning, rebating or refunding of fees received for professional services or who profits by means of a credit or other valuable consideration such as wages, an unearned commission, discount or gratuity with any person who referred a patient, or with any relative or business associate of the referring person. Nothing in this paragraph shall be construed as prohibiting the members of any regularly and properly organized business entity recognized by the Delaware law and comprised of massage therapists from making any division of their total fees among themselves as they determine by contract necessary to defray their joint operating costs."

Approved June 30, 1997

CHAPTER 109

FORMERLY

HOUSE BILL NO. 99
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 7, TITLE 4 OF THE DELAWARE CODE RELATING TO THE SALE OF ALCOHOLIC BEVERAGES.

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

Section 1. Amend Title 4, Section 709 of the Delaware Code by adding a new sentence to the end of the existing subsection (b) to read as follows:

"The closing hours may be made earlier in any municipality having a population of 50,000 or more persons, by ordinance of the municipal corporation, provided, however, that such ordinance be consistent with the Delaware State and Federal Constitutions as well as treat all businesses fairly."

Approved June 30, 1997

CHAPTER 110

FORMERLY

SENATE BILL NO. 91

AN ACT TO AMEND TITLE 29, OF THE DELAWARE CODE RELATING TO THE CONTRACTS WITH PUBLIC LIBRARY SYSTEMS.

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

Section 1. Amend §6602, Title 29, of the Delaware Code by adding after subparagraph (b) a new subparagraph (c):

"(c) The Delaware Division of Libraries, with the approval of the Secretary of State, may award annually up to 10% of the total funds appropriated under this chapter, to public libraries and public library systems to fund contracts for cooperative planning and evaluation of library services. The Division may contract with public libraries and public library systems which qualify under planning and evaluation standards. These standards shall be established by the Division with the approval of the Delaware Council of Libraries."

Approved June 30, 1997

CHAPTER 111

FORMERLY

SENATE BILL NO. 51

AN ACT TO AMEND CHAPTER 10, TITLE 20, DELAWARE CODE RELATING TO THE FILING FOR PARAPLEGIC PENSION BENEFITS IN THE STATE EMPLOYEES' PENSION PLAN.

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

Section 1. Amend Title 20 Delaware Code §1001, by deleting the phrase "Secretary of Finance" as it appears therein and by inserting in lieu thereof the phrase "Pension Board of Trustees."

Approved June 30, 1997

CHAPTER 112

FORMERLY

HOUSE BILL NO. 292

AN ACT TO AMEND CHAPTER 34, VOLUME 58, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BLADES", TO GRANT THE TOWN COUNCIL OF THE TOWN OF BLADES THE POWER AND THE AUTHORITY TO ENACT AN ORDINANCE OR ORDINANCES TO LEVY, ASSESS AND COLLECT OR PROVIDE THE LEVYING, ASSESSMENT AND COLLECTION OF SUCH TAXES AS SHALL BE DETERMINED BY THE TOWN COUNCIL OF THE TOWN OF BLADES TO BE PAID BY THE TRANSFEROR OR TRANSFEREE UPON THE TRANSFER OF REAL PROPERTY OR ANY INTEREST IN REAL PROPERTY, SITUATED WITHIN THE CORPORATE LIMITS OF THE TOWN OF BLADES, SAID TRANSFER TAX NOT TO 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.

BE IT 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 27, Chapter 34, Volume 58, Laws of Delaware, as amended, by adding paragraph number 43 to Section 27, said new paragraph 43 to read as follows:

"43. a. The Town Council of the Town of Blades, in addition to the powers now conferred, shall have the power and authority by ordinance or ordinances to levy, assess and collect or provide for the levying, assessment and collection of such taxes as shall be determined by the Town Council for the Town of Blades to be paid by the transferor or transferee upon the transfer of real property or any interest in real property, situated within the corporate limits of the Town of Blades, Delaware, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers occur; provided, however, that no tax levied under this section shall exceed one percent (1%) of the sales price (including the value of any assumed mortgage or mortgages) or 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.

b. No ordinance or ordinances providing for a tax on the transfer of real property or any interest in real property authorized under this section shall become effective unless it receives an affirmative vote of two-thirds of all the elected Town Council Members of the Town of Blades.

c. If the taxing power authority granted under this section shall be exercised by way of a stamp affixed to a document presented for recording, the Recorder of Deeds in and for Sussex County shall not receive for record any documents subject to said tax unless such stamps are affixed thereto.

d. The Town Council of the Town of Blades may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this section.

e. This Act was approved by a majority of the qualified voters of the Town of Blades at a Special Election which was held on February 17, 1997."

Approved June 30, 1997

CHAPTER 113

FORMERLY

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

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO PERSONAL
ACTIONS.

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

Section 1. Amend Chapter 81 of Title 10 of the Delaware Code by adding thereto as follows:

“§8139. Limitation on civil actions by criminal defendants.

(a) No civil action for the recovery of damages for a cause of action, as specified in subsection (b) of this section, shall be brought by or on behalf of any person who has:

(1) Been convicted for any felony class A, B, C, D, or E except §503, §876, §§932-936, §1109, §1223, §1352, §1361, §1442, §1448, §1455, §1457 and §1503 of Title 11; or

(2) Been convicted of §629, §630, §768, §769, §782, §801, §824, §1252, §1302, or §1312A of Title 11 of the Delaware Code; or

(3) Not been convicted for any predicate felony listed in paragraphs (1) or (2) of this subsection, but has displayed conduct that but for the person's death or incapacity he or she would have been convicted of such a felony.

(b) 'Cause of Action' as used in subsection (a) of this section shall mean any claim for alleged personal injuries where the alleged injury has been sustained by that person while committing, during the course of, or in the immediate flight from the crime, or alleged crime referenced in subsection (a) of this section, or while that person was attempting to escape or prevent a police officer from effecting an arrest for that crime or alleged crime.

(c) Nothing contained in this section shall be construed as barring a cause of action against a public entity or a public official for violating the civil rights of such person where those rights are specifically granted or protected by the Constitution or Statutes of the United States or the Constitution or Statutes of the State of Delaware.”

Approved June 30, 1997

CHAPTER 114
FORMERLY
SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 115

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 (three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend §1515, Chapter 15, Title 6 of the Delaware Code by deleting the existing text of subsection (b) following the words "assessment or otherwise," and substituting in lieu thereof the following: "for any debt, obligation or other liability of or chargeable to the partnership or another partner or partners, whether arising in contract, tort or otherwise, while the partnership is a registered limited liability partnership."

Section 2. Amend §1544, Chapter 15, Title 6 of the Delaware Code by deleting the existing text of subsection (c) following the words "be more than" and substituting in lieu thereof the following: "\$120,000."

Section 3. This Act shall become effective upon enactment.

Approved June 30, 1997

CHAPTER 115
FORMERLY
SENATE BILL NO. 102

AN ACT TO AMEND TITLE 18, CHAPTER 50, DELAWARE CODE RELATING TO APPEALS FROM CERTAIN ACTIONS OF, OR THE FAILURE TO ACT BY, THE INSURANCE COMMISSIONER OF THE STATE OF DELAWARE.

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

Section 1. Amend Chapter 50, Title 18, Delaware Code, by striking Section 5014 thereof in its entirety.

Section 2. This Act shall take effect upon its enactment.

Approved June 30, 1997

CHAPTER 116

FORMERLY

SENATE BILL NO. 114

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO COUNTY OR MUNICIPAL BUILDING, PLUMBING, ELECTRICAL AND OTHER CODES.

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

Section 1. Amend § 7602, Title 16 of the Delaware Code by deleting said section in its entirety and inserting in lieu thereof the following:

"§ 7602. Code for energy conservation.

(a) Except as herein noted, 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 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; provided, however, that the respective county or municipal government shall exclude agricultural structures, and may elect to exclude commercial structures of less than 5,000 square feet in size, from these provisions. 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, provided, however, that:

(1) The respective local government shall have exclusive authority to designate and shall designate the effective date for compliance of lighting standards for existing buildings.

(2) In the event that the respective local government elects to require compliance with these codes and standards for a commercial building of less than 5,000 square feet in size, said local government, rather than requiring that such compliance be certified by licensed engineers or architects, as is required with commercial buildings of 5,000 square feet or more, may elect to utilize a commercial buildings ASHRAE/IES Standard 90.1-1989 Compliance Guide, to include computerized software compliance packages, or a locally-developed ASHRAE/IES Standard 90.1-1989 compliance checklist for insuring compliance."

Approved June 30, 1997

CHAPTER 117

FORMERLY

SENATE BILL NO. 144

AN ACT TO AMEND CHAPTER 100, TITLE 29 OF THE DELAWARE CODE, RELATING TO THE FREEDOM OF INFORMATION ACT.

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

Section 1. Amend §10004 (g)(1), Title 29 of the Delaware Code by adding the following after the word "located":

"unless it is school board training that has been approved by the Secretary of Education as beneficial to school board development activities."

Approved June 30, 1997

CHAPTER 118

FORMERLY

SENATE BILL NO. 124

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND SECTION 6112, 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 subsection 6112(a), Title 12, Delaware Code, by striking the word "obligations" from that subsection as it appears between the words "following" and "owned" and substituting in lieu thereof the word "investments".

Section 2. Amend subsection 6112(b), Title 12, Delaware Code, by striking that subsection in its entirety.

Section 3. Amend subsection 6112(c), Title 12, Delaware Code, by redesignating that subsection as subsection "(b)" and by striking the word "obligation" from that subsection in both places where the word "obligation" appears and, in both places, substituting in lieu thereof the word "investment."

Section 4. Amend subsection 6112(c) as the same is redesignated subsection 6112(b) in this Act by adding a new sentence at the end thereof to read as follows: "Any trust instrument executed prior to June 30, 1997 which incorporates by reference subsection (c) of this section shall be deemed as having incorporated by reference this subsection (b)."

Section 5. This Act shall apply to trust instruments becoming irrevocable on or after July 7, 1995.

Approved June 30, 1997

CHAPTER 119

FORMERLY

SENATE BILL NO. 100

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE
EMPLOYMENT OF PENSIONERS.

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

Section 1. Amend §5502(a)(3), Title 29, Delaware Code by deleting the phrase "formula as used by the United States Social Security Administration to reduce social security benefits for such excess earnings." as it appears therein and by inserting in lieu thereof the phrase "limits as used by the United States Social Security Administration to reduce social security benefits for such excess earnings in accordance with rules and regulations adopted by the Board."

Section 2. Amend §5303(a)(1)c., Title 29, Delaware Code by deleting the phrase "formula as used by the United States Social Security Administration to reduce social security benefits for such excess earnings." as it appears therein and by inserting in lieu thereof the phrase "limits as used by the United States Social Security Administration to reduce social security benefits for such excess earnings in accordance with rules and regulations adopted by the Board."

Approved June 30, 1997

CHAPTER 120

FORMERLY

SENATE BILL NO. 106

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 deleting the word "and" after the number "\$10,000,000" and inserting in lieu thereof a comma, and by inserting at the end of that subparagraph, after the word "title" and before the semi-colon, the following:

"and (iii) shall not contain the word "bank", or any variation thereof, except for the name of a bank reporting to and under the supervision of the State Bank Commissioner of this State, or a subsidiary of a bank or savings association (as those terms are defined in the Federal Deposit Insurance Act, as amended, at 12 U.S.C. §1813), or a corporation regulated under the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841 et seq., or the Home Owners' Loan Act, as amended, 12 U.S.C. § 1461 et seq., provided, however, that this section shall not be construed to prevent the use of the word "bank", or any variation thereof, in a context clearly not purporting to refer to a banking business or otherwise likely to mislead the public about the nature of the business of the corporation or to lead to a pattern and practice of abuse that might cause harm to the interests of the public or the State as determined by the Division of Corporations in the Department of State".

Section 2. Amend Section 132(a), Title 8, Delaware Code, by deleting "either an individual resident in this State whose business office is identical with the corporation's registered office, or a domestic corporation (which may be itself), or a foreign corporation authorized to transact business in this State, having a business office identical with such registered office" and substituting in lieu thereof "any of (i) the corporation itself, (ii) an individual resident in this State, (iii) a domestic corporation (other than the corporation itself) or (iv) a foreign corporation authorized to transact business in this State, in each case, having a business office identical with the office of such registered agent which generally is open during normal business hours to accept service of process and otherwise perform the functions of a registered agent."

Section 3. Amend Section 145(a), Title 8, Delaware Code, by deleting the word "he" where it appears and in each instance substituting in lieu thereof the words "such person", by deleting the word "him" and substituting in lieu thereof the words "such person", and by deleting the word "his" where it appears and in each instance substituting in lieu thereof the words "such person's".

Section 4. Amend Section 145(b), Title 8, Delaware Code, by deleting the word "he" where it appears and in each instance substituting in lieu thereof the words "such person", and by deleting the word "him" and substituting in lieu thereof the words "such person".

Section 5. Amend Section 145(c), Title 8, Delaware Code, by adding the words "present or former" immediately before the word "director", deleting the words ", officer, employee or agent" and substituting in lieu thereof the words "or officer", deleting the word "he" and substituting in lieu thereof the words "such person", and deleting the word "him" and substituting in lieu thereof the words "such person".

Section 6. Amend Section 145(d), Title 8, Delaware Code, by adding the words "present or former" immediately after the words "upon a determination that indemnification of the" in the first sentence thereof, deleting the word "he" and substituting in lieu thereof the words "such person",

adding the words ", with respect to a person who is a director or officer at the time of such determination," immediately after the words "Such determination shall be made" in the second sentence thereof, by inserting the words "or (2) by a committee of such directors designated by majority vote of such directors, even though less than a quorum," immediately after the words "less than a quorum," in the second sentence thereof, and by renumbering subparts (2) and (3) of the second sentence thereof as subparts (3) and (4), respectively.

Section 7. Amend Section 145(e), Title 8, Delaware Code, by deleting the word "he" and substituting in lieu thereof the words "such person", inserting the words "former directors and officers or" immediately before the words "other employees and agents" in the second sentence thereof, and deleting the words "board of directors" from that sentence and substituting in lieu thereof the word "corporation".

Section 8. Amend Section 145(f), Title 8, Delaware Code, by deleting the word "his" and substituting in lieu thereof the words "such person's".

Section 9. Amend Section 145(g), Title 8, Delaware Code, by deleting the word "him" where it appears and in each instance substituting in lieu thereof the words "such person", and by deleting the word "his" and substituting in lieu thereof the words "such person's".

Section 10. Amend Section 145(h), Title 8, Delaware Code, by deleting the word "he" and substituting in lieu thereof the words "such person".

Section 11. Amend Section 145(i), Title 8, Delaware Code, by deleting the word "he" and substituting in lieu thereof the words "such person".

Section 12. Amend Section 211(b), Title 8, Delaware Code, by deleting the first word of the first sentence thereof and inserting in lieu thereof the words "Unless directors are elected by written consent in lieu of an annual meeting as permitted by this subsection, an", and by inserting the following after the conclusion of the first sentence:

"Stockholders may, unless the certificate of incorporation otherwise provides, act by written consent to elect directors; provided, however, that, if such consent is less than unanimous, such action by written consent may be in lieu of holding an annual meeting only if all of the directorships to which directors could be elected at an annual meeting held at the effective time of such action are vacant and are filled by such action."

Section 13. Amend Section 211(c), Title 8, Delaware Code, by inserting after the word "therefor" in the second sentence the words "or action by written consent to elect directors in lieu of an annual meeting has not been taken,"; deleting the word "thereafter" in the second sentence; inserting after the word "as" in the second sentence the word "is"; inserting after the word "meeting" in the third sentence the words "or to take action by written consent to elect directors in lieu of an annual meeting"; deleting the word "therefor" in the third sentence and substituting the words "for the annual meeting"; inserting after the words "13 months after the" in the third sentence the words "latest to occur of the"; deleting after the word "corporation" in the third sentence the words "or after" and substituting a comma; and inserting after the word "meeting" in the third sentence the words "or the last action by written consent to elect directors in lieu of an annual meeting".

Section 14. Amend Section 254(e), Title 8, Delaware Code, by adding to the first sentence the word "252(d)," immediately after the word "251(f),".

Section 15. Amend Section 262(b)(2)b, Title 8, Delaware Code, by adding the parenthetical phrase "(or depository receipts in respect thereof)" immediately following the words "which shares of stock".

Section 16. Amend Section 277, Title 8, Delaware Code, by inserting, "including all franchise taxes due or which would be due or assessable for the entire calendar month during which the dissolution or merger becomes effective", immediately following the word "State."

Section 17. Amend Section 281(a), Chapter 1, Title 8, Delaware Code, by substituting the word "assets" for the word "funds" in each place where the word "funds" appears in Section 281(a).

Section 18. Amend Section 281(b), Chapter 1, Title 8, Delaware Code, by substituting the word "assets" for the word "funds" in each place where the word "funds" appears in Section 281(b).

Section 19. Amend Section 377(b), Title 8, Delaware Code, by deleting subsection (b) in its entirety and inserting in lieu thereof the following:

"(b) Any individual or corporation designated by a foreign corporation as its registered agent for service of process may resign by filing with the Secretary of State a signed statement that the registered agent is unwilling to continue to act as the registered agent of the corporation for service of process, including in the statement the post-office address of the main or headquarters office of the foreign corporation; but such resignation shall not become effective until 30 days after the statement is filed. The statement shall be acknowledged by the registered agent and shall contain a representation that written notice of resignation was given to the corporation at least 30 days prior to the filing of the statement by mailing or delivering such notice to the corporation at its address given in the statement."

Section 20. Amend Section 390, Title 8, Delaware Code, by deleting the word "and" in the title of the Section and substituting in lieu thereof the word "or".

Section 21. Amend Section 390(a), Title 8, Delaware Code, by adding the words "or domesticate or continue in" immediately after the words "may transfer to".

Section 22. Amend Section 390(b), Title 8, Delaware Code, by adding the words "or domesticate or continue in" immediately after the words "desires to transfer to" in the first sentence thereof, adding the words "or continuance" immediately after the words "resolution approving such transfer" in the first sentence thereof, adding the words "to which the corporation shall be transferred or" immediately after the words "specifying the jurisdiction" in the first sentence thereof, adding the words "or domestication or continuance" immediately after the words "recommending the approval of such transfer" in the first sentence thereof, and adding the words "if its existence as a corporation of this State is to cease, or a certificate of continuance if its existence as a corporation of this State is to continue" immediately after the words "Secretary of State a certificate of transfer" in the fifth sentence thereof.

Section 23. Amend Section 390(b)(3), Title 8, Delaware Code, by eliminating the words "will transfer" and adding the words "shall be transferred" immediately after the words "jurisdiction to which the corporation" and by eliminating the word "will" and adding the word "shall" immediately after the words "in which it".

Section 24. Amend Section 390(b)(4), Title 8, Delaware Code, by adding the words "or domestication or continuance" immediately after the words "That the transfer".

Section 25. Amend Section 390(b)(5), Title 8, Delaware Code, by deleting the first word thereof and substituting in lieu thereof the words "In the case of a certificate of transfer, (i) that the existence of the corporation as a corporation of this State shall cease when the certificate of transfer becomes effective, and (ii) the".

Section 26. Amend Section 390(b), Title 8, Delaware Code, by adding a new subsection (6) to read as follows:

"(6) In the case of a certificate of continuance, that the corporation will continue to exist as a corporation of this State after the certificate of continuance becomes effective."

Section 27. Amend Section 390(c), Title 8, Delaware Code, by deleting the words "compliance by the corporation" and substituting in lieu thereof the words "the filing of a certificate of transfer in accordance", and by adding the words "at the time the certificate of transfer becomes effective in accordance with §103 of this title" at the end of the first sentence thereof.

Section 28. Amend Section 390(d), Title 8, Delaware Code, by adding the words "and the resulting cessation of its existence as a corporation of this State pursuant to a certificate of transfer" immediately after the words "out of this State".

Section 29. Amend Section 390, Title 8, Delaware Code, by adding a new subsection (e) to read as follows:

"(e) If a corporation files a certificate of continuance, after the time the certificate of continuance becomes effective the corporation shall continue to exist as a corporation of this State, and the law of the State of Delaware, including the provisions of this title, shall apply to the corporation, to the same extent as prior to such time."

Section 30. Amend Section 391(a)(23), Title 8, Delaware Code, by adding the words "mail or hand delivery," after the word "telephone."

Section 31. Amend Section 391(a)(24), Title 8, Delaware Code, by adding the words "or a certificate of continuance" immediately after the words "certificate of transfer".

Section 32. This Act shall be effective on July 1, 1997, except that Section 5 of this Act shall become effective with respect to indemnification of expenses (including attorneys' fees) for acts or omissions occurring on or after July 1, 1997.

Approved June 30, 1997

CHAPTER 121

FORMERLY

SENATE BILL NO. 108

AN ACT TO AMEND TITLE 29, TITLE 11, AND TITLE 16 OF THE DELAWARE CODE
RELATING TO THE BOARD OF PENSION TRUSTEES AND THE INVESTMENT
OF PENSION FUNDS.

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

Section 1. Amend §8308(b)(1), Title 29, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection to read as follows.

"(1) The Board shall establish the Delaware Public Employees' Retirement System which has control and management of the state pension funds provided for in:

- a. The State Employees' Pension Plan pursuant to Chapter 55 of Title 29;
- b. The Closed State Police Retirement Fund pursuant to Subchapter II of Chapter 83 of Title 11;
- c. The New State Police Retirement Fund pursuant to Subchapter III of Chapter 83 of Title 11;
- d. The State Judiciary Retirement Fund pursuant to Chapter 56 of Title 29;
- e. The County and Municipal Employees' Retirement Fund pursuant to Chapter 55A of Title 29;
- f. The County and Municipal Police/Firefighter Retirement Fund pursuant to Chapter 88 of Title 11;
- g. The Volunteer Fireman's Pension Fund pursuant to Chapter 66A of Title 16;
- h. The Diamond State Port Corporation Pension Plan pursuant to Chapter 87 of Title 29;
- i. The County and Municipal Police/Firefighter Special Fund pursuant to Chapter 7 of Title 18;
- j. The Special Pension Fund pursuant to Chapter 191, Volume 61, Laws of Delaware; and
- k. The Local Government Retirement Investment Pool pursuant to Chapter 83 of Title 29."

Section 2. Amend §8308(c)(4), Title 29, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection to read as follows:

"(4) To maintain and invest the pension funds in the Delaware Public Employees' Retirement System provided for in §8308(b)(1) of this Chapter. The assets of such funds may be commingled for investment purposes but will be maintained separately for accounting purposes. Fees and expenses authorized by the Board shall be paid from the assets of each separate fund as applicable."

Section 3. Amend §5541, Title 29, Delaware Code by adding to the end thereof a new sentence to read as follows:

"The assets of the Fund will be commingled in the Delaware Public Employees' Retirement System as provided for by §8308 of this Title."

Section 4. Amend §8322, Title 11, Delaware Code by adding to the end thereof a new sentence to read as follows:

"The assets of the Fund will be commingled in the Delaware Public Employees' Retirement System as provided for by §8308 of Title 29 of this Code."

Section 5. Amend §8393, Title 11, Delaware Code by adding to the end thereof a new sentence to read as follows:

"The assets of the Fund will be commingled in the Delaware Public Employees' Retirement System as provided for by §8308 of Title 29 of this Code."

Section 6. Amend §5601(a), Title 29, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection to read as follows:

"(a) There shall be established a State Judiciary Retirement Fund, hereinafter referred to as 'Fund.' Each member who elects or who has elected the provisions of this chapter, and:

(1) Who was first appointed to the state judiciary prior to July 1, 1980, and is a member covered by the closed plan, shall contribute \$500 to the Fund each year for the first 25 years of service; or

(2) Who is a member covered by the revised plan, shall contribute to the Fund each year for the first 24 years of service an amount equal to 3% of his or her total compensation in excess of \$6,000 up to the social security wage base, and 5% of total compensation in excess of the social security wage base. Such contributions shall be prorated on a monthly basis."

Section 7. Amend §5601(b), Title 29, Delaware Code by adding to the end thereof a new sentence to read as follows:

"The assets of the Fund will be commingled in the Delaware Public Employees' Retirement System as provided for by §8308 of this Title."

Section 8. Amend §5593, Title 29, Delaware Code by adding to the end thereof a new sentence to read as follows:

"The assets of the Fund will be commingled in the Delaware Public Employees' Retirement System as provided for by §8308 of this Title."

Section 9. Amend §8843, Title 11, Delaware Code by adding to the end thereof a new sentence to read as follows:

"The assets of the Fund will be commingled in the Delaware Public Employees' Retirement System as provided for by §8308 of Title 29 of this Code."

Section 10. Amend §6661, Title 16, Delaware Code by adding to the end thereof a new sentence to read as follows:

"The assets of the Fund will be commingled in the Delaware Public Employees' Retirement System as provided for by §8308, of Title 29 of this Code."

Approved June 30, 1997

CHAPTER 122

FORMERLY

SENATE SUBSTITUTE NO. 2

TO

SENATE BILL NO. 127

AN ACT TO AMEND CHAPTER 28 OF TITLE 7 OF THE DELAWARE CODE RELATING
TO TRAWLINES FOR COMMERCIAL CONCH POTS.BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DELAWARE:

Section 1. Amend §2801, Title 7, Delaware Code, by adding thereto new subsections (c), (d) and (e) to read as follows:

“(c) ‘Delaware’s Internal waters’ means all of those tidal waters under the jurisdiction of the State, except the Atlantic Ocean, as separated from the Delaware Bay by a straight line drawn between Cape May Point, New Jersey and Cape Henlopen Point, Delaware.

(d) ‘Delaware’s territorial sea’ means all of those tidal waters in the Atlantic Ocean separated from the Delaware Bay under the jurisdiction of the State, the outer boundary of which is a line 3 nautical miles coterminous with the shoreline of the State.

(e) ‘Trawline’ means a long line, anchored on each end, to which more than one conch pot is attached by short lines.”

Section 2. Amend §2807(a), Title 7, Delaware Code, by striking the first four sentences in said subsection and substituting in lieu thereof the following:

“(a) In Delaware’s internal waters, it shall be unlawful for any commercial conch pot licensee to catch, take or harvest conchs with any conch pot or attempt to catch, take or harvest conchs with any conch pot unless each conch pot is attached to a floating buoy. In Delaware’s territorial sea, conch pots may be attached to a trawline up to 1,200 feet long, provided each end of the trawline is attached to a buoy. The buoys for commercial conch pots and trawlins shall be a specific color combination as assigned to each commercial conch pot licensee by the Department. Any person who has a valid commercial crab pot license shall be assigned the same color code for the person’s commercial conch pot buoys as assigned to the person’s commercial crab pots. An additional buoy shall be attached at the farthest position from the conch pot or trawline which shall be colored one-half white and one-half black.”

Approved June 30, 1997

CHAPTER 123

FORMERLY

SENATE BILL NO. 151

AN ACT TO AMEND CHAPTER 31 OF TITLE 25 OF THE DELAWARE CODE RELATING TO FEDERAL LIENS.

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

Section 1. Amend Section 3102(c)(1) of Title 25 of the Delaware Code by (a) deleting the word "or" immediately after the word "corporation" and substituting in its place the punctuation mark ",", (b) adding immediately after the word "partnership" the words "or limited liability company", and (c) deleting the phrase "defined in the internal revenue laws of the United States" and substituting in its place the phrase "described in Titles 6 and 8 of the Delaware Code".

Section 2. Amend Section 3102(c)(2) of Title 25 of the Delaware Code by adding immediately after the word "trust" the words "or other entity".

Section 3. Amend Section 3102(c)(4) of Title 25 of the Delaware Code by adding immediately after the word "cases," the phrase "including but not limited to an individual conducting business as a sole proprietorship,".

Approved June 30, 1997

CHAPTER 124

FORMERLY

SENATE BILL NO. 154

AN ACT TO AMEND CHAPTER 291, VOLUME 66, LAWS OF DELAWARE, AS AMENDED, ENTITLED: "AN ACT TO REINCORPORATE THE TOWN OF CLAYTON" RELATING TO THE ESTABLISHMENT OF A SPECIFIC DATE FOR THE ANNUAL ELECTION OF COUNCIL MEMBERS OF THE TOWN OF CLAYTON.

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

Section 1. Amend Article III, of Chapter 291, Volume 66, Laws of Delaware by adding thereto a new subsection to read as follows:

"3.15 Election

An annual election shall occur each year to be held on the last Tuesday in April in the Town of Clayton for the election of Council members. The hours for balloting shall be between the hours of 2:00 p.m. until 7:00 p.m. to be held in such places as Council of the Town of Clayton deems appropriate."

Approved June 30, 1997

CHAPTER 125

FORMERLY

SENATE BILL NO. 155

AN ACT TO AMEND CHAPTER 299, VOLUME 64, LAWS OF DELAWARE, ENTITLED "AN ACT TO AMEND AN ACT BEING CHAPTER 237, VOLUME 51, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BRIDGEVILLE" TO GRANT THE ULTIMATE JURISDICTION FOR CERTAIN CRIMINAL 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. Chapter 299, Volume 64, Laws of Delaware, as amended, be and the same is hereby repealed.

Approved June 30, 1997

CHAPTER 126

FORMERLY

SENATE BILL NO. 158

AN ACT TO AMEND AN ACT BEING CHAPTER 3, VOLUME 68 OF THE LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF ELSMERE" RELATING TO MUNICIPAL ELECTIONS AND QUALIFICATIONS OF THE MAYOR.

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

Section 1. Amend Article III, Section 301, Chapter 3, Volume 68, Laws of Delaware, as amended, by striking the second paragraph thereof and substituting in lieu thereof the following:

"The next regular municipal election of Mayor and Council after 1997 shall be held on the last Saturday in April of 1999, and regular municipal elections of Mayor and Council shall be held on the last Saturday in April every two years thereafter."

Section 2. Amend Article III, Section 301.1, Chapter 3, Volume 68, Laws of Delaware, as amended, by striking the first paragraph thereof and substituting in lieu thereof the following:

"The Mayor shall have been a resident of the Town for three years, and not less than 30 years of age at the time of his election. He or she shall be elected at large for a term of two years or until his or her successor shall be duly elected and qualified, but the present Mayor shall serve until the qualification of his or her successor after the election of April, 1999. Before entering the duties of his office, the Mayor shall be sworn or affirmed by a Justice of the Peace, or by a notary public, to perform the duties thereof honestly, faithfully, and diligently."

Approved June 30, 1997

CHAPTER 127

FORMERLY

SENATE BILL NO. 187

AN ACT TO AMEND AN ACT WAIVING THE STATUTORY PROVISIONS OF §107(a) OF CHAPTER 1, TITLE 13, DELAWARE CODE, AS IT RELATES TO THE MARRIAGE OF KENNETH SCOTT GRAHAM AND SANDRA MARKS-RUSIN, NON-RESIDENTS OF THE STATE OF DELAWARE.

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

WHEREAS, Kenneth Scott Graham of Sierra Madre, California wishes to marry Sandra Marks-Rusin of Dana Point, California, both of whom are non-residents of the State of Delaware; and

WHEREAS, the bride and groom would like to be married in the First State at Brantyn by Reverend Laurie Rowland-Skinner on Saturday, December 20, 1997; and

WHEREAS, because of working circumstances of both parties, it is extremely 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 and to utilize the license within 30 days of acquiring it

NOW, THEREFORE:

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

Section 1. Kenneth Scott Graham of Sierra Madre, California and Sandra Marks-Rusin of Dana Point, California are hereby exempted from the provisions of §107(a), Chapter 1, Title 13, Delaware Code, and are specifically authorized to marry on December 20, 1997; the Clerk of the Peace of New Castle County shall issue to Kenneth Scott Graham and Sandra Marks-Rusin one official marriage license pursuant to this Act, the provisions of §107(a) of Chapter 1, title 13, Delaware Code, or any other law for the State to the contrary notwithstanding.

Approved June 30, 1997

CHAPTER 128

FORMERLY

SENATE BILL NO. 117

AN 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) of Title 21 of the Delaware Code by deleting the phrase "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" as found therein.

Section 2. Amend §2105(i) of Title 21 of the Delaware Code by deleting the phrase "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" as found therein.

Approved June 30, 1997

CHAPTER 129

FORMERLY

HOUSE BILL NO. 403

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO INHERITANCE TAXES.

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

Section 1. Amend § 1322, Title 30, Delaware Code, by striking said section in its entirety and substitute in lieu thereof a new § 1322 to read as follows:

"Section 1322. Tax imposed.

A tax computed at the following rates is hereby imposed on the transfer to each beneficiary of his net taxable share of the gross estate as determined in accordance with Section 1321 of this title:

(a) *Class A.* Where the property or any interest or estate therein passes to or for the use of the husband or wife of the decedent, the tax on such property, interest or estate shall be at the following rates:

(1) On that part of its value exceeding \$140,000 and not exceeding \$200,000, 3 percent;

(2) On that part of its value exceeding \$200,000, 4 percent.

(b) *Class B.* Where the property or any interest or estate therein passes to or for the use of a parent, grandparent, child by birth, spouse or surviving spouse of a child by birth, a child by legal adoption, the lineal descendant of the decedent, a stepchild of the decedent or the lineal descendant of a stepchild of the decedent, the tax on such property, interest or estate shall be at the following rates:

(1) On that part of its value exceeding \$100,000 and not exceeding \$200,000, 5 percent;

(2) On that part of its value exceeding \$200,000, 6 percent.

(c) *Class C.* Where the property or any interest or estate therein passes to or for the use of any person not described in Class B whose relationship to the decedent is within 5 degrees of consanguinity, whether by the whole or half blood, and whether a blood relative of the decedent or a relative by virtue of legal adoption, the tax shall be at the following rates:

(1) On that part of its value exceeding \$10,000 and not exceeding \$25,000, 5 percent;

(2) On that part of its value exceeding \$25,000 and not exceeding \$50,000, 6 percent;

(3) On that part of its value exceeding \$50,000 and not exceeding \$100,000, 7 percent;

(4) On that part of its value exceeding \$100,000 and not exceeding \$150,000, 8 percent;

(5) On that part of its value exceeding \$150,000 and not exceeding \$200,000, 9 percent.

(6) On that part of its value exceeding \$200,000, 10 percent.

(d) *Class D.* Where the property or any interest or estate therein passes to or for the use of any person not described in Class A, Class B, or Class C of this section, the tax shall be at the following rates:

(1) On that part of its value exceeding \$2,000 and not exceeding \$25,000, 10 percent;

(2) On that part of its value exceeding \$25,000 and not exceeding \$50,000, 12 percent;

(3) On that part of its value exceeding \$50,000 and not exceeding \$100,000, 14 percent

(4) On that part of its value exceeding \$100,000, 16 percent.

Section 5. Amend § 1341, Title 30, Delaware Code, by striking the symbols and figures "\$25,000", "\$5,000" and "\$1,000" and substitute in lieu thereof, respectively, the following symbols and figures: "\$100,000", "\$10,000" and "\$2,000".

Section 6. Amend Title 30, Delaware Code, by adding thereto a new § 1327 to read as follows:

"§ 1327. Special Deduction for Closely Held Business Property.

(a) For purposes of this section:

(1) 'Closely held business' means:

(i) a trade or business carried on as a sole proprietorship;

(ii) a partnership carrying on a trade or business if the partnership had 15 or fewer partners; or

(iii) a corporation carrying on a trade or business if the corporation had 15 or fewer shareholders.

(2) 'Interest in a closely held business' means:

(i) an interest as a sole proprietor in a trade or business carried on as a sole proprietorship;

(ii) an interest as a partner in a partnership carrying on a trade or business if the partnership had 15 or fewer partners and if 20% or more of the total capital interest in such partnership would be included in the gross estate under this chapter but for this section and § 1323(b) of this title;

(iii) stock in a corporation carrying on a trade or business, if the corporation has 15 or fewer shareholders, and if 20% or more in value of the stock of the corporation would be included in the gross estate under this chapter but for this section and § 1323(b) of this title.

(3) 'Corporation' or 'partnership' shall mean an entity classified for federal income tax purposes as a corporation or partnership, respectively, regardless of the form of organization of such entity under state or federal law (other than the Internal Revenue Code of 1986).

(4) 'Shareholder' or 'partner' shall mean a person owning an interest in the profits or capital of a corporation or partnership regardless of the term by which such person is known under state or federal law (other than the Internal Revenue Code of 1986).

(5) 'Sole proprietor' shall mean a person owning a trade or business in such person's individual name and a person owning 100% of an entity classified for federal income tax purposes as a sole proprietorship.

(b) Determination for qualification under paragraph (a)(2) shall be made as of the time immediately before the decedent's death.

(c) Stock or a partnership interest held by a husband and wife as joint tenants, tenants in common, or tenants by the entirety is treated as owned by one shareholder or one partner, as the case may be.

(d) Property owned directly or indirectly by or for a corporation, partnership or sole proprietorship is considered as being owned proportionately by or for its shareholders, partners, or proprietor, respectively.

(e) An interest in a closely held business owned by a trustee which is included in the gross estate of a decedent is considered as being owned by the decedent.

(f) Notwithstanding § 1321 of this title, in determining the amount of each Class A or Class B beneficiary's net taxable share of the gross estate, there shall be allowed a deduction for the fair market value of any interest in a closely held business otherwise included in the beneficiary's net taxable share."

Section 7. This Act shall be effective in the case of decedents dying after December 31, 1997.

Approved July 1, 1997

CHAPTER 130

FORMERLY

HOUSE BILL NO. 402

AN ACT TO REPEAL CHAPTER 14, TITLE 30, DELAWARE CODE RELATING TO GIFT TAX.

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

Section 1. Repeal Chapter 14, Title 30, Delaware Code in its entirety.

Section 2. This Act shall apply to gifts made on or after January 1, 1998.

Approved July 1, 1997

CHAPTER 131

FORMERLY

SENATE BILL NO 219

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 §1106(b), Title 30, Delaware Code, by designating paragraph (3) of said subsection as subdivision (A) of said paragraph and adding to said paragraph a new subdivision (B) to read as follows:

“(B) For taxable years beginning on or after January 1, 1997, (i) amounts not to exceed \$2,000 received by persons under age 60 as pensions from employers, the United States, the State or any subdivision, or (ii) amounts not to exceed \$3,000 received by persons age 60 or older as pensions from employers, the United States, the State or any subdivision or as eligible retirement income. For the purposes of this subdivision, ‘eligible retirement income’ shall include distributions received from qualified retirement plans defined in §4974 of the federal Internal Revenue Code (‘IRC’) or a successor provision, cash or deferred arrangements described in IRC §401(k) or a successor provision, government deferred compensation plans described in IRC §457 or a successor provision, dividends, interest, and rental income from real property less deductible rental expenses. For purposes of this subdivision, eligible retirement income received by a husband and a wife as joint tenants with right of survivorship or as tenants by the entirety shall be deemed to have been received one-half by each.”

Approved July 1, 1997

Chapter 132

Formerly

House Bill 375

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1998; 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, 1998, 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 1998, 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:

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34
35
36
37
38
39
40
41
42

Personnel		
NSF	ASF	GF
		22.0
		22.0

(01-01-01) General Assembly - House

Personnel Costs
Travel
Mileage - Legislators
Other - Travel
Contractual Services
Supplies and Materials
Capital Outlay
Expenses - House Members
House Committee Expenses

TOTAL -- General Assembly - House

S Program		S Line Item	
ASF	GF	ASF	GF
			3,132.3
			50.0
			32.2
			390.0
			35.0
			40.0
			298.0
			60.0
			4,037.5

		14.0
		14.0

(01-02-01) General Assembly - Senate

Personnel Costs
Travel
Mileage - Legislative
Other - Travel
Contractual Services
Supplies and Materials
Capital Outlay
Advertising - Senate Substance Abuse Committee
Expenses - Senate Members
Senate Committee Expenses

TOTAL -- General Assembly - Senate

	1,932.0
	45.0
	35.0
	175.0
	30.0
	40.0
	50.0
	175.1
	60.0
	2,542.1

(01-05-01) Commission on Interstate Cooperation

Travel
Legislative Travel
Contractual Services
Contractual Services - Appalachian Compact
Supplies and Materials
Council of State Governments
National Council of Legislatures from Gaming States
Delaware River Basin Commission
National Conference of State Legislatures

TOTAL -- Commission on Interstate Cooperation

	18.0
	100.0
	40.0
	48.0
	0.5
	56.2
	3.0
	344.0
	76.4
	686.1

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
			(01-08-00) Legislative Council			
			(01-08-01) Division of Research			
		18.0				942.8
						15.0
						117.1
						68.7
						26.0
						4.5
						9.0
		18.0	TOTAL -- Division of Research			1,183.1
			(01-08-02) Office of the Controller General			
		14.0				957.6
						13.5
						130.9
						24.5
						2.0
						8.3
						15.0
						10.0
						40.0
						20.0
						10.0
						20.0
		14.0	TOTAL -- Office of the Controller General			1,251.8
			(01-08-03) Code Revisors			
						1.0
						200.8
						0.5
			TOTAL -- Code Revisors			202.3
			(01-08-06) Commission on Uniform State Laws			
						11.6
						11.9
						0.1
			TOTAL -- Commission on Uniform State Laws			23.6
		32.0	TOTAL -- Legislative Council			2,660.8
		68.0	TOTAL -- LEGISLATIVE			9,926.5

(02-00-00) JUDICIAL

Personnel			S Program		S Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
10.3		27.0			8.5	1,927.2
					6.8	12.5
					38.0	101.1
					5.0	42.2
					6.7	
						5.0
		27.0			65.0	2,088.0
		27.0	65.0	2,088.0		
10.3		27.0	65.0	2,088.0		
10.3		27.0				
		25.0				1,757.9
						12.5
						65.9
						26.5
						2.5
		25.0				1,865.3
		25.0		1,865.3		
		25.0		1,865.3		
7.0		262.0				11,775.0
						42.3
						1,313.2
						229.3
						37.0
7.0		262.0				13,396.8
7.0		262.0		13,396.8		
7.0		262.0		13,396.8		
		89.0				3,892.0
						8.1
						133.7
						67.0
						15.5
		89.0				4,116.3
		89.0		4,116.3		
		89.0		4,116.3		

Year ending June 30, 1998

Personnel		
NSF	ASF	GF
2.8	62.0	239.0
2.8	62.0	239.0

(02-08-00) Family Court

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay

TOTAL -- Family Court

2.8	62.0	239.0
2.8	62.0	239.0

(-10) Family Court

TOTAL -- Internal Program Unit

S Program		S Line Item	
ASF	GF	ASF	GF
		2,091.4	10,477.6
		12.2	18.6
		141.4	511.2
		60.1	129.1
		46.3	
2,351.4	11,136.5	2,351.4	11,136.5

2,351.4	11,136.5
2,351.4	11,136.5

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

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

TOTAL -- Justices of the Peace Courts

		218.0
		218.0

(-10) Justices of the Peace Courts

TOTAL -- Internal Program Unit

	9,982.4
	9,982.4

	8,833.3
	7.1
	852.7
	118.9
	100.3
	12.5
	57.6
	9,982.4

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

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Retired Judges
Continuing Judicial Education
Debt Service

TOTAL -- Administrative Office of the Courts - Court Services

		17.0
		6.0
		23.5
		4.5
		51.0

(-01) Office of the Director

(-03) Office of State Court

Collections Enforcement

(-04) Judicial Information Center

(-05) Law Libraries

TOTAL -- Internal Program Units

	3,357.9
	363.8
	1,844.9
	452.0
	6,018.6

	2,567.5
	24.9
	2,965.2
	17.8
	328.1
	20.9
	30.0
	51.3
	12.9
	6,018.6

Year ending June 30, 1998

NSF	ASF	GF
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**(02-18-00) Administrative Office of the
Courts - Non-Judicial Services**

	8.0	15.5
	8.0	15.5

**TOTAL - Administrative Office of the
Courts - Non-Judicial Services**

	8.0	7.5
		7.0
		1.0
	8.0	15.5

- (-01) Office of the Public Guardian
- (-02) Violent Crimes Compensation Board
- (-03) Foster Care Review Board
- (-04) Educational Surrogate Parent Program

TOTAL -- Internal Program Units

ASF	GF	ASF	GF
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362.9	646.9
26.0	12.8
58.0	54.0
4.4	
7.7	11.5
6.0	1.6
	8.0
1,700.0	
1.5	
2,166.5	734.8

2,166.5	359.5
	313.2
	62.1
2,166.5	734.8

20.1	70.0	926.5
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TOTAL -- JUDICIAL

4,582.9	49,338.7
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(10-00-00) EXECUTIVE

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43
44
45
46
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51
52

Personnel		
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
Other Items:
Woodburn Expenses
Contingency-Other Expenses

TOTAL -- Office of the Governor

S Program		S Line Item	
ASF	GF	ASF	GF

	34.2	1,554.7
	0.5	12.0
	90.3	209.1
	0.2	21.2
		44.0
		8.7
	125.2	1,849.7

(10-02-00) Office of the Budget

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Data Processing - Development Projects
Evaluation Projects
Budget Automation - Operations
Contingency:
Budget Commission
One-Time Appropriations
Prior Years' Obligations
Self Insurance
Legal Fees
Technology Fund
Family Services Cabinet Council
Follow-Up Home Visiting
Statewide Strike Force
Kent and Sussex County State Police
Personnel Costs - Salary Shortage
Salary Contingency
Salary Contingency - Overtime
Mileage Reimbursement
School Elections
Maintenance Reviews
Appropriated Special Funds
Debt Service

TOTAL -- Office of the Budget

	477.5	2,085.0
	8.4	32.4
	698.0	300.5
	12.5	29.0
	100.0	10.0
		2,000.0
		100.0
		50.0
		100.0
		3,540.8
		400.0
		3,409.8
		1,400.0
		3,000.0
		50.0
		249.2
		210.6
		203.0
		400.0
		5,800.1
		305.8
		100.0
		95.0
		245.9
	20,000.0	
		659.8
	21,296.4	24,776.9

	9.0	29.0
		10.0
	9.0	39.0

(-01) Office of the Budget

Administration

(-04) Contingencies and One-Time Items

(-06) Budget Commission

TOTAL -- Internal Program Units

1,296.4	5,512.6
20,000.0	19,164.3
	100.0
21,296.4	24,776.9

Year ending June 30, 1998

	Personnel			S Program		S Line Item	
	NSF	ASF	GF	ASF	GF	ASF	GF
1							
2							
3							
4							
5			11.0				
6							
7							
8							
9							
10							
11							
12			11.0				
13							
14							
15			8.0				
16							
17							
18							
19							
20							
21							
22							
23							
24							
25			8.0				
26							
27							
28		4.0	33.0				
29							
30							
31							
32							
33							
34							
35							
36							
37							
38							
39							
40							
41		4.0	33.0				

(10-03-00) Delaware Economic Development Office			
(10-03-01) Office of the Director			
Personnel Costs			626.3
Travel			6.0
Contractual Services			34.3
Energy			31.2
Supplies and Materials			3.6
Capital Outlay			2.0
Debt Service			141.5
TOTAL--Office of the Director			844.9

(10-03-02) Delaware Tourism Office			
Personnel Costs			335.1
Travel			23.0
Contractual Services			521.2
Supplies and Materials			7.9
Capital Outlay			1.0
Other Items:			
Junior Miss			0.5
Mother of the Year			0.8
Young Mother of the Year			0.8
Delaware Senior Pageant			0.8
TOTAL -- Delaware Tourism Office			891.1

(10-03-03) Delaware Economic Development Authority			
Personnel Costs	195.0		1,759.6
Travel	20.0		55.0
Contractual Services	325.3		838.0
Energy	1.5		
Supplies and Materials	10.0		23.0
Capital Outlay	10.0		
Other Items:			
General Obligation Bonds			151.5
International Trade			80.6
Blue Collar	700.0		
Other Items			65.0
Debt Service			3,069.7
TOTAL -- Delaware Economic Development Authority	1,261.8		6,042.4

Personnel		
NSF	ASF	GF

2.0	61.0	
2.0	61.0	

2.0	65.0	52.0
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2.2	72.5	49.3
2.2	72.5	49.3

2.2	16.5	46.3
	2.0	3.0
	4.0	
	50.0	
2.2	72.5	49.3

(10-03-04) State Housing Authority

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Holly Square
Huling Cove
Huling Cove Annex
Capital Green
Housing Development Fund
Public Housing
Home Improvement Insurance
Debt Service
TOTAL -- State Housing Authority

S Program		S Line Item	
ASF	GF	ASF	GF

2,723.2	
54.0	
754.8	
32.5	
153.2	
99.9	
90.0	
90.0	
135.0	
1,050.0	
28,800.0	4,000.0
361.3	
1,400.0	
	395.1
35,743.9	4,395.1

TOTAL -- Delaware Economic Development Office

37,005.7	12,173.5
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(10-04-00) Office of State Personnel

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Generic Aides/Handicapped Employees
Employee Recognition
Blue Collar
Workers' Compensation
Health Insurance-Retirees in Closed State
Police Plan
Pensions - Paraplegic Veterans
Pensions - Imaging
Pensions - IMS Project
Other Items
Debt Service
TOTAL -- Office of State Personnel

3,146.0	1,696.8
42.1	18.6
13,300.9	941.2
81.5	65.1
64.5	22.3
	317.7
	13.6
140.0	
12,790.4	2,015.0
	14.4
75.0	
2,000.0	
	36.0
	179.7
31,640.4	5,320.4

TOTAL -- Office of State Personnel

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

899.3	2,231.9
322.6	287.5
12,811.4	771.6
17,607.1	2,029.4
31,640.4	5,320.4

Year ending June 30, 1998

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
				(10-05-00) Delaware Health Care Commission				
			3.0	Personnel Costs				180.5
				Travel				25.0
				Contractual Services				129.4
				Supplies and Materials				15.5
				Capital Outlay				14.0
				Other Items:				
				Educational Programs				23.2
				Program Evaluation				15.1
				DIMER Operations				1,650.0
			3.0	TOTAL -- Delaware Health Care Commission				2,052.7
			3.0	(-01) Delaware Health Care Commission		402.7		
				(-02) Delaware Institute of Medical Education and Research		1,650.0		
			3.0	TOTAL -- Internal Program Units		2,052.7		
				(10-06-00) Office of Information Services				
		10.0	169.1	Personnel Costs			496.9	9,352.7
				Travel			70.0	41.4
				Contractual Services			3,489.6	8,011.9
				Energy				249.1
				Supplies and Materials			70.6	356.8
				Capital Outlay			62.5	12.8
				Debt Service				80.0
		10.0	169.1	TOTAL -- Office of Information Services			4,189.6	18,104.7
			63.0	(-09) Production	715.4	6,489.3		
		7.0	12.1	(-11) Northern Data Center	1,829.0	1,654.5		
			14.0	(-12) Telecommunications Management	733.0	2,818.4		
		2.0	57.0	(-13) Development	590.1	4,222.9		
			12.0	(-14) Planning and Data Administration		1,044.7		
		1.0	11.0	(-15) Administration	322.1	1,874.9		
		10.0	169.1	TOTAL -- Internal Program Units	4,189.6	18,104.7		

Year ending June 30, 1998

Personnel		
NSF	ASF	GF

(10-07-00) Criminal Justice

(10-07-01) Criminal Justice Council

8.2		11.8
8.2		11.8

Personnel Costs

Travel

Contractual Services

Supplies and Materials

Capital Outlay

Other Items:

SENTAC

Domestic Violence Coordinating Council

Other Grants

TOTAL -- Criminal Justice Council

S Program		S Line Item	
ASF	GF	ASF	GF

	603.2
	5.7
	33.4
	3.8
	2.1
	10.0
	15.5
	117.2
	790.9

(10-07-02) Delaware Justice Information System

1.0		7.0
1.0		7.0

Personnel Costs

Travel

Contractual Services

Supplies and Materials

TOTAL -- Delaware Justice Information System

	384.9
	3.0
	432.4
	12.0
	832.3

(10-07-03) Statistical Analysis Center

3.1		5.5
3.1		5.5

Personnel Costs

Travel

Contractual Services

Supplies and Materials

TOTAL -- Statistical Analysis Center

	316.8
	4.1
	22.9
	4.7
	348.5

12.3		24.3
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TOTAL -- Criminal Justice

	1,971.7
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16.5	157.5	360.7
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TOTAL -- EXECUTIVE

94,257.3	66,249.6
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(12-01-01) Lieutenant Governor

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Other Items.
Expenses - Lieutenant Governor
TOTAL - Lieutenant Governor

(12-02-01) Auditor of Accounts

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
TOTAL — Auditor of Accounts

(12-03-00) Insurance Commissioner

Personnel Costs

Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Malpractice Review
TOTAL -- Regulatory Activities

**(12-03-02) Bureau of Examination,
Rehabilitation and Guaranty**

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items
Arbitration Program
Contract Examiners
TOTAL -- Bureau of Examination, Rehabilitation
and Guaranty

TOTAL – Insurance Commissioner

13,638.0	8390
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Year ending June 30, 1998

Personnel		
NSF	ASF	GF

1.0	8.0	17.0
1.0	8.0	17.0

(12-05-00) State Treasurer
(12-05-01) Administration

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Banking Services
Data Processing
Electronic Data Interchange
Flexible Benefits Administration
Blood Bank Membership Dues

TOTAL -- Administration

(12-05-03) Debt Management

Expense of Issuing Bonds
Debt Service - Old
Debt Service - New
Debt Service - Local Schools
Debt Service - Solid Waste Authority
Debt Service - Refunding
Financial Advisor

TOTAL -- Debt Management

1.0	8.0	17.0
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TOTAL -- State Treasurer

2.0	77.0	74.0
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TOTAL -- OTHER ELECTIVE OFFICES

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

342.7	809.8
20.2	2.6
44.3	121.5
9.4	7.7
63.7	
1,115.0	
50.0	
70.0	
113.5	
	93.0
1,828.8	1,034.6

	370.0
	18.9
	9,742.6
	11,658.3
	130.4
	3,861.2
	85.0
	25,866.4

1,828.8	26,901.0
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17,163.4	30,191.2
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(15-00-00) LEGAL

Personnel		
NSF	ASF	GF

34.6	32.6	235.9
34.6	32.6	235.9

(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
Other Items:
Extradition
Victims Rights
Medicaid Fraud Program
Securities Administration
AG Opinion Fund
Child Support
Consumer Protection

TOTAL - Office of Attorney General

S Program		S Line Item	
ASF	GF	ASF	GF

179.6	11,735.8
0.1	13.9
0.1	1,275.3
	11.0
0.3	59.1
5.1	22.0
	40.0
75.0	283.8
30.6	
380.9	
15.0	
821.1	
306.0	
1,813.8	13,440.9

(15-02-01) Public Defender

7.0	100.0
7.0	100.0

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay

TOTAL - Public Defender

5,395.8
1.7
527.3
5.8
55.1
3.8
5,989.5

(15-03-01) Board of Parole

7.0
7.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials

TOTAL - Board of Parole

313.2
9.9
26.3
3.6
353.0

41.6	32.6	342.9
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TOTAL - LEGAL

1,813.8	19,783.4
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(20-00-00) DEPARTMENT OF STATE

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
				(20-01-00) Office of the Secretary				
		6.0	17.0	Personnel Costs			218.1	772.4
				Travel			27.7	25.3
				Contractual Services			332.6	163.3
				Energy			1.0	13.8
				Supplies and Materials			37.5	82.1
				Capital Outlay			141.3	
				Debt Service				253.5
		6.0	17.0	TOTAL -- Office of the Secretary			758.2	1,310.4
		6.0	5.0	(-01) Administration	722.8	584.1		
			4	(-02) Delaware Commission on Veterans Affairs	35.4	241.6		
			8.0	(-03) Delaware Veterans Memorial Cemetery		484.7		
		6.0	17.0	TOTAL -- Internal Program Units	758.2	1,310.4		
				(20-02-00) Office of Human Relations				
	3.0		8.0	Personnel Costs				323.2
				Travel				11.0
				Contractual Services				33.9
				Supplies and Materials				5.6
	3.0		8.0	TOTAL -- Office of Human Relations				373.7
	3.0		8.0	(-01) Office of Human Relations		373.7		
	3.0		8.0	TOTAL -- Internal Program Unit		373.7		
				(20-05-00) Corporations				
		56.5	29.5	Personnel Costs			2,047.9	1,198.7
				Travel			30.1	
				Contractual Services			769.2	60.0
				Supplies and Materials			126.3	
				Capital Outlay			1,868.6	
				Other Items:				
				Computer Time Costs			165.0	
				Technology Infrastructure Fund			1,500.0	
				Debt Service				32.6
		56.5	29.5	TOTAL -- Corporations			6,507.1	1,291.3
		56.5	29.5	(-01) Corporations	6,507.1	1,291.3		
		56.5	29.5	TOTAL -- Internal Program Unit	6,507.1	1,291.3		

Year ending June 30, 1998

Personnel		
NSF	ASF	GF
6.8	7.4	66.8
6.8	7.4	66.8

(20-06-00) Historical and Cultural Affairs

Personnel Costs
 Travel
 Contractual Services
 Energy
 Supplies and Materials
 Capital Outlay
 Other Items:
 Delaware Heritage Commission
 Archival Grants
 Document Conservation Fund
 Local Records Grants
 Museum Operations
 Museum Conservation Fund
 Museum Maintenance and Restoration Fund
 Museum Gift Shops
 Museum Grounds
 Museum Exhibits
 Conference Center Operations
 Conference Center Grounds
 Museum Marketing
 Museum Education
 Dayett Mills
 Debt Service

S Program		S Line Item	
ASF	GF	ASF	GF
		294.6	2,682.5
		3.6	7.9
		49.6	299.7
			146.2
		24.6	139.8
		2.5	26.8
			90.0
			20.0
		48.9	
		15.0	
			50.0
			100.0
		42.5	
		4.0	
		10.0	
		86.5	
		8.5	
		3.0	
		1.0	
		4.5	
			668.8
		598.8	4,231.7

TOTAL -- Historical and Cultural Affairs

		5.0
2.0	6.0	27.0
4.8	0.4	2.8
	1.0	32.0
6.8	7.4	66.8

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

	455.4
379.3	1,302.3
16.2	158.2
203.3	2,315.8
598.8	4,231.7

TOTAL -- Internal Program Units

3.0		6.0
3.0		6.0

(20-07-00) Arts

Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 Other Items:
 Delaware Art
 Art for the Disadvantaged

	249.1
	3.6
	70.3
	3.5
	1,150.0
	10.0
	1,486.5

TOTAL -- Arts

3.0		6.0
3.0		6.0

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

	1,486.5
	1,486.5

Year ending June 30, 1998

Personnel		
NSF	ASF	GF

9.0		11.0
9.0		11.0

9.0		11.0
9.0		11.0

	43.0	
	43.0	

	43.0	
	43.0	

21.8	112.9	138.3
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(20-08-00) Libraries

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Library Standards
Delaware Electronic Library
Debt Service

TOTAL -- Libraries

(-01) Libraries

TOTAL -- Internal Program Unit

(20-15-00) State Banking Commission

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Revenue Refund

TOTAL -- State Banking Commission

(-01) State Banking Commission

TOTAL -- Internal Program Unit

TOTAL -- DEPARTMENT OF STATE

S Program		S Line Item	
ASF	GF	ASF	GF

			465.6
			1.1
			93.4
			19.2
			46.0
			7.0
			1,421.6
			130.0
			260.2
			2,464.1

	2,464.1
	2,464.1

	1,903.4	
	46.6	
	325.5	
	23.1	
	38.2	
	0.5	
	2,337.3	

2,337.3	
2,337.3	

10,201.4	11,157.7
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(25-00-00) DEPARTMENT OF FINANCE1
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34
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37
38
39
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42
43
44
45**Personnel**

NSF	ASF	GF
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		16.0
		16.0

(25-01-00) Office of the Secretary

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items

TOTAL -- Office of the Secretary

		16.0
		16.0

(-01) Office of the Secretary

TOTAL -- Internal Program Unit**S Program**

ASF	GF
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690.0	1,201.0
690.0	1,201.0

S Line Item

ASF	GF
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	1,001.0
	12.0
	168.0
	14.0
	6.0
690.0	
690.0	1,201.0

(25-05-00) Accounting

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
State Accounting Course

TOTAL -- Accounting

		41.0
		41.0

		41.0
		41.0

(-01) Accounting

TOTAL -- Internal Program Unit

	2,578.9
	2,578.9

(25-06-00) Revenue

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Escheat
Debt Service

TOTAL -- Revenue

		207.0
		207.0

		207.0
		207.0

(-01) Revenue

TOTAL -- Internal Program Unit

	8,783.6
	53.7
945.5	1,658.0
	2.3
	139.9
	80.5
195.0	
	186.8
1,140.5	10,904.8

1,140.5	10,904.8
1,140.5	10,904.8

Year ending June 30, 1998

1	Personnel				\$ Program		\$ Line Item	
2	NSF	ASF	GF		ASF	GF	ASF	GF
3				(25-07-00) State Lottery Office				
4		30.0		Personnel Costs			1,324.5	
5				Travel			27.0	
6				Contractual Services			43,592.7	
7				Supplies and Materials			47.9	
8				Capital Outlay			32.0	
9				Other Items:				
10				Cars and Wagons			30.0	
11		30.0		TOTAL -- State Lottery Office			45,054.1	
12								
13		30.0		(-01) State Lottery Office	45,054.1			
14		30.0		TOTAL -- Internal Program Unit	45,054.1			
15								
16								
17		30.0	264.0	TOTAL -- DEPARTMENT OF FINANCE			46,884.6	14,684.7

(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES

Personnel		
NSF	ASF	GF

3.0	2.0	29.0
3.0	2.0	29.0

(30-01-00) Administration

Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 Capital Outlay
 Other Items:
 Payment in Lieu of Taxes
 Debt Service

TOTAL -- Administration

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

87.6	1,406.1
1.0	14.8
2.5	200.0
2.0	26.7
21.2	179.5
	65.0
	2.2
114.3	1,894.3

	2.0	21.0
3.0		1.0
		2.0
		4.0
		1.0
3.0	2.0	29.0

(-10) Administration
 (-20) Office of Disability Affairs
 (-30) Public Integrity Commission
 (-40) Public Employee Relations Board
 (-50) Merit Employee Relations Board
TOTAL -- Internal Program Units

114.3	1,200.3
	96.7
	154.9
	301.8
	140.6
114.3	1,894.3

(30-03-00) Regulation and Licensing

Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 Capital Outlay
 Other Items:
 Real Estate Guaranty Fund
 Examination Costs
 Revenue Refunds
 Motor Vehicle Franchise Fund

TOTAL -- Regulation and Licensing

2,988.6	
105.9	
2,152.0	
118.5	
56.1	
10.0	
75.0	
47.7	
15.0	
5,568.8	

	23.0	
	29.0	
	4.0	
	56.0	

(-20) Professional Regulation
 (-30) Public Service Commission
 (-50) Public Advocate
TOTAL -- Internal Program Units

1,947.9	
3,168.1	
452.8	
5,568.8	

Year ending June 30, 1998

1	Personnel		
2	NSF	ASF	GF

(30-04-00) Support Operations

4		43.0	18.5
5			
6			
7			
8			
9			
10			
11			
12		43.0	18.5

TOTAL -- Support Operations

13			
14			9.0
15			4.0
16		18.0	
17		25.0	
18			5.5
19		43.0	18.5

(-10) Mail/Courier Services
 (-20) Telephone Services
 (-30) Graphics and Printing
 (-40) Fleet Management
 (-50) Service and Information Guide
TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF

1,702.6	533.4
20.4	
12,937.2	255.7
24.2	11.6
1,182.3	12.5
3,079.2	
535.9	
19,481.8	813.2

1,581.6	341.3
9,813.1	165.0
2,452.2	
5,589.9	
45.0	306.9
19,481.8	813.2

(30-05-00) Facilities Management

23	2.6	4.0	79.4
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			
34			
35			
36	2.6	4.0	79.4

TOTAL -- Facilities Management

38	2.6	4.0	79.4
39	2.6	4.0	79.4

(-10) Facilities Management
TOTAL -- Internal Program Units

148.6	2,939.4
4.5	
479.4	2,500.3
	2,350.8
137.0	308.9
859.6	
182.9	
	12,820.8
	29.2
	800.0
	150.0
	11,137.2
1,812.0	33,036.6

1,812.0	33,036.6
1,812.0	33,036.6

Year ending June 30, 1998

Personnel		
NSF	ASF	GF

2.0	8.0	21.0
2.0	8.0	21.0

		17.0
	4.0	
2.0	4.0	4.0
2.0	8.0	21.0

(30-06-00) Purchasing

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Food Processing

TOTAL -- Purchasing

(-10) Contracting
(-20) Surplus Property
(-30) Food Distribution
TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF

		334.2	824.3
		10.1	7.0
		166.3	64.7
		15.7	18.9
		124.7	22.1
		164.1	4.0
		112.0	
		927.1	941.0

100.0	770.1
386.2	
440.9	170.9
927.1	941.0

TOTAL -- DEPARTMENT OF

ADMINISTRATIVE SERVICES

7.6	113.0	147.9
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27,904.0	36,685.1
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(35-00-00) DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Personnel			
	NSF	ASF	GF
3			
4			
5			
6	62 3	29 6	150 6
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20	62.3	29.6	150.6

(35-01-00) Administration

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items
Adult Abuse Registry
Revenue Management
Health Statistics
Program Integrity
Nurse Recruitment
EBT
Debt Service

TOTAL -- Administration

	10	100
623	286	1406
62.3	296	150.6

(-10) Office of the Secretary

(-20) Management Services

TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF
		578.0	6,916.0
		14.8	8.9
		414.5	989.5
			41.2
		46.3	37.3
		82.6	40.4
			62.5
		255.0	
		173.8	
		172.0	
			20.0
			108.4
			2,483.8
		1,737.0	10,708.0

52.5	659.7
1,684.5	10,048.3
1,737.0	10,708.0

(35-04-00) Medical Examiner

			35.0
--	--	--	------

TOTAL -- Medical Examiner

35.0
350

(-01) Medical Examiner

TOTAL -- Internal Program Unit

	2,914.8
	2,914.8

Year ending June 30, 1998

Personnel			\$ Program		\$ Line Item		
	NSF	ASF	GF	ASF	GF	ASF	GF
(35-05-00) Public Health							
	192.0	32.3	1,325.0				46,251.3
							32.3
							6,908.3
							1,100.8
							3,341.7
							138.3

Year ending June 30, 1998

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(35-06-00) Alcoholism, Drug Abuse and				
2				Mental Health				
3				Personnel Costs			169.4	32,958.1
4				Travel				19.4
5	17.8	4.0	875.9	Contractual Services			6,475.4	20,101.5
6				Energy				1,057.4
7				Supplies and Materials			100.6	3,037.6
8				Capital Outlay			9.0	184.0
9				Other Items:				
10				SENTAC Treatment Initiatives				1,519.0
11				Sheltered Workshop				9.9
12				Patient Payment				28.2
13				Debt Service				1,002.7
14				TOTAL -- Alcoholism, Drug Abuse and Mental			6,754.4	59,917.8
15				Health				
16	17.8	4.0	875.9					
17								
18								
19	13.0		19.0	(-10) Administration - Mental Health	60.0	1,335.8		
20	4.0		130.5	(-20) Community Mental Health	6,056.0	15,244.1		
21	0.8	1.0	687.4	(-30) Inpatient Mental Health	63.2	32,851.7		
22		3.0	39.0	(-40) Alcoholism and Drug Abuse	575.2	10,486.2		
23	17.8	4.0	875.9	TOTAL -- Internal Program Units	6,754.4	59,917.8		
24								
25								
26				(35-07-00) Social Services				
27	312.2	2.0	286.7	Personnel Costs				11,105.5
28				Travel				13.9
29				Contractual Services				4,088.2
30				Energy				45.8
31				Supplies and Materials				82.9
32				Capital Outlay				99.6
33				Other Items:				
34				Cost Recovery			150.2	
35				Early Intervention				1,564.6
36				General Assistance				3,056.1
37				AFDC			500.0	13,382.4
38				SSI Supplement				916.0
39				Child Care				17,891.5
40				Emergency Assistance				798.9
41				First Step				3,735.9
42				Medicaid - State				27,106.2
43				Medicaid - Non-State			14,500.0	161,113.5
44				Legal Non-Citizen Health Care				1,420.0
45				Renal				998.8
46	312.2	2.0	286.7	TOTAL -- Social Services			15,150.2	247,419.8
47								
48								
49	312.2	2.0	286.7	(-01) Social Services	15,150.2	247,419.8		
50	312.2	2.0	286.7	TOTAL -- Internal Program Unit	15,150.2	247,419.8		
51								
52				TOTAL -- Temporary Assistance to Needy Families and Their Children (TANF) NSF appropriation			NSF	32,291.0

Year ending June 30, 1998

Personnel		
NSF	ASF	GF
29.6	3.0	30.4
29.6	3.0	30.4

(35-08-00) Visually Impaired

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
BEP Cafe
BEP Vending

TOTAL -- Visually Impaired

29.6	3.0	30.4
29.6	3.0	30.4

(-01) Visually Impaired Services

TOTAL -- Internal Program Unit

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		91.7	1,432.5
			2.8
		0.5	470.3
			41.4
			50.4
		4.0	39.1
		135.0	
		715.0	
		946.2	2,036.5

946.2	2,036.5
946.2	2,036.5

117.6	17.4	42.5
117.6	17.4	42.5

(35-10-00) Child Support Enforcement

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay

TOTAL -- Child Support Enforcement

117.6	17.4	42.5
117.6	17.4	42.5

(-01) Child Support Enforcement

TOTAL -- Internal Program Unit

1,174.2	2,183.7
1,174.2	2,183.7

584.4	1,541.5
3.7	4.8
541.1	612.8
	10.0
40.0	12.5
5.0	2.1
1,174.2	2,183.7

3.0		866.8
3.0		866.8

(35-11-00) Mental Retardation

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Facility Repairs & Maintenance
Music Stipends
Purchase of Care
Purchase of Community Services
Wheelchairs
Debt Service

TOTAL -- Mental Retardation

3.0		27.0
		700.0
		139.8
3.0		866.8

(-10) Administration - Mental Retardation

(-20) Institutional Services

(-30) Community Services

TOTAL -- Internal Program Units

	1,439.5
60.0	27,798.2
1,060.0	25,275.9
1,120.0	54,513.6

	29,049.3
	7.3
1,060.0	5,009.6
	607.5
	1,419.4
	106.6
	30.0
	9.6
	13,814.7
	4,431.3
60.0	
	28.3
1,120.0	54,513.6

Year ending June 30, 1998

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(35-12-00) State Service Centers				
2				Personnel Costs			2.1	3,490.2
3				Travel			7.8	8.0
4	38.2		88.4	Contractual Services			1,143.7	2,172.2
5				Energy			54.2	489.9
6				Supplies and Materials			70.1	88.1
7				Capital Outlay			39.8	17.3
8				Other Items:				
9				Family Support				85.7
10				Kent County RSVP				29.4
11				Community Food Program				85.5
12				Emergency Assistance				1,371.0
13				Hispanic Affairs				25.0
14				Debt Service				385.1
15	38.2		88.4	TOTAL -- State Service Centers			1,317.7	8,247.4
16								
17				(-10) Family Support		2,144.6		
18	24.8		46.4	(-20) Service Center Management	1,317.5	2,721.8		
19			20.5	(-30) Community Services		1,741.5		
20	11.0		2.0	(-40) Volunteer Services	0.2	1,639.5		
21	2.4		19.5	TOTAL -- Internal Program Units	1,317.7	8,247.4		
22	38.2		88.4					
23								
24				(35-14-00) Services for Aging and Adults				
25				with Physical Disabilities				
26				Personnel Costs				2,438.4
27				Travel				8.2
28	42.4		58.8	Contractual Services				3,467.9
29				Energy				7.2
30				Supplies and Materials				51.7
31				Capital Outlay				0.6
32				Other Items:				
33				Community-Based Services Reimbursement			171.0	497.1
34				Nutrition Program				249.1
35				Long Term Care				305.3
36				Assisted Living				
37				TOTAL -- Services for Aging and Adults				
38				with Physical Disabilities			171.0	7,025.5
39	42.4		58.8					
40								
41				(-01) Services for Aging and Adults	171.0	7,025.5		
42				with Physical Disabilities				
43	42.4		58.8	TOTAL -- Internal Program Unit	171.0	7,025.5		
44								
45								
46								
47				TOTAL -- DEPARTMENT OF HEALTH				
48	815.1	88.3	3,760.1	AND SOCIAL SERVICES			32,347.8	457,445.2

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

Personnel		
NSF	ASF	GF

19.6	26.5	112.7
19.6	26.5	112.7

(37-01-00) Management Services

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
MIS Development
Indirect Costs
Services Integration
Debt Service

TOTAL -- Management Services

S Program	
ASF	GF

110.7	527.8
779.2	949.3
331.3	809.4
379.9	480.2
60.0	827.6
383.5	3,166.9
413.5	808.0
2,458.1	7,569.2

S Line Item	
ASF	GF

1,296.4	5,822.0
15.4	10.0
792.9	629.3
57.3	79.8
7.0	39.6
	362.3
187.0	
102.1	
	626.2
2,458.1	7,569.2

		4.0
	5.0	6.0
7.8	7.5	16.2
1.0	4.0	11.0
1.0		13.0
	6.0	57.0
9.8	4.0	5.5
19.6	26.5	112.7

(-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

60.8	29.0	303.5
60.8	29.0	303.5

(37-02-00) Family Services

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Child Welfare/Contractual Services
Other Items:
Emergency Material Assistance
DFS Decentralization

TOTAL -- Family Services

1,178.4	12,438.7
7.4	16.2
1,968.5	2,015.0
20.8	81.9
6.0	29.3
	7,106.3
	30.0
283.3	
3,464.4	21,717.4

34.8		42.5
1.0	12.0	70.0
2.0		85.4
5.0	12.0	56.7
		14.9
4.5	5.0	10.5
5.0		10.0
8.5		13.5
60.8	29.0	303.5

(-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

608.5	2,576.0
843.1	4,087.8
235.0	3,494.2
1,434.5	7,575.4
50.0	1,380.4
183.3	481.1
100.0	1,337.2
10.0	785.3
3,464.4	21,717.4

Year ending June 30, 1998

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2				(37-04-00) Child Mental Health Services				
3				Personnel Costs			829.5	8,723.5
4	0.8	16.0	183.1	Travel			7.5	14.8
5				Contractual Services			6,572.7	9,643.8
6				Energy				183.1
7				Supplies and Materials			29.4	278.6
8				Capital Outlay			8.3	31.5
9				Other Items:				
10				MIS Maintenance			31.0	
11				TOTAL -- Child Mental Health Services			7,478.4	18,875.3
12	0.8	16.0	183.1					
13								
14	0.8	13.0	70.6	(-10) Managed Care Organization	916.1	3,941.3		
15		3.0	5.2	(-20) Early Intervention	166.4	416.1		
16			39.3	(-30) Periodic Treatment	2,630.0	6,489.9		
17			68.0	(-40) 24 Hour Treatment	3,765.9	8,028.0		
18	0.8	16.0	183.1	TOTAL -- Internal Program Units	7,478.4	18,875.3		
19								
20								
21				(37-05-00) Youth Rehabilitative Services				
22	0.8	12.0	278.1	Personnel Costs			515.1	11,901.6
23				Travel			9.7	31.2
24				Contractual Services			1,324.5	13,946.2
25				Energy				539.9
26				Supplies and Materials			81.1	724.2
27				Capital Outlay				24.4
28				Debt Service				1,257.5
29	0.8	12.0	278.1	TOTAL -- Youth Rehabilitative Services			1,930.4	28,425.0
30								
31	0.8		8.6	(-10) Office of the Director	1.0	400.7		
32			68.5	(-30) Community Services	488.5	15,684.0		
33		12.0	201.0	(-50) Secure Care	1,440.9	12,340.3		
34	0.8	12.0	278.1	TOTAL -- Internal Program Units	1,930.4	28,425.0		
35								
36								
37				TOTAL -- DEPARTMENT OF				
38				SERVICES FOR CHILDREN,				
39	82.0	83.5	877.4	YOUTH AND THEIR FAMILIES			15,331.3	76,586.9

Year ending June 30, 1998

(38-00-00) DEPARTMENT OF CORRECTION

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
				(38-01-00) Administration				
			184.0	Personnel Costs				7,899.8
				Travel				21.1
				Contractual Services			25.0	2,099.9
				Energy				116.1
				Supplies and Materials				5,554.9
				Capital Outlay				33.4
				Other Items:				
				Medical Services				9,315.0
				AIDS Education and Counseling				80.0
				Contingency - Shakedowns				15.4
				Maintenance/Restoration				1,827.1
				MIS				90.9
				Warehouse				96.0
				Debt Service				347.8
			184.0	TOTAL -- Administration			25.0	27,497.4
			14.0	(-01) Office of the Commissioner	25.0	1,225.6		
			43.0	(-02) Human Resources/Employee		2,007.7		
				Development Center				
			37.0	(-10) Management Services		2,699.2		
			45.0	(-20) Food Services		7,249.3		
				(-30) Medical Services		9,475.0		
			45.0	(-40) Facilities Maintenance		4,840.6		
			184.0	TOTAL -- Internal Program Units	25.0	27,497.4		

Year ending June 30, 1998

Personnel			S Program		S Line Item		
NSF	ASF	GF	ASF	GF	ASF	GF	
							(38-04-00) Prisons
	13.0	1,382.4					Personnel Costs
							Travel
							Contractual Services
							Energy
							Supplies and Materials
							Capital Outlay
							Other Items:
							New Prison Project
							Gate Money
							Drug Testing
							Prison Arts
							DCC Fence
							Debt Service
	13.0	1,382.4					TOTAL -- Prisons
		8.0					(-01) Bureau Chief - Prisons
		26.0					(-02) John L. Webb Correctional Facility
		477.0					(-03) Delaware Correctional Center
		370.0					(-04) Sussex Correctional Institution
		85.0					(-05) Dolores J. Baylor Correctional Institution
		314.0					(-06) Multi-Purpose Criminal Justice Facility
		26.0					(-07) Morris Correctional Institution
		37.0					(-08) Transportation
	8.0	12.0					(-09) Prison Industries
	5.0	6.0					(-10) Inmate Construction
		21.4					(-11) Education
	13.0	1,382.4					TOTAL -- Internal Program Units
							(38-06-00) Community Corrections
		367.0					Personnel Costs
							Travel
							Contractual Services
							Energy
							Supplies and Materials
							Capital Outlay
							Debt Service
		367.0					TOTAL -- Community Corrections
		16.0					(-01) Bureau Chief - Community Corrections
		256.0					(-02) Probation and Parole
		31.0					(-04) House Arrest
		33.0					(-06) Plummer Work Release Center
		31.0					(-07) Sussex Work Release Center
		367.0					TOTAL -- Internal Program Units
	13.0	1,933.4					TOTAL -- DEPARTMENT OF CORRECTION

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2				(40-06-00) Parks and Recreation				
3				Personnel Costs			3,619.1	3,240.8
4	1.0	59.5	76.5	Travel			22.8	1.0
5				Contractual Services			978.4	89.7
6				Energy			20.9	278.0
7				Supplies and Materials			741.8	20.7
8				Capital Outlay			392.5	
9				Other Items			957.1	5.0
10				Debt Service				2,477.0
11	1.0	59.5	76.5	TOTAL -- Parks and Recreation			6,732.6	6,112.2
12								
13		1.0	11.0	(-01) Management and Support -	153.5	454.0		
14				Parks and Recreation				
15		45.5	42.5	(-02) Operations and Maintenance	4,977.3	2,684.8		
16	1.0	8.0	8.0	(-03) Cultural and Recreational Services	886.5	414.5		
17		5.0	15.0	(-04) Planning, Preservation and	715.3	2,558.9		
18				Development				
19	1.0	59.5	76.5	TOTAL -- Internal Program Units	6,732.6	6,112.2		
20								
21								
22				(40-07-00) Soil and Water Conservation				
23				Personnel Costs			7.6	2,280.7
24	15.3		46.7	Travel			5.0	5.8
25				Contractual Services			1,119.0	694.9
26				Energy				21.1
27				Supplies and Materials			34.0	201.6
28				Capital Outlay			39.0	
29				Other Items:				
30				New Castle County Dredge				225.0
31				Beach Erosion Control Program			1,700.0	
32				Sand Bypass System			150.0	
33				Tax Ditches*				225.0
34				Debt Service				1,018.5
35	15.3		46.7	TOTAL -- Soil and Water Conservation			3,054.6	4,672.6
36								
37								
38	1.5		4.5	(-01) Management and Support -	95.1	324.5		
39				Soil and Water				
40			9.0	(-02) Drainage		1,678.9		
41	1.8		26.2	(-03) Shoreline and Waterway	2,919.5	1,777.4		
42				Management				
43	2.0		7.0	(-04) District Operations	30.0	878.8		
44	10.0			(-05) Delaware Coastal Management	10.0	13.0		
45	15.3		46.7	TOTAL -- Internal Program Units	3,054.6	4,672.6		
46								
47								

*Pursuant to Section 3921, Title 7, Delaware Code

Year ending June 30, 1998

Personnel			
	NSF	ASF	GF
1			
2			
3			
4	31.7	64.0	68.3
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16	31.7	64.0	68.3
17			
18	10.0	6.0	14.0
19			
20	2.0	31.0	16.0
21	4.0	8.0	6.0
22	1.0	14.0	7.0
23	4.0	3.0	8.0
24	8.7	0.0	12.3
25	2.0	2.0	5.0
26			
27	31.7	64.0	68.3

(40-08-00) Water Resources

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Inland Bays Research
Delaware Estuary
Other Items
Water Resources Agency
Debt Service

TOTAL -- Water Resources

(-01) Management and Support -
Water Resources
(-02) Environmental Services
(-04) Surface Water Discharges
(-05) Ground Water Discharges
(-06) Water Supply
(-07) Watershed Assessment
(-08) Wetlands and Subaqueous
Lands

TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF
		1,884.9	3,562.0
		31.5	41.7
		452.4	878.2
			14.5
		171.8	104.9
		35.0	45.0
			103.3
			50.0
		16.8	
			189.0
			3,480.1
		2,592.4	8,468.7

397.3	4,614.7
978.1	958.7
383.7	454.2
510.8	404.5
139.6	415.8
0.0	1,300.1
182.9	320.7
2,592.4	8,468.7

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(40-09-00) Air and Waste Management				
2	62.6	89.4	53.0	Personnel Costs			2,900.9	2,897.1
3				Travel			61.8	12.8
4				Contractual Services			979.0	249.5
5				Energy				48.0
6				Supplies and Materials			145.6	92.4
7				Capital Outlay			218.0	18.1
8				Other Items:				
9				Local Emergency Planning Committees			250.0	
10				HSCA - Administration			483.4	
11				HSCA - Clean-up			5,303.0	
12				SARA			30.0	14.4
13				Cost Recovery			300.0	
14				UST Administration			350.0	
15				HSCA Loan Program				200.0
16				Stage II Vapor Recovery			54.8	
17				Other Items			210.0	
18				Debt Service				5.1
19	62.6	89.4	53.0	TOTAL - Air and Waste Management			11,286.5	3,537.4
20								
21	3.7	12.0	16.3	(-01) Management and Support -	1,806.3	1,037.3		
22				Air and Waste				
23	17.9	48.1	19.0	(-02) Air Quality Management	3,019.9	1,194.0		
24	41.0	29.3	17.7	(-03) Waste Management	6,460.3	1,306.1		
25	62.6	89.4	53.0	TOTAL -- Internal Program Units	11,286.5	3,537.4		
26								
27								
28								
29								
30				TOTAL -- DEPARTMENT OF NATURAL				
31				RESOURCES AND ENVIRONMENTAL				
32	138.8	265.0	339.2	CONTROL			29,345.8	31,301.6

(45-00-00) DEPARTMENT OF PUBLIC SAFETY

Personnel

NSF	ASF	GF
-----	-----	----

29.1	1.0	52.4
29.1	1.0	52.4

(45-01-00) Office of the Secretary

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Other Items
Police Training Council
Hazardous Waste Clean Up
Debt Service

TOTAL -- Office of the Secretary

S Program

ASF	GF
-----	----

100.0	916.5
202.3	237.9
302.3	1,199.7
	412.3
	158.9
302.3	2,925.3

S Line Item

ASF	GF
-----	----

116.6	2,394.4
	14.5
	249.4
85.0	101.5
	33.1
	0.1
0.7	
	15.0
100.0	
	117.3
302.3	2,925.3

		14.0
	1.0	5.0
		23.0
24.6		7.4
4.5		3.0
29.1	1.0	52.4

(-01) Administration
(-10) Boiler Safety
(-20) Communication
(-30) DEMA
(-40) Highway Safety

TOTAL -- Internal Program Units

(45-02-00) Capitol Police

Personnel Costs
Travel
Contractual Services
Supplies and Materials

TOTAL -- Capitol Police

2.1		27.9
2.1		27.9

	1,112.5
	0.3
	376.4
	18.5
	1,507.7

(-10) Capitol Police

TOTAL -- Internal Program Unit

	1,507.7
	1,507.7

(45-04-00) Alcoholic Beverage Control Commission

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Tobacco Enforcement Contingency
Identification Equipment

TOTAL -- Alcoholic Beverage Control Commission

	2.0	19.0
	2.0	19.0

47.4	789.6
0.1	2.6
43.7	102.6
3.3	10.7
2.2	3.0
	40.0
8.0	
104.7	948.5

(-10) Alcoholic Beverage Control

TOTAL -- Internal Program Unit

	2.0	19.0
	2.0	19.0

104.7	948.5
104.7	948.5

17			62.0
18			7.0
19	8.8	6.0	323.2
20	3.0		94.0
21		7.0	39.0
22			20.0
23	4.2		14.8
24		2.0	36.0
25			11.0
26		3.5	85.5
27			16.0
28	4.2		25.8
29	20.2	18.5	734.3

- Personnel Costs
- Travel
- Contractual Services
- Energy
- Supplies and Materials
- Capital Outlay
- Other Items
 - Pension - 20 Year Retirees
 - Crime Reduction Fund
 - Career Development
- Debt Service

S Program		S Line Item	
ASF	GF	ASF	GF
		772.4	40,166.5
		166.7	33.3
		408.2	2,158.0
			324.1
		422.6	1,627.1
		35.0	1,211.9
			15,295.0
			75.0
			35.0
			205.0
		1,804.9	61,130.9

226 7	19,080 4
	352 1
646.1	19,856 7
	5,928 0
420 8	2,496 6
	1,823 4
	753 2
431 1	1,597 9
	915 4
80 2	4,058 7
	2,729 8
	1,538 7
1,804 9	61,130 9

33		20.0	192.0
34			
35			
36			
37			
38			
39			
40			
41			
42			
43			
44			
45			
46		20.0	192.0

(-01) Administration
 (-10) Driver Services
 (-20) Vehicle Services
TOTAL -- Internal Program Units

48		27.0
49		68.0
50	20.0	97.0
51	20.0	192.0

118.0	1,365.0
207 3	2,474.2
2,874.2	4,138.5
3,199.5	7,977 7

TOTAL -- DEPARTMENT OF PUBLIC SAFETY

Year ending June 30, 1998

(55-00-00) DEPARTMENT OF TRANSPORTATION

	Personnel					\$ Line Item	
	NSF	TFO	TFC	GF		TTF	GF
1					(55-01-00) Office of the Secretary		
2					(55-01-01) Office of the Secretary		
3					Personnel Costs	988.8	
4					Operations/Capital	35.2	
5					Environmental Contingency	150.0	
6		14.0			TOTAL -- Office of the Secretary	1,174.0	
7		14.0					
8					(55-01-02) Office of Financial Management		
9					and Budget		
10					Personnel Costs	1,772.0	
11					Operations/Capital	1,511.9	
12					TOTAL -- Office of Financial Management		
13	1.0	34.0			and Budget	3,283.9	
14	1.0	34.0					
15					(55-01-03) Office of External Affairs		
16					Personnel Costs	489.0	
17					Operations/Capital	95.4	
18					TOTAL -- Office of External Affairs	584.4	
19		9.0					
20		9.0					
21					TOTAL--Office of the Secretary	5,042.3	
22	1.0	57.0					
23					(55-02-00) Office of Administration		
24					(55-02-01) Office of Administration		
25					Personnel Costs	3,008.3	
26					Travel	33.0	
27					Contractual/Supplies	2,262.4	
28					Energy	343.9	
29					Capital Outlay	19.0	
30	2.0	66.0	1.0		TOTAL -- Office of Administration	5,666.6	
31							
32					(55-02-02) Motor Fuel Tax		
33					Personnel Costs	940.7	
34					Operations/Capital	227.5	
35					TOTAL -- Motor Fuel Tax	1,168.2	
36							
37	1.0	22.0					
38	1.0	22.0					
39					TOTAL--Office of Administration	6,834.8	
40	3.0	88.0	1.0				
41					(55-03-01) Office of Planning		
42					Personnel Costs	3,017.3	
43					Operations/Capital	476.1	
44					TOTAL -- Office of Planning	3,493.4	
45		57.0	3.0				
46		57.0	3.0				
47							
48							

Year ending June 30, 1998

	Personnel					S Line Item	
	NSF	TFO	TFC	GF		TTF	GF
1							
2					(55-04-00) Division of Highway Operations		
3					(55-04-01) Office of the Director		
4					Personnel Costs	700.1	
5		14.0			Operations/Capital	132.1	
6					TOTAL -- Office of the Director	832.2	
7		14.0					
8					(55-04-40) Bureau of Construction		
9					Personnel Costs	3,609.2	
10		72.0	77.0		Operations/Capital		
11					TOTAL -- Bureau of Construction	3,609.2	
12		72.0	77.0				
13					(55-04-50) Bureau of Traffic		
14					Personnel Costs	4,096.1	
15		102.0			Energy	914.3	
16					Capital Outlay	27.0	
17					Contractual/Supplies	2,628.2	
18					TOTAL -- Bureau of Traffic	7,665.6	
19		102.0					
20					(55-04-60) Field Services		
21					Personnel Costs	1,710.9	
22		30.0	64.0		Operations/Capital	123.7	
23					TOTAL -- Field Services	1,834.6	
24		30.0	64.0				
25					(55-04-70) Bureau of Maintenance		
26					Personnel Costs	18,431.6	
27		541.0			Energy	470.4	
28					Capital Outlay	137.2	
29					Contractual/Supplies	7,451.3	
30					Snow/Storm Contingency	2,000.0	
31					TOTAL -- Bureau of Maintenance	28,490.5	
32		541.0					
33					(55-04-80) Bureau of Expressways Construction		
34					Personnel Costs	86.2	
35		1.0	7.0		Operations/Capital	9.6	
36					TOTAL -- Bureau of Expressways Construction	95.8	
37		1.0	7.0				
38					(55-04-90) Expressways Operations/Toll		
39					Administration		
40					Personnel Costs	6,788.9	
41		203.0			Energy	458.2	
42					Capital Outlay	108.1	
43					Contractual/Supplies	3,121.8	
44					Travel	26.0	
45					Turnpike Operating Reserve *		
46					TOTAL -- Expressways Operations/Toll	10,503.0	
47		203.0			Administration		
48							
49					* The Cumulative Turnpike Operating Reserve Fund		
50					is established at \$ 880.6		
51							
52		963.0	148.0		TOTAL -- Division of Highway Operations	53,030.9	

Year ending June 30, 1998

Personnel				S Line Item	
NSF	TFO	TFC	GF	TTF	GF
(55-06-01) Delaware Transportation Authority					
	3.0			7,817.2	
				2,028.5	
				18,065.1	
				148.5	
				75.8	
				750.0	
				4,622.0	
				2,397.0	
				62,481.0	
	3.0			98,385.1	
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					
(55-07-10) Office of Pre-Construction					
4.0	67.0	82.0		3,630.8	
				243.4	
4.0	67.0	82.0		3,874.2	
TOTAL - Office of Pre-Construction					
TOTAL DEPARTMENT OF TRANSPORTATION					
8.0	1,235.0	234.0		170,660.7	

(60-00-00) DEPARTMENT OF LABOR

Personnel		
NSF	ASF	GF
12.5	30.6	6.9
12.5	30.6	6.9

(60-01-00) Administration

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay

TOTAL -- Administration

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		1,328.3	369.1
		18.3	4.2
		753.2	114.2
		110.4	2.4
		57.8	
		2,268.0	489.9

12.5	10.6	1.4
		2.5
		3.0
	20.0	
12.5	30.6	6.9

(-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

815.3	213.5
0.0	119.8
1,452.7	156.6
2,268.0	489.9

(60-06-00) Unemployment Insurance

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items

TOTAL -- Unemployment Insurance

128.0	5.0	
128.0	5.0	

135.1	
0.4	
110.5	
1.0	
5.2	
1.0	
108.9	
362.1	

128.0	5.0	
128.0	5.0	

(-01) Unemployment Insurance

TOTAL -- Internal Program Unit

362.1	
362.1	

(60-07-00) Division of Industrial Affairs

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Second Injury

TOTAL -- Division of Industrial Affairs

7.0	54.0	
7.0	54.0	

2,097.1	
31.3	
389.9	
36.7	
79.0	
8,000.0	
10,634.0	

5.0	35.0	
2.0	19.0	
7.0	54.0	

(-01) Office of Workers Compensation,
Safety and Health

(-02) Office of Labor Law Enforcement

TOTAL -- Internal Program Units

9,861.8	
772.2	
10,634.0	

Year ending June 30, 1998

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(60-08-00) Vocational Rehabilitation				
2				Personnel Costs			218.0	53.1
3				Travel				0.3
4	116.2	4.8	2.0	Contractual Services			182.9	1,608.1
5				Supplies and Materials				72.8
6				Other Items:				
7				Sheltered Workshop				310.4
8				Governor's Committee			95.0	8.0
9	116.2	4.8	2.0	TOTAL -- Vocational Rehabilitation			495.9	2,052.7
10								
11	86.4	4.8	2.0	(-10) Vocational Rehabilitation Services	495.9	2,052.7		
12	29.8			(-20) Disability Determination Services				
13	116.2	4.8	2.0	TOTAL -- Internal Program Units	495.9	2,052.7		
14								
15				(60-09-00) Employment and Training				
16				Personnel Costs			149.8	796.8
17	89.9	3.0	23.1	Travel			0.2	5.9
18				Contractual Services			42.4	1,258.8
19				Supplies and Materials			2.0	7.0
20				Capital Outlay				13.2
21				Other Items:				
22				Women's Vocational Services				40.0
23				Dislocated Workers' Program				16.6
24				Summer Youth Program				235.2
25				Individual Skills Grant				425.0
26				Blue Collar Projects			725.2	
27	89.9	3.0	23.1	TOTAL -- Employment and Training			919.6	2,798.5
28								
29	89.9	3.0	23.1	(-20) Employment and Training Services	919.6	2,798.5		
30	89.9	3.0	23.1	TOTAL -- Internal Program Unit	919.6	2,798.5		
31								
32								
33	353.6	97.4	32.0	TOTAL -- DEPARTMENT OF LABOR			14,679.6	5,341.1
34								
35								
36								

(75-00-00) FIRE PREVENTION COMMISSION

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
				(75-01-01) Office of the State Fire Marshal				
		25.7	21.3	Personnel Costs			1,050.4	1,049.7
				Travel			34.0	
				Contractual Services			120.3	54.1
				Energy				40.8
				Supplies and Materials			71.0	27.5
				Capital Outlay			92.5	88.8
				Other Items:				
				Revenue Refund			1.5	
		25.7	21.3	Juvenile Firesetter Intervention Program				2.0
				TOTAL -- Office of the State Fire Marshal			1,369.7	1,262.9
				(75-02-01) State Fire School				
			18.0	Personnel Costs				761.7
				Contractual Services				200.0
				Energy				115.6
				Capital Outlay				90.8
				Other Items:				
				Fire School Operations			50.0	
				Local Emergency Planning Committee			50.0	
				Stress Management				5.0
				Debt Service				352.4
			18.0	TOTAL -- State Fire School			100.0	1,525.5
				(75-03-01) State Fire Prevention Commission				
			1.0	Personnel Costs				36.6
				Travel				21.5
				Contractual Services			7.5	25.0
				Supplies and Materials				2.6
				Other Items:				
				State-wide Fire Safety Education				75.0
				Contingency - Extraordinary Expenses				20.0
				Debt Service				106.1
			1.0	TOTAL -- State Fire Prevention Commission			7.5	286.8
		25.7	40.3	TOTAL -- FIRE PREVENTION COMMISSION			1,477.2	3,075.2

Year ending June 30, 1998

(76-00-00) DELAWARE NATIONAL GUARD

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

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
Other Items:
Educational Assistance
Sick-Leave Entitlements
Unit Fund Allowance
Widows Compensation Fund
Debt Service

**TOTAL -- DELAWARE NATIONAL
GUARD**

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
			1,455.9
			4.7
			303.4
			400.0
			94.5
			37.8
			0.0
			5.2
			0.0
			240.4
			2,541.9

(77-00-00) ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS

Personnel		
NSF	ASF	GF

(77-01-01) Advisory Council For
Exceptional Citizens

S Program		S Line Item	
ASF	GF	ASF	GF

		2.0
		2.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials

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

	74.1
	5.2
	6.5
	0.6
	86.4

(90-00-00) HIGHER EDUCATION

	Personnel			\$ Program		\$ Line Item	
	NSF	ASF	GF	ASF	GF	ASF	GF
(90-01-00) University of Delaware							
(90-01-01) University of Delaware							
Operations						71,705.9	
Scholarships						5,693.4	
Agricultural Programs						1,839.2	
Other Programs						4,399.2	
The College School						72.9	
Medical Technology						33.3	
Debt Service						6,991.0	
MCI/Equipment						1,000.0	
TOTAL -- University of Delaware						91,734.9	
(90-01-02) Delaware Geological Survey							
Operations						1,065.9	
River Master Program						84.5	
TOTAL -- Delaware Geological Survey						1,150.4	
TOTAL -- University of Delaware						92,885.3	
(90-03-00) Delaware State University							
(90-03-01) Operations							
Operations						20,363.1	
Administrative Computing						125.0	
Work Study						179.5	
Summer School for Teachers						86.0	
Faculty Development						100.0	
Mishoe Scholarships						50.0	
Cooperative Extension						15.1	
Cooperative Research						88.6	
Title VI Compliance						120.0	
Academic Incentive						50.0	
General Scholarships						184.0	
Athletic Grant						133.1	
Aid to Needy Students						120.0	
Energy						1,272.1	
Debt Service						4,377.1	
MCI/Equipment						1,110.0	
TOTAL -- Operations						28,373.6	
(90-03-05) Sponsored Programs and Research							
TOTAL -- Delaware State University						28,373.6	

Year ending June 30, 1998

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(90-04-00) Delaware Technical and				
2				Community College				
3				(90-04-01) Office of the President				
4				Personnel Costs			2,352.2	
5				Travel			6.5	
6	10.0		36.0	Contractual Services			155.2	
7				Capital Outlay			2.0	
8				Energy			24.6	
9				Supplies and Materials			29.7	
10				Occupational Teacher Program			36.8	
11				Academic Incentive			50.0	
12				Dental Program			78.8	
13				Day Care Training			40.0	
14				Salary Plan A & D			526.9	
15				Parallel Program - Operations			249.4	
16				Parallel Program - Academic			1,231.7	
17				Debt Service			14.7	
18				MCI/Equipment			50.0	
19	10.0		36.0	TOTAL -- Office of the President			4,848.5	
20								
21				(90-04-02) Owens Campus				
22				Personnel Costs			9,930.2	
23	49.0		174.0	Contractual Services			39.8	
24				Energy			385.2	
25				Supplies and Materials			4.0	
26				Grants			38.2	
27				Aid-to-Needy Students			132.8	
28				Work Study			16.5	
29				Debt Service			2,114.7	
30				Capital/Books			42.4	
31				MCI/Equipment			350.0	
32	49.0		174.0	TOTAL -- Owens Campus			13,053.8	
33								
34				(90-04-04) Wilmington Campus				
35				Personnel Costs			7,444.9	
36	30.0		132.0	Contractual Services			81.1	
37				Energy			348.2	
38				Capital Outlay			76.1	
39				Aid-to-Needy Students			109.8	
40				Grants			10.0	
41				Work Study			20.0	
42				Debt Service			931.4	
43				MCI/Equipment			530.0	
44	30.0		132.0	TOTAL -- Wilmington Campus			9,551.5	
45								
46								

Year ending June 30, 1998

Personnel		
NSF	ASF	GF

38.0		170.0
38.0		170.0

(90-04-05) Stanton Campus

Personnel Costs
Contractual Services
Energy
Capital Outlay
Aid-to-Needy Students
Grants
Work Study
Debt Service

TOTAL -- Stanton Campus

S Program		S Line Item	
ASF	GF	ASF	GF

	9,772.4
	113.2
	135.3
	9.0
	94.8
	5.0
	21.0
	830.2
	10,980.9

(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
MCI/Equipment

TOTAL -- Terry Campus

	5,777.7
	106.9
	193.0
	20.8
	55.0
	1.0
	120.8
	8.0
	11.0
	1,376.7
	51.8
	350.0
	8,072.7

TOTAL -- Delaware Technical and
Community College

	46,507.4
--	----------

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

Tuition Assistance

TOTAL -- Delaware Institute of Veterinary
Medical Education

	121.0
	121.0

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

Subvention

TOTAL -- Delaware Institute of Dental
Education and Research

	141.1
	141.1

164.5 618.0 TOTAL -- HIGHER EDUCATION

	168,028.4
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(95-00-00) PUBLIC EDUCATION

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(95-01-00) State Board of Education and State Board for Vocational Education and Department of Public Instruction						
53.6		91.8				6,792.2
						23.9
						165.0
						26.8
						37.6
						81.9
						37.3
						2.0
						1.0
						52.5
						30.0
4.9					268.4	324.8
						160.8
						350.0
		0.5				198.6
						150.0
						2,240.0
					100.0	829.5
						5,836.0
						1,191.3
					3.8	
					34.0	
					27.5	
					15.0	
1.0					88.3	
					40.0	
53.6	5.9	92.3	TOTAL -- State Board of Education and State Board for Vocational Education and Department of Public Instruction		577.0	18,531.2
53.6	5.9	92.3	(-01) State Board and Secretary of Education and Department of Public Instruction		577.0	18,531.2
53.6	5.9	92.3	TOTAL -- Internal Program Unit		577.0	18,531.2

NSF	ASF	GF
-----	-----	----

		10,135.2
		10,135.2

	10,135.2
	10,135.2

(95-02-00) School District Operations

Division I Units (6,642)
 Formula Salaries
 Cafeteria Funds
 Other Employment Costs
 Division II Units (7,586)
 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

S Program

ASF	GF
------------	-----------

S Line Item

ASF	GF
------------	-----------

	263,725.5
	3,524.3
	95,280.1
	23,910.9
	11,053.0
	49,132.8
	7,574.9
	384.9
	286.5
	2,494.9
	16,350.6
	473,718.4

	446,626.6
	8,246.3
	18,845.5
	<u>473,718.4</u>

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(95-03-00) Block Grants and Pass Through Programs				
2				Education Block Grants				
3				Adult Education and Work Force Training				
4				Grant				4,544.5
5				Professional Accountability and Instructional				
6				Advancement Fund				5,325.4
7				Academic Excellence Block Grant				24,913.5
8				K-12 Pass Throughs				
9				Delaware Nature Society				99.1
10				Beach House				70.0
11				Read Aloud				150.0
12				Strive				75.0
13				Summer School - Gifted & Talented				116.2
14				Center for Economic Education				171.2
15				Educational Resources				205.7
16				DE Institute for Arts in Education				105.0
17				Advanced Studies				97.2
18				Youth and Vocational Student Organization				148.2
19				Parent Early Education Center				688.9
20				Pregnant Students				243.1
21				Delaware Teacher Center				370.4
22				Project Assist				48.0
23				Magnet School Start-Up Grants				150.0
24	2.0		1.5	Smithsonian Project				428.3
25				On-Line Periodicals				210.0
26				Jobs for DE Graduates				223.8
27				National Geographic				50.0
28				Special Needs Programs				
29				Early Childhood Assistance				2,542.2
30			1.0	Program for Children with Disabilities				2,353.2
31				Unique Alternatives			500.0	3,400.0
32				Exceptional Student Unit - Vocational				608.0
33				Related Services for the Handicapped				1,868.4
34				Adolescent Day Program				36.0
35				Children Services Cost Recovery Project			591.0	
36				Sterek Summer Program				40.0
37				Tech-Prep 2 + 2				381.1
38				Student Discipline Program				8,348.7
39				Extra Time for Students				7,650.0
40				Driver Training				
41				Driver's Education				1,026.6
42	2.0		2.5	TOTAL -- Block Grants and Pass Through Programs			1,091.0	66,598.5
43								
44				(-10) Education Block Grants		34,783.4		
45	2.0		1.5	(-15) K-12 Pass Throughs		3,560.9		
46			1.0	(-20) Special Needs Programs	1,091.0	27,227.6		
47				(-30) Driver Training		1,026.6		
48	2.0		2.5	TOTAL -- Internal Program Units	1,091.0	66,598.5		

Year ending June 30, 1998

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2				(95-04-00) Pupil Transportation				
3				Public School Transportation				44,885.0
4				Non-Public School Transportation				3,000.0
5				Reimbursement				
6				TOTAL -- Pupil Transportation				47,885.0
7								
8				(-01) Transportation		47,885.0		
9				TOTAL -- Internal Program Unit		47,885.0		
10								
11								
12				(95-06-00) Delaware Advisory Council on				
13				Career and Vocational Education				
14			3.5	Personnel Costs				230.9
15				Travel				11.1
16				Contractual Services				46.7
17				Supplies and Materials				3.8
18				Capital Outlay				1.0
19				TOTAL -- Delaware Advisory Council on Career				293.5
20			3.5	and Vocational Education				
21								
22				(-01) Advisory Council		293.5		
23			3.5	TOTAL -- Internal Program Unit		293.5		
24								
25								
26				(95-07-00) Delaware Center for Educational				
27				Technology				
28				Personnel Costs				486.5
29	2.0		6.0	Operations				121.0
30				TOTAL -- Delaware Center for Educational				607.5
31	2.0		6.0	Technology				
32								
33				(-01) Delaware Center for Educational		607.5		
34	2.0		6.0	Technology		607.5		
35				TOTAL -- Internal Program Unit		607.5		
36	2.0		6.0					
37								
38				(95-08-00) Delaware Higher Education Commission				
39				Personnel Costs				301.3
40			6.0	Travel				5.5
41				Contractual Services				35.3
42				Supplies and Materials				2.7
43				Scholarships and Grants				1,641.4
44				TOTAL -- Delaware Higher Education Commission				1,986.2
45			6.0					
46				(-01) Delaware Higher Education		1,986.2		
47			6.0	Commission		1,986.2		
48				TOTAL -- Internal Program Unit		1,986.2		
49			6.0					
50								
51								
52	57.6	5.9	10,245.5	TOTAL -- PUBLIC EDUCATION			1,668.0	609,620.3

Year ending June 30, 1998

Personnel				
TFO	TFC	NSF	ASF	GF

S		
TTF	ASF	GF

TOTALS

1,235.0	234.0	1,648.8	1,230.4	10,482.3	TOTAL - DEPARTMENTS	170,660.7	306,365.2	1,012,133.6
		164.5		618.0	TOTAL - HIGHER EDUCATION			168,028.4
		57.6	5.9	10,245.5	TOTAL - PUBLIC EDUCATION		1,668.0	609,620.3
1,235.0	234.0	1,870.9	1,236.3	21,345.8	GRAND TOTAL	170,660.7	308,033.2	1,789,782.3

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 or funding mean funding from the following:

ASF - Appropriated Special Funds

NSF - Non-appropriated Special Funds

TFO - Trust Fund Operations

TFC - Trust Fund Capital

Section 8. MERIT SYSTEM AND MERIT COMPARABLE SALARY SCHEDULES

(a) The General Assembly of the State of Delaware supports the state-wide policy that the pay plan for Merit System employees be developed in accordance with the results of valid surveys of salaries provided by a defined labor market. The Director of State Personnel shall conduct such surveys on a yearly basis and report the findings of such surveys by December 15 to the Governor and members of the General Assembly who will be responsible for recommending and approving yearly adjustments as are necessary to maintain the competitive posture of the plan. As the Director of State Personnel has conducted the required surveys for the fiscal year ending June 30, 1998, and as the Governor and members of the General Assembly have reviewed the findings of such surveys, effective July 1, 1997, 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	13,490	16,862	20,235
2	14,433	18,041	21,650
3	15,446	19,307	23,169
4	16,524	20,655	24,787
5	17,684	22,104	26,526
6	18,922	23,651	28,382
7	20,242	25,302	30,364
8	21,660	27,075	32,491
9	23,178	28,972	34,767
10	24,801	31,000	37,201
11	26,534	33,168	39,802
12	28,393	35,491	42,590
13	30,381	37,976	45,571
14	32,504	40,630	48,756
15	34,782	43,477	52,173
16	37,219	46,524	55,829
17	39,824	49,779	59,736
18	42,608	53,260	63,912
19	45,593	56,990	68,389
20	48,787	60,983	73,180
21	52,200	65,249	78,299
22	55,854	69,817	83,781
23	59,764	74,704	89,646

PAY GRADE	80% of Midpoint	100% of Midpoint	120% of Midpoint
24	63,950	79,937	95,925
25	68,424	85,530	102,636
26	73,214	91,517	109,821

* - Annual Salary in Whole Dollars

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	14,389	17,985	21,583
2	15,396	19,244	23,093
3	16,473	20,591	24,710
4	17,626	22,032	26,439
5	18,862	23,577	28,293
6	20,181	25,225	30,271
7	21,593	26,991	32,389
8	23,106	28,882	34,659
9	24,722	30,902	37,082

PAY GRADE	80% of Midpoint	100% of Midpoint	120% of Midpoint
10	26,453	33,066	39,679
11	28,302	35,377	42,453
12	30,286	37,857	45,429
13	32,405	40,506	48,608
14	34,675	43,343	52,012
15	37,101	46,376	55,652
16	39,701	49,626	59,552
17	42,478	53,097	63,717
18	45,449	56,811	68,174
19	48,632	60,790	72,949
20	52,038	65,047	78,057
21	55,681	69,601	83,521
22	59,579	74,474	89,369
23	63,748	79,684	95,622
24	68,212	85,265	102,319
25	72,987	91,233	109,480
26	78,094	97,617	117,141

* - Annual Salary in Whole Dollars

- (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) and Telecommunication Central Control Specialist series in the Department of Public Safety, Toll Collectors, Toll Supervisors, Toll Corporals, Toll Sergeants in the Department of Transportation, 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, 1998, 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 1998 shall be limited to those governments and institutions of higher education as follows:

<u>DELAWARE</u>	<u>Other Counties and Municipalities</u>	<u>Other States</u>
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 1998 shall be calculated in the same manner as Fiscal Year 1997, using a comparable 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, 1997, 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, 1997, prior to application of the general increase outlined in Section 8(d)(1), whose salary in effect as of June 30, 1997, 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, 1997, after the application of the general increase outlined in Section 8(d)(1), whose salary in effect as of June 30, 1997, 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 1997, shall have their midpoints reduced by seven percent effective July 1, 1997. 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, 1997, 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, 1997.

(d) SALARY INCREASES FOR FISCAL YEAR 1998.

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, 1997, 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, 1997, is near or above the maximum salary of the assigned paygrade of the pay plan in effect on July 1, 1997, 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.
 - (iv) Effective July 1, 1997, and after the application of the general increase contained in (i) and (ii) of this Section, the salary of each Merit system employee whose salary as of June 30, 1997 is below the maximum of the assigned pay grade, shall be increased by \$300.00 or by an amount that would increase the employee salary to the maximum for the assigned pay grade, whichever is less.
- (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, 1997, 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. Maintenance Review classification determination may be appealed to the Merit Employee Relations Board in accordance with Title 29, Section 5915 Delaware Code. Paygrade determinations shall not be appealed.

(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, 1998, or July 1, 1998, 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. Critical reclassification requests and paygrade determinations shall not be appealed to the Merit Employee Relations Board.

(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, 1998.

(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 \$18,204.00, 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, 1998, 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. A performance review shall be completed for employees between January 1 and December 31, 1997.

(4) VOLUNTARY DEMOTION.

Employees who retain salary upon voluntary demotion in accordance with Merit Rule 13.0340 shall be ineligible for a promotional increase upon promotion to a paygrade lower than their original paygrade prior to voluntary demotion for a 1 year period from the date of their voluntary demotion.

HOLIDAY PAY - DEPARTMENT OF TRANSPORTATION TOLL COLLECTION**EMPLOYEES**

(i) Merit Rules 5.1410 and 5.1411 notwithstanding, all Department of Transportation employees directly engaged in toll collection operations shall be entitled to receive compensation at their normal rate of pay for holidays in lieu of compensatory time, and they shall also be entitled to receive compensation at the rate of time and one half for those hours worked on a holiday.

OVERTIME FOR WEATHER RELATED EMERGENCIES -**DEPARTMENT OF TRANSPORTATION EMPLOYEES**

(j) Department of Transportation Maintenance Area Yard personnel responding to weather related emergencies shall be entitled to receive compensation at one and one half times their normal rate of pay for all overtime services performed beyond the normal work week. This shall apply to employees classified through the Area Supervisor level. All additional personnel assigned to assist the area yards during weather related emergencies who are not covered under the Fair Labor Standards Act shall be entitled to receive compensation at their straight time rate of pay for all overtime services performed beyond the normal work week.

CALL BACK PAY - HIGHWAY EMERGENCY RESPONSE TEAM

(k) The Merit Rules notwithstanding, employees designated as Highway Emergency Response Team members shall be eligible for call back pay regardless of their classification.

STANDBY PAY - HIGHWAY EMERGENCY RESPONSE TEAM

(l) The Merit Rules notwithstanding, employees designated as Highway Emergency Response Team members shall be eligible for standby pay regardless of their classification.

SALARY PLAN - PUBLIC EDUCATION

(m) Salary schedules and staffing formulas contained in Title 14, Chapter 13, Delaware Code, shall be revised as specified in this Subsection.

- (1) Amend Title 14, Subsection 1305(b), Delaware Code, by striking the words, "1997, shall be \$17,674.00." as it appears therein and by substituting in lieu thereof the value, " 1998, shall be \$18,204.00."
- (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	Clerk	Secretary	Senior Secretary	Financial Secretary	Administrative Secretary
0	9,778	11,117	11,893	12,347	13,100
1	10,267	11,624	12,404	12,861	13,620
2	10,755	12,132	12,915	13,375	14,141
3	11,246	12,642	13,425	13,886	14,660
4	11,733	13,150	13,935	14,400	15,181
5	12,223	13,659	14,448	14,913	15,701
6	12,710	14,167	14,959	15,427	16,223

7	13,200	14,674	15,469	15,940	16,742
8	13,690	15,184	15,979	16,453	17,263
9	14,178	15,692	16,489	16,967	17,783
10	14,667	16,200	17,000	17,481	18,302
11	15,156	16,709	17,510	17,994	18,822
12	15,645	17,216	18,022	18,507	19,343
13	16,133	17,725	18,533	19,020	19,864
14	16,622	18,235	19,043	19,535	20,383
15	17,111	18,743	19,554	20,048	20,905
16	17,600	19,251	20,064	20,560	21,424
17	18,090	19,760	20,575	21,074	21,944
18	18,578	20,268	21,086	21,587	22,464
19	19,067	20,777	21,597	22,102	22,985
20	19,555	21,285	22,107	22,615	23,505

(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	Custodian Fireman	Chief Custodian Supervising	Chief Custodian Supervising	Maintenance Mechanic	Building & Grounds Supervisor or
			5 or Fewer Custodians	6 or More Custodians		Skilled Craftsman
0	12,509	13,021	13,281	14,308	14,784	15,204
1	12,894	13,408	13,667	14,695	15,231	15,721
2	13,281	13,792	14,053	15,079	15,681	16,235
3	13,666	14,179	14,438	15,463	16,128	16,749
4	14,053	14,563	14,825	15,851	16,518	17,264
5	14,438	14,947	15,206	16,237	17,023	17,778
6	14,825	15,337	15,593	16,620	17,471	18,291
7	15,206	15,723	15,978	17,006	17,919	18,806
8	15,593	16,107	16,364	17,392	18,367	19,319
9	15,978	16,492	16,749	17,778	18,814	19,836

10	16,364	16,879	17,135	18,164	19,263	20,348
11	16,749	17,266	17,522	18,547	19,711	20,863

- (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	11,277	12,110	12,941	13,772	14,607	15,720	16,272
1	11,693	12,523	13,358	14,190	15,022	15,856	16,688
2	12,110	12,941	13,772	14,607	15,437	16,272	17,104
3	12,523	13,358	14,190	15,022	15,856	16,688	17,521
4	12,941	13,772	14,607	15,437	16,272	17,104	17,937
5	13,358	14,190	15,022	15,856	16,688	17,521	18,356
6	13,772	14,607	15,437	16,272	17,104	17,937	18,770
7	14,190	15,022	15,856	16,688	17,521	18,356	19,187
8	14,607	15,437	16,272	17,104	17,937	18,770	19,605
9	15,022	15,856	16,688	17,521	18,356	19,187	20,021
10	15,437	16,272	17,104	17,937	18,770	19,605	20,436
11	15,856	16,688	17,521	18,356	19,187	20,021	20,852
12	16,272	17,104	17,937	18,770	19,605	20,436	21,271
13	16,688	17,521	18,356	19,187	20,021	20,852	21,687
14	17,104	17,937	18,770	19,605	20,436	21,271	22,106
15	17,521	18,356	19,187	20,021	20,852	21,687	22,523

Salaries provided for in this schedule shall be paid to the school food service manager of a single cafeteria. A food service manager responsible for the preparation of food for more than one (1) cafeteria shall receive \$400 for each additional cafeteria. A manager of satellite cafeteria(s) shall receive the salary provided for in this schedules less \$200. A satellite cafeteria is defined as one where no basic food preparation takes place. A manager who manages more than one (1) cafeteria shall receive the salary provided in this scale using the total school enrollments of all cafeterias managed. The salaries listed in this schedule for school food service managers shall be increased for additional training as defined by the State Board of Education as follows:

One Year of College	\$439
Two Years of College	\$662
Bachelor's Degree	\$1,320"

- (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	6.49	7.21
1	6.61	7.31
2	6.74	7.43
3	6.82	7.52
4	6.93	7.64
5	7.08	7.80
6	7.20	7.89
7	7.28	7.96
8	7.35	8.04
9	7.45	8.16
10	7.55	8.28
11	7.70	8.40
12	7.83	8.52
13	7.93	8.62
14	8.03	8.72
15	8.16	8.86
16	8.29	8.99

17

8.42

9.08

(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	9,077	11,099
1	9,378	11,470
2	9,681	11,839
3	9,985	12,211
4	10,288	12,579
5	10,589	12,951
6	10,891	13,320
7	11,194	13,691
8	11,497	14,060
9	11,801	14,430
10	12,103	14,799
11	12,404	15,171
12	12,708	15,540
13	13,010	15,910
14	13,312	16,279
15	13,615	16,651
16	13,918	17,020
17	14,220	17,391
18	14,522	17,759
19	14,826	18,130
20	15,128	18,500

- (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 - \$65.32 per day

Class B - \$52.76 per day

Class C - \$40.17 per day

- (n) Each school district shall continue to use salary schedules not less than those in Title 14, Section 1322, Delaware Code, for all school lunch employees.

(o) Effective July 1, 1997, the State shall pay 43 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 38 percent of the salary rate for school lunch employees as set forth in the salary schedule in Title 14, Section 1322(c), Delaware Code. The remaining percentage of the hourly salary rate for school lunch employees shall be paid from local funds. The State shall pay other employment costs for school lunch employees at the ratio of state supported salaries to total salaries, provided for by this Section, for school lunch employees.

(p) No provision in this Act shall be construed as affecting the eligibility of school lunch employees as an employee under Title 29, Section 5501, Delaware Code.

(q) Section 1 of this Act provides an amount for salaries and other employment costs for Formula Employees in Public Education. Additional amounts are included in some Block Grants and Pass Through Programs (95-03-00). Local school districts must charge payroll for local share salary supplements and other employment costs and fringe benefits on a semi-monthly basis simultaneously with state-share charges. The amount of salary and other employment costs that can be charged to state appropriations for any one-day period or for any one individual cannot exceed the amount the individual is entitled to receive based on the state salary schedules provided by this Act and Title 14, Chapter 13, Delaware Code, divided by the number of pays the individual has chosen to schedule per year. The provisions of this Section do not apply to Division III - Equalization (Appropriation 0186) which may be charged for local contractual obligations before local current operating funds are used.

SALARY PLAN - DELAWARE TECHNICAL AND COMMUNITY COLLEGE

(r) For each fiscal year, the minimum increase for a Plan A or Plan D employee shall be one-half of the general increase of the current fiscal year for all eligible merit and merit comparable state employees.

Section 2. (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, 1998, the salaries displayed below represent the salary effective on July 1, 1997.

Budget Unit	Line Item	General Funds	All Other Funds
(01-01-01)	Representative	28.3	
(01-02-01)	Senator	28.3	
(02-01-00)	Chief Justice - Supreme Court	125.6	
(02-01-00)	Justice - Supreme Court	121.2	
(02-02-00)	Chancellor - Court of Chancery	119.6	
(02-02-00)	Vice Chancellor - Court of Chancery	115.3	
(02-03-00)	President Judge - Superior Court	119.6	
(02-03-00)	Associate Judge - Superior Court	115.3	
(02-03-00)	Commissioner - Superior Court	61.0	
(02-03-00)	New Castle County Prothonotary	49.2	
(02-03-00)	Kent County Prothonotary	42.0	
(02-03-00)	Sussex County Prothonotary	39.3	
(02-06-00)	Chief Judge - Court of Common Pleas	118.3	
(02-06-00)	Judge - Court of Common Pleas	112.3	
(02-06-00)	Commissioner - Court of Common Pleas	61.0	
(02-08-00)	Chief Judge - Family Court	118.3	
(02-08-00)	Associate Judge - Family Court	112.3	
(02-08-00)	Commissioner - Family Court	61.0	
(02-13-00)	Chief Magistrate - Justice of the Peace Courts	82.5	
(02-13-00)	Magistrate - Justice of the Peace Courts - 1st Term	46.9	
(02-13-00)	Magistrate - Justice of the Peace Courts - 2nd Term	48.4	
(02-13-00)	Magistrate - Justice of the Peace Courts - 3rd Term	50.0	
(02-17-00)	Director - Administrative Office of the Courts	90.4	

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(02-18-00)	Public Guardian	51.6	
(02-18-00)	Executive Secretary - Violent Crimes Compensation Boards		49.6
(02-18-00)	Executive Director - Foster Care Review Board	46.5	
(10-01-01)	Governor	107.0	
(10-02-00)	Budget Director	96.3	
(10-03-01)	Director - Delaware Economic Development Office	89.9	
(10-03-04)	Director - State Housing Authority		79.1
(10-04-00)	Personnel Director	89.9	
(10-06-00)	Executive Director - Information Services	96.3	
(10-07-01)	Executive Director - CJC	69.7	
(10-07-02)	Executive Director - DELJIS	61.5	
(10-07-03)	Executive Director - SAC	68.9	
(12-01-01)	Lieutenant Governor	44.6	
(12-02-01)	Auditor	76.2	
(12-03-01)	Insurance Commissioner	76.2	
(12-05-01)	State Treasurer	79.7	
(15-01-01)	Attorney General	99.1	
(15-01-01)	Chief Deputy Attorney General	96.7	
(15-02-01)	Public Defender	79.7	
(15-03-01)	Parole Board Chairman	61.8	
(20-01-00)	Secretary - State	89.9	
(20-02-00)	Director - Human Relations	54.5	

Budget Unit	Line Item	General Funds	All Other Funds
(20-05-00)	Director - Corporations	36.45	36.35
(20-06-00)	Director - Historical and Cultural Affairs	68.8	
(20-07-00)	Director - Arts	51.5	
(20-08-00)	State Librarian	65.4	
(20-15-00)	State Banking Commissioner		83.4
(25-01-00)	Secretary - Finance	96.3	
(25-05-00)	Director - Accounting	80.0	
(25-06-00)	Director - Revenue	93.0	
(25-07-00)	Director - State Lottery		71.3
(30-01-00)	Secretary - Administrative Services	83.8	
(30-01-00)	Director - Administration	67.8	
(30-01-00)	Executive Director - Public Employment Relations Board	58.6	
(30-03-00)	Public Advocate		59.4
(30-03-00)	Director - Public Service Commission		67.6
(30-03-00)	Director - Professional Regulation		61.2
(30-04-00)	Director - Support Operations		59.3
(30-05-00)	Director - Facilities Management	72.4	
(30-05-00)	Executive Secretary - Architectural Accessibility Bd.	34.1	
(30-06-00)	Director - Purchasing	62.2	
(35-01-00)	Secretary - Health and Social Services	96.3	
(35-01-00)	Director - Management Services	72.2	7.8
(35-04-00)	Chief Medical Examiner	118.9	

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(35-05-00)	Director - Public Health	124.1	
(35-06-00)	Director - Alcoholism, Drug Abuse & Mental Health	106.5	
(35-07-00)	Director - Social Services	42.65	42.65
(35-08-00)	Director - Visually Impaired	60.0	
(35-10-00)	Director - Child Support Enforcement	45.8	22.5
(35-11-00)	Director - Mental Retardation	85.4	
(35-12-00)	Director - State Service Centers	66.2	
(35-12-00)	Director - Community Services	55.2	
(35-14-00)	Director - Services for Aging and Adults with Physical Disabilities	65.4	
(37-01-00)	Secretary - Services for Children, Youth and Their Families	96.3	
(37-01-00)	Director - Management Services	74.7	
(37-02-00)	Director - Family Services	84.0	
(37-03-00)	Director - Child Mental Health Services	96.2	
(37-05-00)	Director - Youth Rehabilitative Services	80.4	
(38-01-00)	Commissioner - Correction	89.9	
(38-01-00)	Bureau Chief - Management Services	67.2	
(38-04-00)	Bureau Chief - Prisons	85.4	
(38-06-00)	Bureau Chief - Community Corrections	77.3	
(40-01-00)	Secretary - Natural Resources and Environmental Control	89.9	
(40-01-00)	Deputy Secretary - Natural Resources and Environmental Control	76.6	

Budget Unit	Line Item	General Funds	All Other Funds
(40-05-00)	Director - Fish and Wildlife	34.95	34.95
(40-06-00)	Director - Parks and Recreation	73.9	
(40-07-00)	Director - Soil and Water Conservation	70.3	
(40-08-00)	Director - Water Resources	78.8	
(40-09-00)	Director - Air and Waste Management	81.9	
(45-01-00)	Secretary - Public Safety	89.9	
(45-01-00)	Director - Boiler Safety	46.9	
(45-01-00)	Director - De. Emergency Management Agency	28.55	28.65
(45-04-00)	Director - Alcoholic Beverage Control Commission	60.6	
(45-06-00)	Superintendent - State Police	93.1	
(45-06-00)	Assistant Superintendent - State Police	85.4	
(45-07-00)	Director - Motor Vehicles	72.8	
(55-01-01)	Secretary - Transportation		89.9
(55-01-01)	Chief Engineer		87.1
(55-02-01)	Director - Administration		73.8
(55-03-01)	Director - Transportation Planning		87.1
(55-04-01)	Director - Highway Operations		87.1
(55-06-01)	Director - Delaware Transit Corporation		87.1
(60-01-00)	Secretary - Labor	8.3	75.5
(60-06-00)	Director - Unemployment Insurance		70.8
(60-07-00)	Director - Industrial Affairs		70.8
(60-08-00)	Director - Vocational Rehabilitation		70.8

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(60-09-00)	Director - Employment and Training	4.2	66.6
(65-01-00)	Secretary - Agriculture	83.8	
(65-01-00)	Deputy Secretary - Agriculture	63.3	
(70-01-01)	Commissioner - Elections	50.5	
(70-02-01)	Administrative Director - New Castle Co. Elections	47.3	
(70-02-01)	Deputy Administrative Director - New Castle County Elections	46.7	
(70-03-01)	Administrative Director - Kent County Elections	47.3	
(70-03-01)	Deputy Administrative Director - Kent Co. Elections	46.7	
(70-04-01)	Administrative Director - Sussex County Elections	47.3	
(70-04-01)	Deputy Administrative Dir. - Sussex Co. Elections	46.7	
(75-01-01)	State Fire Marshal	40.4	19.7
(75-02-01)	Director - State Fire School	60.1	
(76-01-01)	Adjutant General	78.2	
(95-01-00)	Secretary of Education	113.7	
(95-01-00)	Deputy Secretary of Education	96.3	
(95-06-00)	Executive Secretary - Advisory Council on Career and Vocational Education	75.9	
(95-08-01)	Executive Director - Higher Education Commission	61.2	

(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 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, 1998, 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 1998 and the number of points of any recommended changes for any position for Fiscal Year 1999.

(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.

(e) For Fiscal Year 1998, the Budget Director and the Controller General shall have the authority to shift funding sources for the position of Executive Secretary - Advisory Council on Career & Vocational Education (95-06-00) to meet federal fund availability.

		July 1, 1997	
		General	All Other
Budget Unit	Line Item	Funds	Funds
(10-02-00)	Higher Education Commissioners	2.4	
(10-04-00)	Board Members - Pensions		9.6
(15-01-01)	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 Regulation		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	153.0
(70-02-01)	Board Members - New Castle County Elections	21.5
(70-03-01)	Board Members - Kent County Elections	13.0
(70-04-01)	Board Members - Sussex County Elections	13.0
(95-01-01)	Board Members - State Board of Education	8.4

(f) Amend Title 29, Section 710, Delaware Code by deleting subsection (c) in its entirety and substituting in lieu thereof the following:

"(c) Any member of the Senate or the House of Representatives who is elected or appointed to any of the following positions shall, while serving in such position, receive additional yearly compensation as follows:

1. President Pro Tempore of the Senate	\$11,592.00
2. Speaker of the House of Representatives	11,592.00
3. Majority and Minority Leader of the Senate	9,028.00
4. Majority and Minority Leader of the House	9,028.00
5. Chairperson and Vice Chairperson of the Joint Finance Committee	8,359.00
6. Majority and Minority Whip of the Senate	5,685.00
7. Majority and Minority Whip of the House	5,685.00
8. Members of the Joint Finance Committee	7,023.00
9. Chairperson & Vice Chairperson of the Capital Improvement Program Committee	3,340.00
10. Members of the Capital Improvement Program Committee	2,810.00

A member of the General Assembly shall be entitled to receive only the higher of any one of the above stipends. Such stipend shall commence immediately when such member is elected or appointed to such position. Payments to such members shall be as described in Title 29, Chapter 27, Section 2712 of the Delaware Code."

(g) 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, Executive Director of Educational Technology Center, 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, 1997, the State Personnel Director shall publish a list of exempt positions and the comparable Merit System class and/or paygrade for each position. In addition, such listing shall show the name of the incumbent, if the position is filled, and shall show the statutory citation which authorizes the establishment of the exempt position(s). The State Personnel Director shall provide copies of such listing to members of the Joint Finance Committee and the Controller General. No exempt employee shall be hired until an approved comparability has been assigned to the position. No reclassification/regrading, change in paygrade comparability of a filled or vacant exempt position, or change of a Merit System position to an exempt position otherwise permitted under Delaware Law shall become effective unless approved by the State Budget Director, State Personnel Director and the Controller General. In order to permit the development of the comparability list, state agencies shall provide to the State Personnel Director job descriptions of all exempt positions and position classification questionnaires describing the duties and responsibilities of each of the positions. The certification of comparability by the State Personnel Director shall not be withheld unreasonably. Those positions assigned on a list of comparability that are assigned a comparable class and/or paygrade in the Merit System shall be paid in accordance with Sections 8(c) and (d) of this Act and Merit System Rules 13.0110 and 5.0900 through 5.0931; no other salary increases shall be given to such employees unless specifically authorized in this Act.
- (b) The salary of employees whose salary in effect as of June 30, 1997, 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. 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 13. 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 14. 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 15. All state agencies and departments that 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 16. 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 facility's property, and do not directly pay energy bills, may not transfer energy funds other than to the host agency.

Section 17. Section 1 of this Act provides funding for a state employee pension rate of 11.29 percent. The components of the rate are approximately 5.76 percent for the pension liability, 3.20 percent for the retiree health insurance liability and 2.33 percent for the Post-retirement Benefit Fund. The 1991 Early Retirement Option (ERO) accounts for approximately .73 percent of the pension liability and .55 percent of the retiree health insurance liability.

Section 18. 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 19. 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 20. 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 21. 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 22. 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 23. 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 and Public Service Commission shall continue in Fiscal Year 1998.

Section 24. Notwithstanding the provisions of Title 29, Section 6340(a), Delaware Code, Section 1 of this Act summarizes salary and wage and other employment costs into a single line entitled "Personnel Costs."

Section 25. 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, the Department of Correction, and the Department of Transportation. 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 26. Amend Title 29, Chapter 27, Section 2712 of the Delaware Code by adding a new section to read as follows:

- "(f)(1) 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.
- (2) 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.
- (3) The Secretary of Finance may waive the requirements of Subsection (f)(1) of this section for any State employee upon request by the head of an agency or school district under standards prescribed by the Secretary of Finance.
- (4) The Director of State Personnel may waive the requirements of Subsection (f)(1) of this section for any State pensioner upon request by the Pension administrator under standards prescribed by the Director of State Personnel."

Section 27. For FY 1998, 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 28. Notwithstanding the provisions of Title 29, Section 6334(c), Delaware Code, for Fiscal Year 1999, 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.

Section 29. Amend Section 2712 (a), Title 29 of the Delaware Code by redesignating the existing paragraph (2) as paragraph (3) and by adding a new paragraph (2) to read as follows:

- "(2) Effective upon the inauguration of a Governor in January 2001, the salary of the Governor shall be paid semi-monthly, the fifteenth day of each calendar month and the last day of each calendar month. In any calendar month, the first payment of one half of the statutory or stipulated monthly salary or one twenty-fourth of the statutory or stipulated annual salary shall be made on the fifteenth day of such month and shall represent all wages earned during the period from the sixteenth day through and including the last day of the preceding month; and the second payment of the remaining one half of the statutory or stipulated monthly salary or one twenty-fourth of the statutory or stipulated annual salary shall be made on the last day of each month and shall represent all wages earned during the period from the first day through and including the fifteenth day of the current month."

Section 30. For purposes of implementation of the lag payroll for Higher Education and Public Education employees as defined in Title 29, Section 2712(a) of the Delaware Code, the semi-monthly compensation payable on September 15, 1997 for employees in departments 90, excluding the University of Delaware, and 95 shall be as follows:

All state officials and employees in departments 90, excluding the University of Delaware, and 95 shall be entitled to receive, on September 15, 1997, compensation equal to one twenty-fourth of their base pay in effect on September 1, 1997. For purposes of this section, base pay for the Department of Public Instruction, school districts and Delaware Technical and Community College employees shall be defined as annual pay plus base supplements as defined in Title 14, Chapters 13 and 92 of the Delaware Code plus any applicable Local or College Share. Base pay for Delaware State University, Delaware Advisory Council on Career and Vocational Education and the Center for Educational Technology shall be defined as annual pay plus any applicable Local or College Share based on the applicable pay scale in effect on September 1, 1997. This one-time adjustment shall be paid from funds in the normal proration of pay, except in school districts where Equalization Funds may be used in lieu of Local Funds. In addition, this one-time adjustment is not intended as a salary increase but shall be paid in addition to the salaries authorized in Section 1.

To receive the lag pay adjustment, the officer or employee, as defined by Title 29, Section 5501(a)(1) and (a)(2) of the Delaware Code, must have been employed by the State at the end of the 1996/1997 school year and shall not have been previously lagged. Any employee who had previously received a lag pay adjustment while employed by departments 01 - 77 in the implementation of lag pay shall not be entitled to receive the lag pay adjustment as described in this Section. In addition, for employees

returning to work after September 1, 1997 but before January 1, 1998, payment of the lag pay adjustment shall be made on the first pay day after returning to work.

If any officer or employee covered in this Section leaves state service prior to June 30, 1998 (or the last day of the 1997/1998 contract period, if prior to June 30, 1998), the employee must return the lag pay adjustment to the state.

Section 31. Section 229 of Volume 66 Laws of Delaware, Chapter 303, classified internal affairs investigator positions as exempt positions. To clarify the status of those employees, any and all Merit System employees who were internal affairs investigators and lost Merit System status as a result of the enactment of Section 229 and who have remained internal affairs investigators since July 1, 1988, with no breaks in service, shall be considered to be on leave of absence from the Merit System.

Section 32. (a) For the fiscal year ending June 30, 1997, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 1998.

Fiscal Year Appropriation	Account Codes	Remarks
1997	(01-05-01-01-40)	Travel
1997	(01-05-01-01-41)	Legislative Travel
1997	(01-05-01-01-50)	Contractual Services
1997	(01-05-01-01-98)	Eastern Regional Conference of State Legislatures
1997	(01-08-02-01-50)	Contractual Services
1997	(01-08-02-01-80)	Senior Center Reporting
1994/96/97	(01-08-02-01-70)	Capital Outlay
1997	(01-08-02-01-86)	Juvenile Detention Oversight Committee
1996	(01-08-02-01-87)	Contingency - Legal
1996	(01-08-02-01-99)	Development Projects
1997	(02-03-10-01-95)	One-Time (First Quality Improvement Program)
1997	(02-06-10-01-95)	One-Time (First Quality Improvement Program)
1996	(02-17-04-01-98)	Productivity Improvement Software
1996	(10-01-01-01-94)	Woodburn
1994/95/96/97	(10-02-01-01-82)	Computer One-times
1995/96/97	(10-02-01-01-85)	Data Development
1995/96/97	(10-02-01-01-91)	Budget Automation

Fiscal Year Appropriation	Account Codes	Remarks
1995	(10-02-01-01-92)	Integrated Management System
1997	(10-02-01-02-01)	Infrastructure
1995/96/97	(10-02-04-01-85)	Legal Obligations
1997	(10-02-04-01-92)	Family Services Cabinet Council
1996	(10-02-04-01-93)	Crime Bill Match
1995	(10-02-04-01-99)	Technology Initiative
1997	(10-02-07-09-75)	Scholarships
1997	(10-03-03-01-87)	Welfare Reform
1997	(10-03-03-01-98)	Business Marketing
1996/97	(10-04-02-01-98)	First Quality Fund
1997	(10-04-05-01-83)	Self Insurance
1995/97	(10-05-01-01-80)	Pilot Projects
1997	(10-05-01-01-82)	Program Evaluation
1996	(10-06-09-01-98)	One-times
1995	(10-06-09-01-97)	Technology Initiative
1995	(10-06-13-01-85)	Data Development
1997	(15-01-01-01-50)	Contractual
1997	(15-02-01-01-98)	One-Times (Automated Legal Research and Network Topography)
1996	(15-03-01-01-98)	One-Time (Computer Equipment)
1997	(20-01-02-01-98)	Merchant Marine Pay Bonus
1995	(20-06-01-01-81)	MCI/Equipment
1997	(20-06-01-01-98)	Oral Histories
1992	(20-06-02-01-80)	Markers
1994/96/97	(20-06-02-01-98)	Markers and Legislative Tape Preservation
1995	(20-06-02-01-98)	Historical Preservation

Fiscal Year Appropriation	Account Codes	Remarks
1997	(20-08-01-01-81)	DELNET
1997	(20-08-01-01-83)	Library System
1994	(20-08-01-01-98)	SARA Title 3
1997	(25-06-01-01-86)	Systems Development
1997	(25-06-01-01-98)	One-Times
1997	(30-04-20-01-98)	State Information Guide
1996	(30-05-10-01-98)	Carvel State Office Building Security
1995	(35-01-20-01-80)	Family Service Partnerships
1995	(35-01-20-01-84)	Electronic Benefit Transfer
1995	(35-01-20-01-87)	Electronic Benefit Transfer
1996	(35-01-20-01-91)	Electronic Benefit Transfer
1997	(35-01-20-01-83)	Electronic Benefit Transfer
1997	(35-01-20-01-92)	DPH Vaccine
1997	(35-01-20-01-93)	MCI Access
1997	(35-01-20-01-94)	CSE Enhance
1997	(35-01-20-01-95)	Client Benefit
1997	(35-05-20-01-83)	Hepatitis B
1996	(35-06-10-01-80)	First Quality Fund
1996	(35-06-10-01-98)	Managed Care One-times
1995	(35-07-01-01-99)	DCIS
1996	(35-12-10-01-98)	Family Service Partnerships
1997	(35-12-20-01-98)	One-Times
1997	(35-14-01-01-50)	Brain and Spinal Injury Contractual
1997	(37-01-15-01-80)	First Quality Improvement Funds

Fiscal Year Appropriation	Account Codes	Remarks
1997	(37-01-15-01-97)	M/R
1995	(37-05-50-01-98)	Ferris Retraining
1997	(37-05-50-01-98)	Secure Care - Ferris
1997	(38-01-01-01-98)	Moving Costs (data lines, furniture and other items)
1997	(38-01-10-01-80)	Warehouse
1997	(38-01-30-01-80)	Medical Services
1997	(38-01-40-01-99)	Maintenance and Restoration
1996	(38-04-01-01-82)	Drug Testing
1997	(40-06-01-01-80)	First Quality Fund
1997	(40-08-01-01-80)	Delaware Estuary Program
1996	(40-08-01-01-80)	Water Assessment Study
1993	(40-08-01-01-81)	Waterfund
1997	(40-08-02-01-98)	First Quality Fund
1996/97	(40-09-03-01-80)	Superfund
1997	(40-09-03-01-81)	Healthways
1997	(45-01-01-01-98)	Training
1986	(45-01-01-03-81)	Hazardous Waste Revolving Fund
1996	(45-02-10-01-81)	COPS Universal Hiring Program Match
1997	(45-02-10-01-98)	Training
1996	(45-06-03-01-81)	COPS Domestic Violence Unit Match
1997	(45-06-08-01-80)	Megan's Law
1996	(45-06-10-01-80)	MDT Match
1997	(45-07-01-01-80)	Megan's Law
1996	(45-07-01-01-98)	First Quality
1997	(45-07-20-01-98)	Training

Fiscal Year Appropriation	Account Codes	Remarks
1997	(60-09-20-01-88)	Individual Skills Grant
1997	(60-09-20-01-87)	Welfare Reform
1997	(70-04-01-01-98)	Road Naming/911 Project/Plotters/Voting Machine Cartridge
1997	(75-02-01-01-98)	In-house Computer System
1997	(75-03-01-01-98)	Governor's Fire Safety Conference
1997	(95-01-01-01-91)	Professional Standards
1997	(95-01-01-01-98)	One-Time Items
1997	(95-01-01-02-00)	Standards and Assessment
1996	(95-03-10-01-84)	New Directions
1996/97	(95-03-10-01-91)	Professional Development
1997	(95-03-10-01-93)	Shared Decision Making
1996	(95-03-10-01-93)	Shared Decision Making
1997	(95-03-15-01-27)	Smithsonian Project
1997	(95-03-20-01-53)	3-5 Program
1997	(95-03-20-01-82)	Early Childhood Assistance
1997	(95-04-01-01-90)	Public School Transportation
1994	(95-13-00-01-48)	Teacher in space
1997	(95-17-00-02-02)	Discipline Program-Prevention
1997	(95-23-00-02-02)	Discipline Program-Prevention
1997	(95-33-00-02-02)	Discipline Program-Prevention

(b) For the fiscal year ending June 30, 1997, any sums in appropriation 0208 (Magnet Grants) for Public Education shall remain as continuing and not be subject to reversion until September 30, 1997. Program expenses may not be incurred subsequent to the start of the regular 1997-98 school year.

(c) For the fiscal year ending June 30, 1997, any sums in appropriation 0193 (Shared Decision Making) for FY 1996 and FY 1997, for Public Education shall remain as continuing and not be subject to reversion until June 30, 1998.

(d) Of the Continuing Appropriation for FY 1996, (01-08-02-01-87), up to \$100.0 may be used for the Legislative Clean Air Policy Committee, Inc. legal and consulting expenses.

(e) For the Fiscal Year ending June 30, 1997, any sum in the Non-Title V 1995 appropriation (40-09-02-01-98) shall remain encumbered and shall not revert until June 30, 1998.

(f) It is the intent of the General Assembly that the following projects shall be funded from the appropriated funds provided in Laws of Delaware Volume 70, Chapter 425, Office of the Budget, Contingency and One-Time Items, Technology Fund (10-02-04-01-99):

02-08-10	Computer Equipment (Commissioners Unit)
02-08-10	Computer Equipment (CASA)
02-13-10	Installation and Equipment (Credit Card Project)
02-13-10	Computer Workstations (Courts 2,6,11)
02-17-04	Computer Equipment (Replacement)
02-17-04	Replace Servers - New Castle and Kent Counties
02-17-04	Banyan Server Upgrades
02-17-04	Telephone Arraignment Project (CCP)
02-17-04	Computer Equipment (Sr. App. Support Specialists)
10-03-03	Upgrade Server
10-04-02	Banyan Server
10-04-02	Computerized Applicant Testing
10-04-02	Computer Equipment
10-07-03	Computer Upgrades
12-02-01	Computer Equipment
12-05-01	Check Stuffer Equipment
15-01-01	Workstation Upgrades
15-01-01	Revise Server Protocol (Dover Office)
15-01-01	Computer Equipment (New Positions)
15-02-01	Computer (PD for Superior Court)
20-06-02	Upgrade Computers
20-06-03	GIS Map Scanning
20-08-01	Upgrade Computers
30-06-10	New Server
30-06-10	Upgrade Computers
35-08-01	Computers and Adaptive Equipment for DVI
35-12-20	Computer Upgrades - State Service Centers
35-14-01	Milford Telephone Systems
38-01-10	Computer and Office Equipment (New Positions)

38-06-02	Computer Equipment for Probation Officers
40-01-01	Database Coordination Project
45-01-20	Office Automation
65-01-01	Network Server
65-01-01	High Speed Terminals
75-01-01	PC Workstation
75-01-01	Software Enhancements
75-02-01	Replace PC Workstations

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's approval. These appropriations shall include only non-recurring expenditure items and the expenditure of these funds shall be subject to the restrictions of the Technology Fund Initiatives.

Section 33. Amend Section 6404(h)(3), Chapter 64, Title 29 of the Delaware Code by deleting the words:

"remit such reimbursements into a special fund account in the Office of the State Treasurer"
and by substituting in lieu thereof the words:
"credit such reimbursements to a special fund account."

Section 34. During Fiscal Year 1998, the State will reduce and consolidate 1-800 telephone lines to provide more efficient and effective customer service. As a result, supporting appropriations and allocations will be reduced or eliminated. With the concurrence of the Budget Director and the Controller General, the supporting Fiscal Year 1998 appropriations and allocations that will no longer be needed for 1-800 telephone costs shall be transferred to 30-04-50 for the operation of the Delaware HelpLine.

Section 35. Amend Section 5201(d), Chapter 52, Title 29 of the Delaware Code by striking the first sentence in its entirety and substituting in lieu thereof:

"The Group Health Insurance Committee shall be comprised of the Insurance Commissioner or designee, the State Treasurer or designee, the Budget Director or designee, the Controller General or designee and the State Personnel Director or designee."

Section 36. All agencies receiving an Energy appropriation in Section 1 of this Act must work through the Division of Purchasing, Department of Administrative Services, and the State Budget Office, Executive Department, to attain any contract(s) dealing with the retail wheeling of natural gas or electricity. This includes agencies 01 through 95 inclusive with the exception of the University of Delaware.

Section 37. During Fiscal Year 1998, the Group Health Committee shall consider several alternative benefit options, including but not limited to, an option to include mental health parity as part of the State Group Health Plan during the re-negotiation of the contract.

Section 38. (a) Amend §7102, Chapter 71, Title 29 of the Delaware Code by striking the number "20" as the same shall appear therein and inserting in lieu thereof the number "25".

(b) Amend §2803 (b), Chapter 28, Title 10 of the Delaware Code by striking the number "20" as the same shall appear therein and inserting in lieu thereof the number "25".

(c) Section 1 of this Act appropriates \$100.0 in Contingency - Mileage to the Office of the Budget, Budget Office - Contingencies (10-02-04). The Budget Director, with the concurrence of the Controller General, shall transfer prior to August 1, 1997, the contingency to the various departments for the specific purpose of funding the mileage increase from 20¢ to 25¢ for State employees.

Section 39. Amend Section 5209, Subsection C, Chapter 52, Title 29 of the Delaware Code by striking the words "Any per diem employee of the Delaware General Assembly who has" as they appear in the first sentence of said subsection and inserting in lieu thereof the words "All per diem and contractual employees of the Delaware General Assembly who have".

Section 40. During Fiscal Year 1998, the Delaware Higher Education Commission (DHEC) shall review the Southern Regional Education Board (SREB) programs and its potential impact on Delaware students. In addition, DHEC shall review and develop additional guidelines, if necessary, with respect to the

portability of Scholarship Incentive Grants (ScIP) to students attending out-of-state institutions. No later than November 15, 1997, DHEC shall provide a report including recommendations with respect to the ScIP portability issue and a cost-benefit analysis of the SREB program to the State Budget Director and Controller General. If during Fiscal Year 1998 DHEC, the State Budget Director and Controller General recommend participation in SREB, DHEC will be permitted to utilize up to \$145,000 of the ScIP appropriation upon approval of the State Budget Director and the Controller General.

Section 41. Members of the Board overseeing the Delaware Qualified Tuition Savings Program may be reimbursed for mileage expenses incident to their duties.

Section 42. Section One of this Act provides \$524.0 in General Funds to the Office of the Budget, Contingency and One-Times (10-02-04) for costs associated with the maintenance of the following parks effective May 1, 1998:

1. Brandywine Park
2. Rockford Park
3. Baynard Stadium
4. Wilmington Zoo
5. Alapocas Woods Natural Area

If the maintenance of these parks should include personnel costs and/or positions, the State Budget Director and the Controller General, shall have the authority to create and establish the necessary state positions during Fiscal Year 1998. It is the intent of the General Assembly that the State of Delaware will assume all responsibilities for these parks effective July 1, 1998. All equipment associated with these parks shall be transferred to the State at that time. These appropriations and possible position authorizations are contingent upon the enactment of Senate Bill No. 148 of the 139th General Assembly. Should this legislation not be enacted into law, these appropriations shall revert to the General fund.

Section 43. Section One of this Act provides \$262.0 in General Funds for the costs associated with Municipal Court. It is the intent of the General Assembly that the State of Delaware will assume all responsibilities for Municipal Court, effective May 1, 1998. These appropriations and position authorizations are contingent upon the enactment of Senate Bill No. 148 of the 139th General Assembly. Should this legislation not be enacted into law, these appropriations shall revert to the General Fund and the position authorization shall be rescinded.

LEGISLATIVE

Section 44. 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 45. 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 46. 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 47. The Hay points and the salary schedule for the Controller General shall be calculated in a manner comparable to division directors.

Section 48. Section 1 appropriates \$40.0 to 01-08-02, Office of the Controller General, for Contingency - University of Delaware Senior Center Update. These funds will be used to reimburse Senior Centers that receive grant-in-aid funding for investment in approved software to record attendance and programs. Reimbursement will be on a first-come-first serve basis and will be limited to a maximum of \$2.0.

JUDICIAL

Section 49. Section 1 of this Act provides an appropriation to the Department of Services For Children, Youth And Their Families, Division of Youth Rehabilitation Services, Secure Care (37-05-50) for Contractual Services. Of that amount up to \$100.0 shall be used for pre-trial diversion in the Superior Court (02-03-10).

Section 50. 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 51. 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 52. For the fiscal year ending June 30, 1997, any sums in the following accounts appropriated for the purpose of merging the Wilmington Municipal Court into the State's court system shall remain as continuing appropriations and shall not be subject to reversion until June 30, 1998.

1996 (02-17-01-01-82)	Municipal Court Merger
1996 (02-06-10-01-98)	Computers/Furniture--Municipal Court Merger
1996 (02-13-10-01-98)	Computers/Furniture--Municipal Court Merger

These appropriations are contingent upon enactment of legislation authorizing this merger. If this legislation is enacted the funds held in line 02-17-01-01-82 shall be distributed in the following manner: \$218.1 to the Court of Common Pleas (02-06-10) and \$315.5 to the Justices of the Peace Courts (02-13-10). Also upon enactment of this legislation the General Fund complements of these courts shall be increased: 14.0 General Fund FTEs for the Court of Common Pleas (02-06-10) and 16.0 General Fund FTEs for the Justices of the Peace Courts (02-13-10).

Section 1 of this Act contains FY 1998 appropriations of \$168.3 for the Court of Common Pleas (02-06-10) and \$11.5 for the Justices of the Peace Court (02-13-10) to be used for the purpose of merging the Wilmington Municipal Court into the State court system. The use of these funds is contingent upon the enactment of legislation authorizing this merger. If authorizing legislation is not enacted these funds are to be placed in a special line within the Administrative Office of the Courts, Office of the Director (02-17-01). Upon enactment of the legislation authorizing the merger, the amount of one-time funding in 1996, 02-13-10-01-98 shall be reduced by \$15.0 and the amount of one-time funding in 1996, 02-06-10-01-98 shall be increased by \$15.0.

Section 53. Law clerk positions in the Court of Common Pleas (02-06-00) and the Justices of the Peace Court (02-13-00) shall be exempt positions and shall be excluded from classified service as defined under Title 29 Delaware Code, Section 5903.

Section 54. Section 1 of this Act authorizes the transfer of \$40.0 from the Administrative Office of the Courts, Judicial Information Center (02-17-04) to the Office of Information Services, Production (10-06-09) for the provision of mainframe computing services to the judicial branch. This amount shall be returned to the Administrative Office of the Courts, Judicial Information Center (02-17-04) in the event that the Judicial Information Center resumes mainframe computing operations.

Section 55. Funds remaining in the Administrative Office of the Courts, Judicial Information Center (02-17-04) FY 1996 one-time appropriation "Productivity Improvement Software" are reauthorized to be

used to purchase hardware, software and software development for the implementation of the Automated Sentencing Order Project.

Section 56. Section 1 of this Act appropriates \$214.3 to the Administrative Office of the Courts (02-17-01) for Victim-Offender Mediation Programs in New Castle and Kent Counties. Agencies receiving funds for these programs in FY 1997 pursuant to Volume 70, Chapter 444, Laws of Delaware, are authorized to continue funding for such programs until such time as the Victim-Offender Mediation Committee meets to award program funding for FY 1998.

EXECUTIVE

Section 57. (a) Section 1 of this Act appropriates \$2,000.0 to the Office of the Budget (10-02-01) for Data Processing - Development Projects contemplates information technology planning, development and procurement services for the following state department/agencies development projects and feasibility studies:

<u>DEPARTMENT/AGENCY</u>	<u>SERVICE NEED</u>
Executive	
Office of Information Services	Year 2000 Compliance
	Electronic Funds Transfer/Electronic Data
	Interchange
DELJIS	Criminal Justice Integrated Scheduling
Judicial	Video Courtrooms
	JP Courts
	Interface with DSCYF FACTS
	Financial Management
Legal	
Public Defender/Attorney General	Case Management
Natural Resources and	
Environmental Control	Permitting Technology (Phase 3)
	Laboratory Information Management System
Health and Social Services	Child Support Welfare Reform System

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 Services 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 Services and the Office of the Budget and the concerned department/agency, Information Services 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, Technology Fund (10-02-04) shall be subject to the conditions of this section.

Section 58. The General Assembly finds that the establishment of the federal TANF block grant has left the state vulnerable to deficits from caseload increases attributable to an economic downturn. In order to minimize such exposure, the funds within the Reserve Account for CSCRP Disallowances (10-02-01-80-51) shall be available to mitigate to the extent possible, projected deficits in TANF supported programs within the Division of Social Services, Department of Health and Social Services. The use of such funds for such purposes shall require the approval of the Budget Director and Controller General

Section 59. Section 1 of this Act transfers 1.0 FTE from the Department of Finance and 1.0 FTE from the Department of Transportation to the Office of the Budget (10-02-01). These positions, in addition to 1.0 existing Budget Office FTE, shall be devoted to federal policy analysis, and shall be housed in Washington D.C. These positions shall be classified, as per Title 29, Section 5903 (6), Delaware Code.

Section 60. The Office of the Budget Administration is hereby authorized to perform a survey of the agencies that are housed in the Carvel State Office Building in an attempt to determine the savings from the installation of a building-wide telephone system. All funds authorized for payment of maintenance agreements for telephone equipment and services may be used for expenses associated with the new telephone system. Therefore, the Budget Director, with the concurrence of the Controller General, is authorized to transfer funds for the operation and maintenance payments as needed for the new telephone system.

Section 61. Section 1 of the Act contains an appropriation in Office of the Budget, One-Time Items and Contingencies (10-02-04) for Contingency - Salary. The Budget Director with the concurrence of the Controller General is authorized to transfer agency salary funds through transfers in order to adjust for salary savings, the general salary increase contained in Section 8 of this Act, and lag payroll.

Section 62. Section 1 of this Act appropriates to the Office of the Budget, Contingencies and One-Time Items (10-02-04) \$203.0 for Kent and Sussex County State Police to become effective May 1, 1998. Included in this appropriation is an authorization for 10.0 FTEs.

Section 63. 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 except coding errors by a school district which require adjustment of the state's accounts. Any use of the Prior Years' Obligations account by any agency receiving funds in Section 1 of this Act, in excess of the amount reverted from the applicable line code on June 30 of the fiscal year in which the expense was incurred, will require the requesting agency or school district to reimburse the Prior Years' Obligations account by the amount equal to the excess requested. A line code reversion sum does not

negate the necessity of encumbering sufficient funds to cover known expenses: proof of circumstances beyond an agency's ability to encumber must be documented on the request for transfer to be excluded from the reimbursement clause. All requests for prior year funds to complete the payment of one-time items will require a reimbursement to the Prior Years' Obligations account by the requesting agency from any appropriation other than personnel costs. 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 64. For Fiscal Year 1998, 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 65. 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 66. (a) Section 1 of this Act provides an appropriation to Office of the Budget, Contingency and One-Time Items (10-02-04). It is the intent that the appropriation for the Technology Fund Initiatives in the amount of \$3,000.0 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, 2000. Allocations may be transferred among agencies and projects upon request of the Executive Director of the Office of Information Services 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 \$3,000.0 is subject to the following terms and conditions:

<u>Department/Agency</u>	<u>Initiative</u>
Executive	
Office of Information Services	HRIS Infrastructure
Finance	Dual Payroll Processing
Correction	Offender Tracking
Health and Social Services	Case Management
	Ethernet Connection
Public Safety	Message Switch Replacement
Elections	Banyan Connectivity
Public Instruction	Pupil Accounting System

(b) Volume 70, Chapter 118, Laws of Delaware made an allocation to the Office of the Budget for Integrated Management Systems in anticipation of enhancements to the Delaware Financial Management System (DFMS) and acquisition of payroll, budget, human resource management and purchasing/contracting modules. Development activities will continue to 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 Services, 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 March 1, 1998.

Section 67. (a) Section 1 of this Act provides an appropriation to Office of the Budget, Contingency and One-Time Items (10-02-04). It is the intent that the appropriation for One-Time Appropriations in the amount of \$3,540.8 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 the Development Fund.

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 1999 Appropriation Bill.

Where applicable, the appropriations to Office of the Budget, Contingency, One-Time Appropriations (10-02-04), are subject to the following terms and conditions:

<u>Budget Unit</u>	<u>Amount</u>	<u>Purpose</u>
(01-05-01)	\$ 75.0	Council of State Govt Eastern Regional Conference
(01-08-01)	18.0	Council of State Govt Eastern Regional Conference
(01-08-01)	5.0	Oil Painting
(02-02-10)	7.0	Computer, Furniture, Office Equipment - Law Clerk
(02-03-10)	6.0	Computer, Furniture, Office Equipment - Court Reporter
(02-06-10)	7.5	Office Equipment (Clerk)
(02-06-10)	6.9	Computer, Furniture, Office Equipment - Secretary and Clerks
(02-08-01)	3.8	Computer Equipment (CASA)
(02-17-01)	7.0	Computer, Furniture, Office Equipment (Staff Training Officer)
(02-17-01)	20.0	Furniture and Equipment (Rental of Federal Courtroom)
(02-17-04)	7.5	Office Equipment (Sr. Appl. Support Specialists)
(02-18-03)	20.0	Ivy Davis Scholarship Fund
(10-02-01)	75.0	Automated Release Date Project
(10-03-02)	50.0	Main Street Program
(10-03-02)	45.0	Flags and Pins
(10-03-02)	50.0	Tourism and Business Promotion Grants
(10-03-02)	30.0	University of Delaware Basketball Tournament
(10-03-04)	100.0	Security - WHA

(10-04-02)	100.0	First Quality Fund
(10-06-12)	9.0	Computer & Office Equipment
(10-06-14)	7.0	Computer & Office Equipment
(10-06-14)	110.0	Termination Pay
(12-02-01)	5.0	President of National Auditor's Association Travel
(15-01-01)	6.0	Furniture and Office Equipment (New Positions)
(15-03-01)	4.1	Office Furniture and Computer Upgrades
(20-01-03)	38.0	4X4 King Cab Truck
(20-06-01)	10.0	Oral History
(20-06-02)	4.0	Legislative Tape Preservation
(20-06-02)	85.7	Primis System
(25-06-01)	40.0	Furniture
(25-06-01)	17.0	X-Ray Machine for Mail Room
(25-06-01)	15.0	Magnetic Card Door

Budget Unit	Amount	Purpose
(30-01-40)	30.0	Collaborative Bargaining
(30-04-10)	3.6	Moving Costs - New Facility
(30-04-50)	50.0	Consolidation of State Telephone 800 Numbers
(30-05-10)	9.0	Tent
(35-01-10)	8.0	SB 132
(35-05-20)	34.9	Managed Care HMO Inspections
(35-05-20)	102.7	Public Eating Places - Food Inspections
(35-05-50)	30.0	Tractor
(35-08-01)	50.0	Computers and Adaptive Equipment for DVI
(35-08-01)	4.6	O&M Instructor
(35-14-01)	7.0	Assisted Living
(35-14-01)	7.0	Ombudsman
(35-14-01)	7.0	Medicaid Waiver Case Processing
(37-01-10)	50.0	SB 132
(37-02-10)	45.0	Training Materials
(37-02-20)	145.0	DFS Capital/Supplies
(37-02-80)	5.0	Capital/Supplies Child Lic.
(37-05-10)	35.0	Equipment/Capital Juv Probation
(37-05-50)	46.0	Equipment/Capital NCCDC Staff
(38-01-02)	50.0	Training Materials
(38-04-03)	5.6	Replacement Batteries for Telephone System
(38-04-07)	4.0	Supplies
(38-04-08)	10.0	Dogs for SCI K-9 Patrol
(38-04-09)	6.0	Perimeter Patrol Vehicles
(38-06-02)	10.4	Office Furniture for Probation Officers
(38-06-02)	7.0	Body Armor for Probation Officers

<u>Budget Unit</u>	<u>Amount</u>	<u>Purpose</u>
(40-05-02)	13.7	Shellfish Vehicle
(40-06-01)	92.3	State Park Partnership
(40-06-04)	13.5	Pick-up Truck
(40-07-02)	23.0	Special Vehicle
(40-07-04)	23.0	Special Vehicle
(40-08-02)	27.0	Vehicles
(40-08-04)	8.2	Replacement Vehicle
(40-08-05)	45.0	Vehicles
(40-08-07)	23.0	Field Vehicle
(45-01-01)	30.0	Department-wide Training
(45-01-20)	45.0	800 MHz Training
(45-01-20)	37.0	800 MHz/Workbenches/Tools
(45-01-30)	70.0	Hazardous Spill Cleanup Van/Trailers
(45-06-01)	43.0	Clothing Allowance
(45-06-01)	150.0	Job Task Analysis
(45-06-01)	57.5	Promotional Testing
(45-06-06)	25.0	Aircraft Renovation
(45-06-07)	48.0	Radar
(45-06-09)	38.0	Bullet Resistant Vests
(45-06-09)	14.0	Shotguns
(45-06-09)	19.2	Vehicle Cages
(45-06-11)	345.0	Vehicles
(45-07-01)	30.0	DMV Specialized Training
(65-01-02)	20.0	Two High Performance Liquid Chromatographs

Budget Unit	Amount	Purpose
(70-01-01)	14.3	Computerization Support and Consultants
(70-02-01)	20.0	File Cabinets and Storage
(70-03-01)	6.7	Replace Copier
(75-01-01)	20.0	Staff Computer Training
(75-01-01)	19.5	Replace fifth vehicle
(75-02-01)	2.5	Computer Equipment
(75-02-01)	23.0	Replace Audio Visual Equipment (Phase 2)
(77-01-01)	1.2	Transition
(90-01-01)	50.0	KIDS Count Project in Center for Community Development and Family Policy
(90-01-02)	85.0	To Purchase DGL Map Layers
(90-01-02)	16.0	Motor Vehicle
(90-03-01)	48.0	Campus Wiring Project
(90-03-01)	38.0	Lab Equipment
(95-01-01)	35.0	Delaware Constitution Education Project
(95-03-10)	11.0	Lifeskills Pilot Program (ICAL)
(95-03-10)	85.0	Library Literacy Program (ICAL)
(95-08-01)	11.9	Computer Equipment
(95-08-01)	20.0	Automated Phone System
(95-08-01)	46.0	Application Support

Section 68. 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 interagency policy initiatives concerning children and families, including those that may be brought to its attention by the General Assembly:

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 use the Delaware Kids Count Project as a resource in the collection and analysis of data on children and family issues.

The Cabinet Council is encouraged to explore with the University of Delaware and Delaware State University to determine how these institutions can participate consistent with their land grant mission.

The Cabinet Council shall report quarterly to the Controller General on expenditure of funds in FY 1998.

Section 69. Section 1 of this Act appropriates \$249.2 to the Office of the Budget, Contingency and One-Time Items (10-02-04) for Follow-Up Home Visiting. The goal of the expenditure of these funds is to identify and provide services to those families identified as at-risk. The Family Services Cabinet Council (FSCC) shall be responsible for allocation of such funds. Priority shall be given to first time parents, including but not limited to, those parents who have received a first-time home visit and who have been identified with at-risk factors, such as abuse or neglect. The FSCC shall determine the appropriate division of funds between home visiting and parent education services and shall solicit proposals for disbursement to providers of each program. It is intended that this consolidated process will result in a collaborative effort to target resources in the most efficient and effective manner, focusing on statewide need. Staff from the Departments of Health and Social Services; Children, Youth and Their Families; and Public Instruction shall be available to assist the FSCC in this process.

Section 70. Section 1 of this Act contains a one-time appropriation for Delaware Tourism Office (10-03-02) for tourism and business promotion matching grants. The funds appropriated are to be distributed in accordance with §5012, Title 29 of the Delaware Code.

Section 71. Notwithstanding the provisions of any other law, for the fiscal year ending June 30, 1998 interest earnings of the Delaware Strategic Fund as provided for in Section 5027, Title 29 of the Delaware Code, shall be used in the following manner and not to exceed the amounts so noted:

(i) the first \$300,000 shall be used for the general operating expenses of the Delaware Small Business Development Center. The level of funding will allow the expansion of the Small Business Resource and Information Center concept into Kent and Sussex counties.

(ii) the second \$300,000 shall be used to continue the Delaware Business Marketing Program within the Delaware Economic Development Authority (10-03-03). It is the intent of the General Assembly that these funds shall be used to match non-state contributions to the Delaware Business Marketing Program. Receipt of non-state funds shall be deposited in a special fund for business marketing and recruitment purposes only. Expenditures of the program shall be divided between non-state contributions and the state matching funds such that non-state contributions are not less than one half of total expenditures. These funds shall not be used for hiring full-time employees. On or before April 1, 1998, the Director of the Delaware Economic Development Office shall provide to the Budget Director and the Controller General 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.

(iii) any remaining funds shall continue to be used for the purposes of the Delaware Strategic Fund.

Section 72. Section 1 of this Act makes an appropriation of \$100.0 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 continue to provide quarterly reports to the Controller General and the State Budget Director.

Section 73. 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 74. 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 75. 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 76. (a) Section 1 of this Act appropriates to the State Housing Authority (the "Authority") \$6,943.9 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 77. Section 1 of this Act appropriates \$317.7 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 in a State agency or school district per the provisions of Title 29, Chapter 59, Section 5924 of the Delaware Code.

Section 78. 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 79. Amend §5924, Chapter 59, Title 29 of the Delaware Code by inserting between the words "agency" and "or", as they appear in the first sentence of said subsection, the words ", school district".

Section 80. 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 81. 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 82. 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 83. 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 84. Amend Chapter 55, Title 29, Delaware Code by adding a new §5549, to read as follows:

"§5549 Payment of Benefits

Benefits shall be due and payable under this chapter only to the extent provided in this chapter, and neither the State nor the State Employees' Pension Plan shall be liable for any amount in excess of such sums."

Section 85. Amend Chapter 83, Title 11, Delaware Code by adding a new §8332, to read as follows:

"§8332 Payment of Benefits

Benefits shall be due and payable under this chapter only to the extent provided in this chapter, and neither the State nor the Closed State Police Retirement Fund shall be liable for any amount in excess of such sums."

Section 86. Amend Chapter 83, Title 11, Delaware Code by adding a new §8396, to read as follows:

"§8396 Payment of Benefits

Benefits shall be due and payable under this chapter only to the extent provided in this chapter, and neither the State nor the New State Police Retirement Fund shall be liable for any amount in excess of such sums."

Section 87. Amend Chapter 56, Title 29, Delaware Code by adding a new §5619, to read as follows:

"§5619 Payment of Benefits

Benefits shall be due and payable under this chapter only to the extent provided in this chapter, and neither the State nor the State Judiciary Retirement Fund shall be liable for any amount in excess of such sums."

Section 88. Amend Chapter 88, Title 11, Delaware Code by adding a new §8845, to read as follows:

"§8845 Payment of Benefits

Benefits shall be due and payable under this chapter only to the extent provided in this chapter, and neither the State nor the County and Municipal Police/Firefighter Retirement Fund shall be liable for any amount in excess of such sums."

Section 89. Amend Chapter 55A, Title 29, Delaware Code by adding a new §5595, to read as follows:

"§5595 Payment of Benefits

Benefits shall be due and payable under this chapter only to the extent provided in this chapter, and neither the State nor the County and Municipal Employees' Retirement Fund shall be liable for any amount in excess of such sums."

Section 90. Amend Chapter 66A, Title 16, Delaware Code by adding a new §6664, to read as follows:

"§6664 Payment of Benefits

Benefits shall be due and payable under this chapter only to the extent provided in this chapter, and neither the State nor the Volunteer Firemen's Pension Fund shall be liable for any amount in excess of such sums."

Section 91. Amend Section 5551(5), Chapter 55, Title 29 of the Delaware Code by adding a new subsection (e) to read as follows: "(e) A person who is a paid non-state employee of the Delaware State Housing Authority or of any of its subsidiaries."

Section 92. Amend Section 5551(6), Chapter 55, Title 29 of the Delaware Code by inserting between the word "subdivisions" and the word "and" a comma and the words "Delaware State Housing Authority."

Section 93. Amend Section 5555, Chapter 55, Title 29 of the Delaware Code at the first, second and fourth sentence by inserting between the word "subdivisions" and the word "and" a comma and the words "Delaware State Housing Authority."

Section 94. Section 1 of this Act authorizes the transfer of position #1061 and \$74.0 in personnel costs from the Criminal Justice Council (10-07-01) to the Office of State Personnel (10-04-02).

Section 95. The Delaware Health Care Commission (10-05-01) is hereby authorized to reimburse Commission members for mileage associated with Committee responsibilities.

Section 96. Section 1 of this Act appropriates \$1,650.0 to the Delaware Institute of Medical Education and Research (10-05-02). 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	<u>400.0</u>
	\$1,650.0

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 97. In FY 1996 the Office of Information Services (10-06-00) began a transformation project to reevaluate its organization, mission and customer service. This reevaluation included an analysis of the methodology used to bill services provided to client agencies. As a result, the Office of Information Services will replace the current memo billing system most recently reflected in 70 Delaware Laws, Chapter 425, Section 65, with a system that more accurately reflects services and resources provided by the office to client agencies. The Executive Director of the Office of Information Services shall provide a quarterly report to the Budget Director and the Controller General detailing the provision and billing of such services to state agencies.

Section 98. No later than October 1, 1997, the Director of the Office of Information Services shall present to the Controller General and Budget Director a detailed plan of reorganization based on the OIS Transformation. Such reorganization is expected to necessitate changes to the organizational structure of the

Office of Information Services, effective January 1, 1998. These changes to the organizational structure shall become effective January 1, 1998 upon the approval of the Budget Director and co-chairs of the Joint Finance Committee.

OTHER ELECTIVE OFFICES

Section 99. The Auditor of Accounts (12-02-00) is hereby directed to audit the state-funded portion of the finances of the University of Delaware as authorized by Title 29, Section 5109, Delaware Code. The Contractor conducting the audit shall be selected jointly by the University of Delaware and the State Auditor.

Section 100. 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 101. Section 1 of this Act provides the ASF appropriation for the Fraud Unit within the Insurance Commissioner's Office (12-03-01). Merit positions hired for this unit may not be hired above 80 percent of the mid-point of the position's paygrade without permission of State Personnel and the Budget Office.

Section 102. 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 103. 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 1.0 Director of Administration and 1.0 Arbitration Secretary, both of which shall be exempt.

Section 104. Section 1 of this Act authorizes (2) ASF Special Agents for the Insurance Commissioner's Fraud Prevention Bureau in (12-03-01). Associated personnel costs of \$53.8 ASF and capital outlay of \$4.0 ASF are also authorized. These authorizations are contingent on passage of HB 224 of the 139th General Assembly or similar legislation to promote adequate special funding for these positions.

Section 105. The Office of State Treasurer (12-05-00) is authorized to establish and maintain a special fund (NSF) appropriation to be credited with state check write-off amounts. Use of this account is limited to the processing of state check reissues by the Office of the State Treasurer. On June 30 of each fiscal year, the unexpended state check write-off balance in excess of \$100.0 shall be credited to the General Fund. If during a fiscal year, there is an insufficient amount to process reissues, a revenue refund shall be made from the General Fund to the NSF appropriation.

Section 106. Section 1 of this Act contains an ASF authorization to operate the Fiscal Year 1998 Delaware Flexible Benefits Program (DELAFLEX). Funding in the amount of \$113.4 is available in two Fiscal Year 1995 accounts: (12-05-01) 8310 and 8311. While it is expected that Section 1 ASF authorization of \$113.5 will be sufficient to operate the program during Fiscal Year 1998, if necessary, the State Treasurer may request additional spending authorization and draw any authorized funds from the CY 1996 forfeiture account, subject to approval of the Budget Director and Controller General.

Section 107. Section 1 of this Act provides a special fund appropriation of \$1,715.3 to the State Treasurer, Administration (12-05-01) Cash Management Policy Board, authorized by Title 29, Chapter 27, Delaware Code, for the purpose of providing staff support and operational expenses, including payment of fees for banking services. The \$1,715.3 in interest income on bank deposits shall be coded as special fund revenue to provide funds for operation of the Cash Management Policy Board.

Section 108. Section 1 of this Act authorizes \$370.0 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 109. Section 1 of this Act establishes a special fund appropriation entitled Electronic Data Interchange, in the Office of the State Treasurer, Administration (12-05-01) Cash Management Policy Board to support the Electronic Data Interchange/Electronic Funds Transfer initiative. Use of these funds shall be coordinated with and approved by the Executive Director of the Office of Information Services and the Secretary of Finance.

Section 110. Notwithstanding Section 6059, Title 29, Delaware Code, the program participants shall pay for all costs, excluding personnel, associated with the administration of the Deferred Compensation Program.

LEGAL

Section 111. Section 1 of this Act authorizes an appropriation for contractual services for the Office of Attorney General (15-01-01). Of this amount, \$494.3 shall be used for the purpose of providing services covering family violence in New Castle County, and \$303.8 shall be used for the purpose of providing services covering family violence in Kent and Sussex counties.

Section 112. Section 1 of this Act provides an appropriation of \$380.9 in Appropriated Special Funds and 6.0 ASF 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.

Adjustments to Appropriated Special Fund spending authority for the Office of the Attorney General (15-01-01) can be made upon the concurrence and approval of the Budget Director and the Controller General.

Section 113. 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)(1) Three shall be exclusively dedicated to the function of the Industrial Accident Board in the Department of Labor, Division of Industrial Affairs (60-07-01) and one shall be exclusively dedicated to Labor Law Enforcement 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 semi-annual administrative assessment per Subsection 2392 (d) of the same Title;
- (d)(2) Contingent upon the enactment of Senate Bill 147 or similar legislation, three Deputy Attorneys General shall be exclusively dedicated to the function of the Industrial Accident Board in the Department of Labor, Division of Industrial Affairs (60-07-01) for a period not to exceed nine (9) months after the start of Fiscal Year 1998. The cost of these employees and all expenses associated with their employment shall be included, for a period not to exceed nine months after

the start of Fiscal Year 1998, in the annual tally per Title 19, Subsection 2392 (c)(1) of the Delaware Code and the semi-annual administrative assessment per Subsection 2392 (d) of the same Title. During the first nine months of Fiscal Year 1998, the Office of the Attorney General and the Department of Labor will coordinate the transition to hearing officers and the phasing out of the current Deputy Attorney General assignments to the Industrial Accident Board. If opportunities to reassign incumbents occur prior to the end of the nine month transition period, the Office of the Attorney General and the Department of Labor will negotiate a mutually satisfactory arrangement to complete Industrial Accident Board casework. By the end of the nine month transition period, if there are any remaining incumbents in the Deputy Attorney General positions and the Secretary position assigned to the Industrial Accident Board, these incumbents will be reassigned to vacant positions within the Office of the Attorney General (15-01-01). At the end of the nine month transition period, 3.0 General Fund Deputy Attorney General FTEs and 1.0 Secretary FTE in the Office of the Attorney General shall be deauthorized and the remaining General Fund salary and other employment costs associated with these positions shall be transferred to a State Budget Office Contingency. The one remaining Deputy Attorney General will continue to be exclusively dedicated to Labor Law Enforcement and the cost of this employee and all expenses associated with his/her employment shall be included in the annual tally per Title 19, Subsection 2392 (c)(1) of the Delaware Code and the semi-annual administrative assessment per Subsection 2392 (d) of the same Title. During Fiscal Year 1998, the "Attorney General Salary Plan" and position complement for the Office of the Attorney General (15-01-01) shall be adjusted to reflect 24.0 Deputy Attorney General IV FTEs;

- (e) One half (.5) shall be assigned to the Foster Care Review Board;
- (f) Three 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 Office of State Personnel and other related personnel 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.
- (k) The Attorney General shall assign 1.0 General Fund Deputy Attorney General to provide legal services to the Delaware Economic Development Office.
- (l) One Special Fund Deputy Attorney General shall be assigned to provide legal representation to the boards and commissions under the Department of Administrative Services, Division of Professional Regulation.
- (m) One split-funded (.5 NSF FTE and .5 GF FTE) Deputy Attorney General shall be assigned to the Department of Services for Children, Youth and their Families, Division of Family Services to work on termination of parental rights, pursuit of custody, adoption and provide other legal advice and appearances related to the work done by this Division.
- (n) The Attorney General shall submit a semi-annual report to the Budget Director and Controller General that details the number of Deputy Attorney General FTEs, the source of their funding and the divisions to which they are assigned. These reports are due on November 30 and May 15.

Section 114. 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 115. Section 1 of this Act makes an appropriation of \$821.1 Appropriated Special Funds, \$300.3 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.

Adjustments to Appropriated Special Fund spending authority for the Office of the Attorney General (15-01-01) can be made upon the concurrence and approval of the Budget Director and the Controller General.

Section 116. Section 1 of this Act appropriates to the Office of the Attorney General (15-01-01), personnel costs for a Consumer Affairs Investigator. In order to investigate crime affecting the horsemen and racing industry, the authorization for FTE #67076 and the incumbent shall be transferred from the Office of the Attorney General (15-01-01) to the Department of Finance, Lottery Office (25-07-01), effective July 1, 1997. One new ASF FTE, classified as a Consumer Affairs Investigator, is hereby authorized in the Office of the Attorney General (15-01-01), and ASF authority in the amount of \$45.9, personnel cost, is hereby authorized in the Department of Finance, Lottery Office (25-07-01).

Section 117. 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.

Section 118. Section 1 of this Act provides an appropriation of \$69.4 and 7.0 General Fund positions to the Office of the Attorney General (15-01-01) for the April 1, 1998, pickup of federally funded positions associated with the Domestic and Juvenile Justice Case Management Improvement Project. On April 1, 1998, the authorization for the existing 7.0 Non-Appropriated Special Fund positions associated with this grant shall be rescinded and the positions deleted from the Office of the Attorney General (15-01-01) position complement.

STATE

Section 119. 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, \$48.5 shall be used to provide mental health services for veterans in Kent and Sussex counties.

Section 120. 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 and ongoing maintenance and operation expenses 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 121. The provisions of Title 29, Section 2311 (e) of the Delaware Code, notwithstanding, the sum of \$1,500.0 in the Division of Corporations, Corporate Revolving Fund shall be continued into Fiscal Year 1998. A total of \$1,250.0 shall be used for the Division of Corporations computer enhancements project.

Section 122. 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, \$15.0 shall be used at the discretion of the Delaware Heritage Commission for scholar awards, challenge grants and publications.

Section 123. Section 1 of this Act provides an appropriation to Executive, Office of the Budget, "Contingency and One-Time Items" (10-02-04) for "Primis System" (20-06-02) in the amount of \$87.5. This amount consists of System Management, \$41.5 and Records Management, \$44.2.

Section 124. 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, Dayett Mills, McCrone House, John Dickinson Plantation and the Meeting House Galleries to support these operations.

Section 125. Notwithstanding the provisions of Title 29, Delaware Code, Section 6102 (a), and Title 5, Delaware Code, Section 1106, the Office of the State Bank Commissioner is authorized to retain \$100.0 of the Bank Franchise Tax for costs associated with the collection and administration of the Bank Franchise Tax.

Section 126. The Division of Libraries is hereby authorized to retain funds appropriated in FY 1995 for the development of the DELNET Project. These funds shall be used to fund the state's share of the New Castle County Department of Libraries' TIPCOT project.

Section 127. The Division of Libraries is hereby authorized to retain funds appropriated in FY 1996 for the development of the DELNET project. These funds shall be used to fund the state's share of the Sussex County Department of Libraries' HOLLINET project.

Section 128. Section 1 of this Act makes an appropriation to the Division of Libraries in the amount of \$1,421.6 for Library Standards. Of that amount, the Division of Libraries may reserve up to \$142.2 for planning and evaluation grants to determine each library's attainment of state and federal library standards. Of the remaining funds shall be paid to libraries in two installments equal to 50 percent of the total amount allocated to that library, one installment upon signature of the contract and the second installment in January of the fiscal year. 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.

FINANCE

Section 129. The Department of Finance, Office of the Secretary, is authorized in Fiscal Year 1998 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 this special fund shall not exceed \$690.0.

Section 130. 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 and other debts that the Division of Revenue has undertaken to collect. The contracts may provide for either or both: (a) collection or assistance in collection of delinquent accounts from businesses or persons; (b) audit of business taxables under the direct supervision of the Division of Revenue management; or (c) audit of physical inventory of alcoholic beverage wholesalers. 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 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 131. 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 by credit card of taxes, fees and other obligations which the Division of Revenue has undertaken to collect. 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 and other delinquent amounts by credit cards.

Section 132. 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 or to other persons identifying abandoned property by means of audit or otherwise. 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 133. 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 134. Pursuant to Section 4815 (b) (2), Title 29, funds from the State Lottery Fund shall be released to an appropriately established account within the Division of Alcoholism, Drug Abuse and Mental Health on or before the fifteenth day of each month, the amount of which shall be determined based on the results of video lottery operations conducted during the immediately preceding month.

Section 135. (a) In the event that the State Lottery's amount of contractual services shall exceed the amount in Section 1 of this Act due to increased lottery ticket sales, the Appropriated Special Fund Budget in Section 1 of this Act may be amended by the Secretary of Finance, the Controller General and the Budget Director; provided that the total operating budget for this fiscal year shall not exceed 20 percent of gross sales as limited by Title 29, Section 4815(a) of the Delaware Code.

(b) In the event the State Lottery's amount of contractual services shall exceed the amount in Section 1 of this Act due to increased video lottery net proceeds, 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, as limited by Title 29, Section 4815(b) of the Delaware Code.

Section 136. Amend Title 29, Chapter 65, Section 6505(c) of the Delaware Code, by striking the third, fourth and fifth sentences in their entirety and inserting in lieu thereof the following, "No agency or school district shall use credit cards registered in the name of the employee, agency, school district or State which could create an obligation of the State, except:

- (1) Contract credit cards authorized by the Secretary of Finance and distributed by the Division of Purchasing to state employees may be used for duly authorized travel expenses and small purchases made by state agencies and school districts pursuant to policy and procedures as established by the Secretary of Finance.
- (2) Telephone credit cards to approved employees, elected officials and public members of boards and commissions under a program established and administered by the Division of Support Operations, Department of Administrative Services, pursuant to policy and procedures as established by the Secretary of Finance; and
- (3) Oil company credit cards having received prior approval by the Secretary of Finance."

Section 137. A working group shall be established by the Secretary of Finance to make recommendations for the more efficient administration of Tax Shelter Annuities; address issues of compliance with the federal tax code; and improve options provided to employees of public and higher education to enhance their savings. The group shall include the Controller General and such additional members, as deemed appropriate. A report with recommendations and timeline for implementation shall be issued by November 1, 1997.

ADMINISTRATIVE SERVICES

Section 138. For the fiscal year ending June 30, 1998, the Department of Administrative Services is allowed to retain as a continuing appropriation up to 25 percent of its unencumbered General Funds except for debt service and personnel costs. The Department of Administrative Services shall use this appropriation for the maintenance and restoration of state facilities.

Section 139. During Fiscal Year 1998, notwithstanding the provisions of Section 5915, Title 29 of the Delaware Code, the Merit Employee Relations Board shall hear all maintenance review classification appeals before it in chronological order, beginning with the oldest such appeal unless all parties are in agreement with other such arrangements.

Section 140. Section 1 appropriates contractual services to Office of Disability Affairs (30-01-20). Of this amount, \$20.0 shall be used to offset reductions in the Partners in Policymaking Program.

Section 141. 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 142. 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 143. During Fiscal Year 1998, 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. Hermann 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 144. For energy backcharge purposes, the Department of Administrative Services (host department) Fiscal Year 1998 Energy Budget assumes that Motor Fuel Tax uses ten percent of the new Public Safety Building, for which energy payment is the responsibility of the host department. The Department of Transportation is responsible for paying the Motor Fuel Tax portion of the energy bills upon request for payment by the host department.

Section 145. (a) Section 1 of this Act appropriates \$ 12,820.8 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, 2000:

Judicial	\$ 250.0
Department of State	522.3
Department of Administrative Services	4,147.0
Department of Administrative Services (Asbestos/UST)	1,709.0
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

(b) **Judicial Minor Capital Improvements.** 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.

(c) **Delaware National Guard.** Not more than \$25,000 of minor capital improvement and equipment funds may be used to ensure completion of the Armory Unit Storage Building in Delaware City.

(d) The following items shall be funded from appropriations made in subsection (a) of this Section:

<u>Acct. Code</u>	<u>Item</u>	<u>Amount</u>
20-01-03	Tree Spade Equipment	25.0
20-01-03	Air Compressor	15.0
20-01-03	Touch Screen	5.0
20-01-03	Tree Fertilization	5.0
20-08-01	Building Alterations	10.0
35-12-20	Security Initiative-State Service Centers	57.0
38-01-01	Communications Equip.-Handheld Radios	40.0
38-04-01	Security Equipment-Institutions	110.0
38-04-03	Miscellaneous Equip. for Security Staff	50.4

(e) Included in subsection (a) for the Department of State is \$42.0 to fund the following Historical Markers:

One (1) in Kent County

Salem United Methodist Church - Selbyville

Union Wesley Church - Clarksville

Antioch - Frankford

Harmony Methodist Church - Milford

Gibraltar

Stone Mansion

Bethesda Church - Stockley

Birthplace of Major Peter Jaquett

Wesleyan Church - Georgetown

Delaware State Fair

U.S. Senator Saulsbury

U.S. Senator James Tunnell

Georgetown Presbyterian Church

Cannon in Seaford - American Legion

Slaughterneck United Methodist Church

Blue Ball

Gumboro School

Cape Henlopen Lighthouse

Christiana United Methodist Church

Booker T. Washington School

HEALTH AND SOCIAL SERVICES

Section 146. Section 1 of this Act provides appropriations in various line items to the Department of Health & Social Services and Services for Children, Youth and Their Families for the implementation of S.B. 132 of the 139th General Assembly. Also, there are associated one-time items appropriated to Executive, Office of the Budget, "Contingency & One-Time Items" (10-02-04) in (35-01-10) and (37-01-10). These amounts shall revert to the General Fund as of June 30, 1998, should S.B. 132 or similar legislation not be enacted into law.

Section 147. Section 1 of this Act includes a NSF appropriation within the Division of Social Services (35-07-00) of \$32,291.0. It is anticipated that this sum shall be spent as follows: Cash Assistance, \$20,000.0; Emergency Assistance, \$595.0; Employment and Training, \$5,296.0; Administrative Costs, \$6,400.0.

Section 148. 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 149. 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 150. (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 151. 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 152. 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 153. 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, \$155.0 shall be used for the purpose of providing school nursing services three days a week to non-public schools in New Castle County and Kent 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 154. 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 155. The Division of Public Health, Community Health (35-05-20), is appropriated \$3,393.5 in "School-Based Health Centers" for planning, implementing and operating school-based health centers. In addition, funding for 3.0 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 1998, Community Health shall implement up to six new school-based health centers which will be open for up to two months. Status reports shall be submitted to the Budget Director and the Controller General not later than December 15, 1997, and May 15, 1998.

Section 156. 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, \$80.0 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 157. 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 158. 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.

Section 159. Section 1 of this Act provides an appropriation of \$120.0 to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-20) to provide vaccinations to individuals who are members of volunteer ambulance companies or volunteer fire companies acting as "first responders" in the State of Delaware. The Division of Public Health shall purchase vaccine and administer or contract-vaccine at local fire stations or other sites mutually agreed upon by the fire companies and the Division of Public Health. No such vaccinations shall be furnished until after certification by the volunteer fire or ambulance company on a form provided by the Division of Public Health, indicating that the person for whom the vaccination is desired, is a member in good standing of a volunteer ambulance or volunteer fire company in the State of Delaware. A record of the names and addresses of all persons immunized shall be maintained by the Division of Public Health. To insure the success of this program, the Division of Public Health and representatives of the Delaware Volunteer Firemen's Association shall work collaboratively in the best interests of all parties. The Division of Public Health may promulgate reasonable rules and regulations regarding the vaccination of volunteer firemen and individuals who volunteer for ambulance companies. If resources allow, after the needs of the volunteer community have been met, similar assistance may be offered to other fire and ambulance companies such as the Wilmington City fire company. Such funds, as are necessary from this fund, may also be spent to provide any required post vaccination antibody testing in order to assure adequate protection has been achieved.

Section 160. Section 1 of this Act provides an appropriation for the Department of Health and Social Services, Division of Public Health, Community Health (35-05-20) to provide hepatitis B and other necessary childhood vaccinations for children between infancy and young adulthood who are uninsured, are not eligible for any Federal program providing the vaccination, and are otherwise medically indigent.

Section 161. The State desires to establish a permanent funding program for rodent control activities at the local level by providing the City of Wilmington \$15,000; New Castle County \$15,000; Kent County \$10,000; and Sussex County \$10,000. The Department of Health and Social Services, Division of Public Health, Community Health (35-05-20) shall establish a process that will: dispense these funds to local governments in lump sum payments to be made no later than September 1, 1997; establish program objectives and spending guidelines; require regular expenditure reporting to the State; and allow unexpended funds to carry over at the local level into the next fiscal year. Any unexpended carry over funds, as determined by the final fiscal year local level expenditure report, will be used to reduce the amount of award the following fiscal year in order to maintain original levels of funding.

Section 162. Section 1 of this Act appropriates \$1,420.0 in Social Services (35-07-00), for legal Non-Citizen Health Care. If the federal regulations for the Medicaid program are changed after enactment of this budget, and the individuals covered under this state-funded program are subsequently covered under the Medicaid program, the remaining balance of the funds appropriated to implement this program shall be transferred to a Budget Office Contingency.

Section 163. Section 1 of this Act appropriates \$120.0 in Public Health, Community Health (35-05-20), for Hepatitis B. The amount continued from FY 1997 from this line shall be used to reimburse volunteer fire companies for the administration of Hepatitis B vaccine prior to the inception of the state funded program.

Section 164. 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 165. Section 1 of this Act provides General Funds in the amount of \$2,800.0 in the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health. This amount is supported by disproportionate share revenues of \$4,800.0 that are projected to be collected from the federal government during Fiscal Year 1998. The department shall deposit disproportionate share 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 166. 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 167. 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 1999 shall be finalized by October 1, 1997.

Section 168. 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 169. 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 170. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism and Drug Abuse (35-06-40) for Personnel Costs. Included in this appropriation is 1.0 GF FTE exempt position (Budget Position 1389) transferred from Legal, Public Defender (15-02-01). When this exempt position becomes vacant, it shall be reclassified to a comparable Merit System Classification.

Section 171. Section 1 of this Act appropriates certain sums for Alcoholism, Drug Abuse and Mental Health (35-06-00), Mental Retardation (35-11-00) and Public Health (35-05-00) for services that are eligible for federal Medicaid matching funds. The director of each division shall initiate a transfer of General Funds not later than July 30, 1997, of the following estimated amounts to Social Services (35-07-00), Medicaid - Other Than State Institutions: Alcoholism, Drug Abuse and Mental Health, \$1,250.0 for community services; Mental Retardation, \$1,500.0 for community-based waived services; and Public Health, \$90.0 for maternal and child health services. Adjustments to these estimated amounts to actual amounts shall be made during the last quarter of the fiscal year but prior to June 1, 1998.

Section 172. There will be additional costs to the Department of Health and Social Services, Social Services (35-07-00), for processing claims associated with the Children's Services Cost Recovery Project (CSCRCP). The Office of the Budget (10-02-00) will provide funding from CSCRCP recoveries, as the first priority for payment, to pay for the state's one-quarter share of the processing charges.

Section 173. 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 174. (a) Section 1 of this Act appropriates \$1,539.2 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 35.5 positions and establish or contract for an additional 4.0 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 1997.

(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 175. 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 176. 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; and, 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; and, 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 177. 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. Other medical facilities throughout the state may participate in this program.

Section 178. For the Fiscal Year ending June 30, 1997, any sum in the Medicaid -- Non-State 1994 and 1995 appropriation (35-07-01-01-89) shall remain encumbered and shall not revert until June 30, 1998.

Section 179. 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 \$1,175.2 ASF for child support programs in Child Support Enforcement, (35-10-00); the \$3,977.1 ASF for programs in Public Health (35-05-00); and the \$6,735.6 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 180. 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 181. 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 182. The Secretary of the Department of Health & Social Services shall report to the Budget Director and the Controller General on the status of the implementation of additional dental services to medicaid eligible children on a statewide basis. The Secretary shall consider the use of dental vans suitably equipped with appropriate dental professionals or other service delivery mechanisms.

Section 183. Section 1 of this Act appropriates \$1,391.4 in Personnel Costs and 29.4 FTEs to Visually Impaired, (35-08-00). This section authorizes 1.0 FTE in addition to the 7.0 FTEs itinerant teachers available to meet caseload requirements for the Braille Literacy Act. This additional FTE may be filled if the September 1997 educational unit count indicates the number of teachers required to meet caseloads for visually impaired students is greater than the FY 1998 complement of teachers.

Section 184. 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, \$18.9 shall be used to compensate correctional inmates for the purpose of producing Braille materials for visually impaired school children.

Section 185. Section 1 of this Act provides an appropriation of \$1,175.2 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 17.4 ASF FTEs. The department shall continue its efforts to maintain collections related to child support programs, and all revenue in excess of the division's ASF authority shall be deposited as designated by Title 29, Section 6102 of the Delaware Code.

Section 186. 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 187. 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 188. 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, 1997. 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 1998.

The Division is encouraged, where appropriate, to provide supported employment opportunities for these clients within the appropriation limit.

Section 189. 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 190. 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 191. 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 192. The Division of State Service Centers, Service Center Management IPU (35-12-20), currently operates 14 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 193. 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 194. 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 195. The position of Director, Community Services, shall remain exempt from classified service until such time as the position becomes vacant.

Section 196. 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 197. 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 198. Section 32 of this Act provides a continuing appropriation in "1997 (35-14-01-01-50) Brain and Spinal Injury Contractual" for a Brain and Spinal Injured Facility in the amount of \$200.0. Of that amount, \$37.5 shall be used to match a Federal Planning Grant. The remaining amount of \$162.5 shall be available to fund operating costs of a Brain and Spinal Injured Facility if operational during F.Y. 1998. Should a facility not be operational during F.Y. 1998, these funds shall revert to the General Fund on June 30, 1998.

CHILDREN, YOUTH AND THEIR FAMILIES

Section 199. 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 200. For Fiscal Year 1998, 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 201. 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, 1997, 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 202. For the fiscal year ending June 30, 1997, any unused ASF authority in the following accounts shall be considered continuing in nature and shall not be subjected to Delaware Financial Management System (DFMS) appropriation file maintenance until June 30, 1998.

FY96 37-0210-9887 Kent County DFS Move
FY97 37-0150-9885 MIS-FACTS Completion
FY97-37-0115-9899 Maintenance & Restoration

Section 203. For the Fiscal Year 1998, the Division of Family Services (DFS) is granted new positions authority. DFS agrees to eliminate 2 typist FTEs and one data entry FTE through attrition.

Section 204. Section 1 of the Act authorizes 14.0 FTEs for the Division of Youth and Rehabilitative Services (37-05-50) to staff a fourth pod at the New Castle County Detention Center pending approval of the capital request. Should this request not be included in the final list of approved capital projects within the FY 1998 Bond and Capital Improvement Act, these positions will be deauthorized and funds appropriated transferred into a contingency fund in the Office of the Budget.

Section 205. 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 206. 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 207. (a) During Fiscal Year 1998, 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. Eligibility for educational development is defined as an individual with at least 30 college credits toward a bachelor's degree approved by the Division. 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 208. The NSF appropriation line 37-05-50-80-04 established in FY 1996 shall remain authorized until June 30, 1998. This line will allow the Department of Children Youth and Their Families to receive reimbursements from employees who do not successfully complete Ferris work-force transition training.

Section 209. 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 monthly 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 210. Section 1 of this Act appropriates \$210.6 to the Office of the Budget, Contingencies and One-Time Items, State-wide Strike Force (10-02-04) and \$302.2 and 7.0 FTEs to the Department of Services for Children, Youth and Their Families. During Fiscal Year 1998, the Department of Children, Youth and Their Families and the Department of Correction shall develop grant applications to solicit federal Crime Bill funds for the implementation of state programs related to the Governor's Task Force. Crime Bill funds, if secured, will be used to replace or supplement, at the discretion of the Budget Director and Controller General, said general funds.

Section 211. Section 1 of this Act includes an appropriation for Salary Contingency-Overtime in the Office of the Budget, Contingencies and One-time Items (10-02-04). Of that amount, the item amounting to \$305.8 for overtime in the Department of Services for Children, Youth, and Their Families, Division of Youth Rehabilitative Services, Secure Care (37-05-50) shall be transferred to the Department and used for overtime with the consent of the Budget Director and Controller General after the Department has demonstrated that every effort has been made to control and limit the use of overtime.

Section 212. The Department of Services for Children, Youth and Their Families shall submit semi-annual reports to the Budget Director and the Controller General that detail the expenditures of the internal program unit of Community Services (37-05-30) by dispositional guideline level, outlines the numbers of youth served by various programs within the unit and summarizes the personnel complement associated with each program within the unit. These reports shall be due on November 30, 1997, and May 30, 1998.

Section 213. Section 1 of this Act provides an appropriation to the Department of Services For Children, Youth, And Their Families, Division of Youth Rehabilitation Services, Secure Care (37-05-50) for Contractual Services. Of that amount up to \$100.0 shall be used for pre-trial diversion in the Superior Court (02-03-10).

CORRECTION

Section 214. (a) Section 1 of this Act includes funding for relief positions in the Human Resources/Employee Development Center 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.

(b) 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 Human Resources/Employee Development Center (38-01-02) for the purpose of training classes. During the training sessions, up to 60 positions will be made available to accommodate the class being trained. Funding is authorized to seed the first-time use of these 60 positions. In order to utilize these positions after the first time use, the department will use salary savings realized throughout the year.

Section 215. 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 216. 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 1999 by October 31, 1997, to the Budget Director and the Controller General.

Section 217. Section 1 of this Act provides an appropriation for the Prison Arts Program funded in the Bureau Chief - Prisons (38-04-01). Included in this appropriation is \$6.0 for Supplies and Materials, \$12.5 for Casual/Seasonal, \$1.5 for Contractual Services and \$1.0 for Travel.

Section 218. Section 1 of this Act appropriates the sum of \$19.0 in "gate money" or "release money" to the Department of Correction, Prisons, Bureau Chief - Prisons (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 219. 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 220. Section 1 of this Act provides an appropriation for Personnel Costs to the Department of Correction - Delaware Correctional Center (38-04-03). Included in this appropriation is 1.0 position and Personnel Costs to allow the department to oversee a program to manufacture reading materials in Braille for the visually impaired.

Section 221. Section 1 of this Act appropriates funds to (38-04-05) Contractual Services for a contract to provide a program for female offenders at BWC1 to address anger and behavior issues from a feminine psychological perspective. The Warden of the facility will submit an annual report to the Joint Finance Committee, Budget Director, Controller General and Commissioner of Correction by June 1 of each year, which will include but not be limited to the mission of the organization, the statement of the problem,

a synopsis of the program, the number of participants, statistics relating to recidivism rates of those participating in the program and an annual budget of the organization.

Section 222. (a) 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, \$503.9 shall be used for the KEY program.

(b) Section 1 of this Act also makes an appropriation to the Department of Correction, Prisons, Sussex Correctional Institution (38-04-04) for contractual services. Of this appropriation, \$400.0 shall be used to establish and maintain a KEY program at this institution.

Section 223. (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 224. Section 1 of this Act makes an appropriation of \$437.9 to the Department of Correction, Community Corrections, Bureau Chief - Community Corrections (38-06-01) and \$370.6 to Department of Correction, Prisons, John L. Webb Correctional Facility (38-04-02), 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 (RFPs) 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 225. The Department of Correction may contract with a local school district for management services of the Education Unit (38-04-11). The Department has the authority to hire 1.0 FTE position to fill this role during Fiscal Year 1998 or to reimburse a school district to cover salary and expenses for these services.

Section 226. Section 1 of this Act provides an appropriation to the Department of Correction, Community Corrections (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.

Section 227. Section 1 of this Act provides an appropriation to the Department of Correction, Probation and Parole (38-06-02) for contractual services. Of this appropriation, \$90.0 shall be used to support a community restorative justice program in New Castle County.

Section 228. Section 1 of this Act provides an Appropriated Special Fund authorization of \$464.7 to the Department of Correction, Bureau Chief-Prisons (38-04-01) to support its Young Criminal Offender Program, located at the Multi-Purpose Criminal Justice Facility (38-04-06). The Department of Services for Children, Youth and their Families (37-00-00) will provide the funds for this program.

NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 229. Section 1 of this Act authorizes the Division of Fish and Wildlife, Wildlife/Fisheries (40-05-02) to spend up to \$3,608.7 in appropriated special funds. Within this amount, the division is authorized to undertake capital expenditures to maintain/develop fish and wildlife recreational areas. These expenditures should be in accordance with the Capital Development Plan for the division, submitted as an attachment to the department's Fiscal Year 1998 Capital Improvement Program. Any deviation from the listed projects must be approved by the Budget Director and the Controller General.

Section 230. 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, \$10.0 shall be used to provide park activities for senior citizens for special events and use of the Showmobile for non-profit organizations and municipalities.

Section 231. 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. Reports on each six months of activity will be submitted to the Joint Finance Committee by January 31, 1998 and July 31, 1998, respectively.

Section 232. Section 1 of this Act appropriates \$103.3 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 \$68.6 and the Inland Bays Citizens Monitoring Program in the amount of \$34.7.

Section 233. 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 234. Section 1 of this Act appropriates \$582.0 in General Funds and \$82.0 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.

Section 235. Section 1 of this Act appropriates funds to support a 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 is 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. The position incumbent shall submit an annual report to the Joint Finance Committee on February 1st of each year which summarizes the complaints and activities of the previous calendar year.

Section 236. 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 237. 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 238. Section 1 of this Act appropriates \$92.3 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 239. Any expenditure or transfer of Penalty Fund Revenues must be approved by the State Budget Director and the Controller General. The Department shall submit quarterly reports on the progress of the expenditures and/or projects.

Section 240. The Division of Fish and Wildlife (40-05-00) is authorized to establish, maintain and administer:

- (a) An interest-bearing, non-appropriated special fund known as the Delaware Marsh Management and Maintenance Trust, as allowed by conditions of the DNREC/PSE&G Settlement Agreement of March 23, 1995. The interest income from this Trust Account will be dedicated to implement the Settlement Agreement's provisions to enhance or restore tidal wetlands habitats for coastal fish and wildlife resources along Delaware Bay and River in Delaware, and to maintain such tidal wetlands habitat enhancements or restoration in perpetuity, as partial compensation for natural resource losses caused by past, ongoing and future operation of the PSE&G Salem Nuclear Generating Station.
- (b) A non-appropriated special fund for administration of the dedicated interest earned on the fund established in (a) above, with said dedicated interest to be expended to help support or implement compensatory tidal wetlands habitat enhancements or restorations and associated maintenance activities referred to in (a) above.

Section 241. Section 1 of this Act appropriates \$2,684.8 to the Department of Natural Resources, Division of Parks and Recreation, Operations and Maintenance Section (40-06-02). Of this amount \$65.0 shall be used to fund casual and seasonal positions for Killens Pond Waterpark.

PUBLIC SAFETY

Section 242. 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 243. Section 1 authorizes the conversion of the 2.4 NSF FTEs within the Department of Public Safety, Division of State Police funded via the COPS More Program to General Funds (1.2 in 45-06-01 and 1.2 in 45-06-10). Each of these positions will retain its NSF funding status until such time as its respective available federal funding is depleted. When this occurs, notification shall be made to the Budget Director and the Controller General.

Section 244. 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 245. 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 246. Amend Chapter 83, Title 11 of the Delaware Code by striking §8303 in its entirety and substituting in lieu thereof the following:

“§8303. Salaries.

Each of the State Police shall receive a salary in accordance with the current State Police compensation schedule. Years of service commence as of anniversary date of hire. The Superintendent of State Police shall receive a salary that is 9 percent greater than the Assistant Superintendent of State Police. The Assistant Superintendent of State Police shall receive a salary that is 9 percent greater than the most senior ranking Major of the State Police. Upon retirement of the most senior Major, salary increases will be established in the Annual Operating Budget until such time as the difference between the most senior Major and the Assistant Superintendent of the State Police can be maintained at 9 percent.”

Section 247. In addition to the positions authorized in Section 1 of this Act for the Division of State Police (45-06-00), additional positions are authorized in Patrol (45-06-03) for the purpose of training State Police recruits. During recruit training, up to 20 positions will be made available to accommodate the class being trained. Funding is authorized for initial use of these positions to accommodate an anticipated graduating class of 15 troopers. The Budget Director may authorize additional recruit positions accordingly.

Section 248. The positions transferred from Capitol Police (45-02-10) to the Division of State Police, Communications (45-06-10) as of July 1, 1995, 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 249. Section 1 of this Act authorizes the conversion of 4.4 NSF FTEs within the Department of Public Safety funded via the COPS Universal Hiring Program to General Funds: .6 in Capitol Police, (45-02-10); 2.0 in State Police, Patrol (45-06-03); and 1.8 in State Police, Community Relations (45-06-12). Each of these positions will retain its NSF funding status until such time as each commences its second year of the grant period.

Section 250. Notwithstanding Chapters 63 and 69 of Title 29 of the Delaware Code or any other statutory provision to the contrary, the Department of Public Safety is authorized to enter into agreements with private telecommunications companies to use space for communication facilities on telecommunications towers under their administration. The revenues paid to the State under these agreements shall be designated for use by the Division of State Police in support of mobile data computing telecommunications infrastructure cost, effective retroactively.

Section 251. Notwithstanding the provisions of Section 6102(o)(3), Title 29, Delaware Code, any remaining balance in the Inspection and Maintenance (I/M) Fund shall not be subject to General Fund deposit until June 30, 1998. These funds may be used for costs associated with Division of Motor Vehicle lane construction.

TRANSPORTATION

Section 252. 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 253. 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 the Budget Office.

Section 254. 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" 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 Transit Corporation 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" 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 Transit Corporation who may contract for this service as required.
- (e) Funds of the Delaware Transit Corporation 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 contractor to:
 - 1) 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 the federal Americans with Disabilities Act.
 - 2) provide service to dialysis patients in Kent and Sussex Counties during hours identical to those offered in New Castle County.

Section 255. Section 1 of this Act makes an appropriation of \$476.1 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. An additional \$25.0 shall be allocated for the purposes set forth in this Section to be funded from eligible Federal Funds. The activities funded by this appropriation shall be approved by the Secretary of the Department of Transportation.
- (b) Of this amount, \$250.0 shall be used for the purposes of funding research programs of the Delaware Transportation Institute. Use of these program funds are subject to prior approval of 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 256. The Department of Transportation proposes a joint venture with the Department of Public Safety for a Bicycle Helmet Bank Program. The Office of Financial Management and Budget (55-01-02) will fund \$10.0 made available from prior year operation dollars and the Department of Public Safety will fund \$10.0.

Section 257. The Office of Information Services shall bill the Department of Transportation, Office of Administration (55-02-01) on an actual usage basis.

Section 258. Section 1 of this Act makes various appropriations from the Transportation Trust Fund for all transportation-related operations.

- (a) The Department shall promulgate and carry out the policies and procedures necessary to deauthorize any unexpended, unencumbered or unprogrammed operating appropriations remaining at the end of the fiscal year.
- (b) The Department shall provide a list of operating appropriations to be continued into the next fiscal year to include the following: 1) unprogrammed appropriations from prior years, and 2) unencumbered or unprogrammed appropriations from the immediately preceding fiscal year. The list shall be comprised of the accounting code, fiscal year and program description for each appropriation to be continued. The Department may request additional authority, on a project by project basis, during the fiscal year. Such requests shall be submitted to the Budget Director and Controller General for approval.

Section 259. Section 1 of this Act authorizes disbursement of \$2,397.0 in Transportation Trust Funds for Debt Service, General Obligation.

Section 260. Section 1 of this Act makes an appropriation in the amount of \$10,503.0 to the Division of Highway Operations, Expressways Operations/Toll Administration (55-04-90). Additionally, the Turnpike Operating Reserve Fund is authorized at \$880.6.

Section 1 of this Act appropriates \$10,503.0 to the Department of Transportation, Expressways Operations/Toll Administration (55-04-90). The appropriation for this unit may be allocated among the State's toll roads as follows:

	Toll Operations	Toll Operations	Maintenance	Total FY 98
Line Item	I-95	SR-1	Interstate, I-95, SR-1	Adjusted Budget
Personnel Costs	\$3,035.0	\$1,156.8	\$2,597.1	\$6,788.9
Energy	70.2	145.3	242.7	458.2
Capital Outlay	30.0	20.1	58.0	108.1
Contractual/Supplies	988.5	496.2	1,637.1	3,121.8
Travel	26.0	--	--	26.0
Total	\$4,149.7	\$1,818.4	\$4,534.9	\$10,503.0
Total Positions	94.0	37.0	72.0	203.0

Section 261. Section 1 of this Act makes an appropriation to the Bureau of Maintenance in the amount of \$2,000.0 to establish a Special Line called "Snow/Storm Contingency." This fund will provide for the expenses of weather/emergency operations, up to its original balance of \$2,000.0 as set in Fiscal Year 1994. Notwithstanding any other provision of law to the contrary, any sums in this account not expended by the end of a fiscal year, 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 and other qualified entities 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 1 and November 1 of each fiscal year.

Section 262. Section 1 of this Act makes various appropriations from the Transportation Trust Fund for all transportation-related operations.

- (a) The Department shall promulgate and carry out the policies and procedures necessary to deauthorize any unexpended, unencumbered or unprogrammed operating appropriations remaining at the end of the fiscal year.
- (b) The Department shall provide a list of operating appropriations to be continued into the next fiscal year to include the following: 1) unprogrammed appropriations from prior years, and 2) unencumbered or unprogrammed appropriations from the immediately preceding fiscal year. The list shall be comprised of the accounting code, fiscal year and program description for each appropriation to be continued. The Department may request additional authority, on a project by project basis, during the fiscal year. Such requests shall be submitted to the Budget Director and Controller General for approval.
- (c) For the Fiscal Year ending June 30, 1997, any authorizations in the following accounts shall remain as continuing appropriations and shall not be subject to deauthorization until June 30, 1998.

Fiscal Year Appropriation	Account Codes	Remarks
1997	(55-01-01-68-00)	Operations/Capital
1997	(55-01-01-68-06)	Environmental Contingency
1997	(55-01-01-68-15)	Personnel Costs
1997	(55-01-02-68-00)	Operations/Capital
1997	(55-01-02-68-15)	Personnel Costs
1997	(55-01-03-68-00)	Operations/Capital
1997	(55-01-03-68-15)	Personnel Costs
1997	(55-02-01-68-01)	Travel
1997	(55-02-01-68-02)	Contractual/Supplies
1997	(55-02-01-68-03)	Energy
1997	(55-02-01-68-04)	Capital Outlay
1997	(55-02-01-68-15)	Personnel Costs
1997	(55-02-02-68-00)	Operations/Capital
1997	(55-02-02-68-15)	Personnel Costs
1997	(55-03-01-68-00)	Operations/Capital
1997	(55-03-01-68-15)	Personnel Costs
1997	(55-04-01-68-00)	Operations/Capital

1997	(55-04-01-68-15)	Personnel Costs
1997	(55-04-40-68-00)	Operations/Capital
1997	(55-04-40-68-15)	Personnel Costs
1997	(55-04-50-68-02)	Contractual/Supplies
1997	(55-04-50-68-03)	Energy
1997	(55-04-50-68-04)	Capital Outlay
1997	(55-04-50-68-15)	Personnel Costs
1997	(55-04-60-68-00)	Operations/Capital
1997	(55-04-60-68-15)	Personnel Costs
1997	(55-04-70-68-02)	Contractual/Supplies
1997	(55-04-70-68-03)	Energy
1997	(55-04-70-68-04)	Capital Outlay
1997	(55-04-70-68-15)	Personnel Costs
1997	(55-04-80-68-00)	Operations/Capital
1997	(55-04-80-68-15)	Personnel Costs
1997	(55-04-90-68-00)	Operations/Capital
1997	(55-04-90-68-01)	Travel
1997	(55-04-90-68-02)	Contractual/Supplies
1997	(55-04-90-68-03)	Energy
1997	(55-04-90-68-04)	Capital Outlay
1997	(55-04-90-68-15)	Personnel Costs
1997	(55-06-01-85-70)	Transit Administration
1997	(55-06-01-85-71)	Transit Ops Plng/Cust Srv
1997	(55-06-01-85-72)	Transit Operations
1997	(55-06-01-85-81)	Newark Transportation
1997	(55-06-01-85-83)	Kent & Sussex
1997	(55-06-01-85-89)	Taxi Service
1997	(55-07-10-68-00)	Operations/Capital
1997	(55-07-10-68-15)	Personnel Costs

Section 263. Effective July 1, 1997, Toll Collectors, Toll Supervisors, Toll Corporals and Toll Sergeants shall have a standard work week of 40 hours. All such employees employed by the Department of Transportation as of June 30 1997 shall move to the 40 hour work week at their current rate of pay.

Section 264. All salary adjustments necessary to convert Toll Collectors, Toll Supervisors, Toll Corporals and Toll Sergeants to the 40 hour work week shall be calculated in the following order: 1) general salary increases in accordance with the provisions of Section 8(d); 2) applicable regrades/reclasses; 3) 40 hour work week conversion adjustments per Section 263.

LABOR

Section 265. (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, 1997. 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 \$5.50 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 \$5.0 shall be expended for administrative purposes and no more than \$2.0 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.

(c) 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.

Section 266. Pursuant to the enactment of Senate Bill 147 or similar legislation, the newly created hearing officer(s) and one supervisor position, not to exceed 7.0 FTEs, shall be subject to Section 11 (a) of this Act for the purposes of establishment of the new positions.

AGRICULTURE

Section 267. During Fiscal Year 1998, 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 268. Section 1 of this Act authorizes the Thoroughbred Racing Commission to make operational expenditures:

- (a) All fees collected to cover the cost of finger printing and criminal history checks for the Thoroughbred Racing Commission shall be deposited into the Thoroughbred Racing Commission (65-01-10), Fingerprinting and Criminal History line item. No more than \$49.0 ASF shall be expended from that fund and funds within this line cannot be used for any other purpose.
- (b) Any remaining funds shall be deposited to the General Fund.

Section 269. Section 1 of this Act authorizes the Harness Racing Commission to make operational expenditures:

- (a) All fees collected to cover the cost of finger printing and criminal history checks for the Harness Racing Commission shall be deposited into the Harness Racing Commission (65-01-05), Fingerprinting and Criminal History line item. No more than \$30.0 ASF shall be expended from that fund and funds within this line cannot be used for any other purpose.
- (b) Any remaining funds shall be deposited to the General Fund.

Section 270. Section 1 of this Act appropriates \$217.2 in ASF for the Department of Agriculture, Pesticides (65-01-06). The Office of the Budget shall provide start-up funding as necessary until sufficient ASF revenues are generated.

ELECTIONS

Section 271. For the clarification of County Department of Elections costs relating to Public School District elections, Smyrna School District elections will be conducted by Kent County Department of Elections, Woodbridge School District elections and Milford School District elections will be conducted by Sussex County Department of Elections.

Section 272. Volume 70, Chapter 515, Laws of Delaware transferred the responsibility for the conduct of school board, referenda and bond issue elections to the Department of Elections, should this law be funded by the General Assembly.

Funding included in Section 1 of this Act provides an appropriation to Executive, Office of the Budget, "Contingency-School Elections" (10-02-04), in the amount of \$95.0. This amount does not fund Sections 5 and 6 of Volume 70, Chapter 515, Laws of Delaware.

The respective County Department of Elections shall hire the "Chief Election Inspector" for each polling location used in a school election and who shall be responsible for making sure a "Fair and Equal Election" will take place. The Chief Election Inspector shall direct the remaining election officers in that polling location pursuant to the Delaware Code and shall be the sole individual responsible for settling voter qualification disputes. The remaining election officers for each polling location shall be chosen and compensated by the local school district in which the election is being held from a list of qualified individuals provided by the respective County Department of Elections. If it is found that there is not a sufficient number of election officers after contacting all of the individuals on the list submitted by the respective County Department of Elections, the school district shall be responsible for obtaining and hiring the remaining number of election officials for that school election. All election officials whether employed by the Department of Elections or the school district shall be required to complete a school election officer's

training course, conducted by the Department of Elections, prior to each school election. Each school district, not less than seven days before a school election, shall contact the respective Department of Elections with the names, addresses and compensation amount of each of the election officials hired for that election.

FIRE PREVENTION

Section 273. During the first six months of Fiscal Year 1998, the State Fire School may borrow a sum not greater than \$50.0 ASF from the State Fire Marshal's Office available Appropriated Special Fund 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, 1998.

Section 274. 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 275. Of the funds appropriated in Section 1 of this Act to the Fire Prevention Commission (75-03-01) in the line item "Contingency - Extraordinary Expenses", an amount not to exceed \$20.0 may be used to reimburse volunteer fire companies which incur extraordinary expenses. These funds may be disbursed to volunteer fire companies only for extraordinary expenses at the discretion of the Fire Prevention Commission upon the request of a volunteer fire company. An extraordinary expense under the provisions of this Act shall be defined as those expenses for which a volunteer fire company would not normally prepare for in its company budget and are not covered by said company's own private insurance.

Section 276. Section 1 of this Act appropriates \$5.0 to the State Fire Marshal's Office (75-01-01) for the purchase of smoke detectors.

NATIONAL GUARD

Section 277. 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.

Section 278. Two previous special lines in the Delaware National Guard budget are now part of Personnel Costs. These special lines include \$7.0 for Sick-Leave Entitlements and \$7.9 for Widows Compensation Fund.

EXCEPTIONAL CITIZENS

Section 279. Part-time exempt employees in the Governor's Advisory Council for Exceptional Citizens (77-00-00) shall accrue leave on a pro-rated basis.

HIGHER EDUCATION

Section 280. (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 \$2,101.0 for energy.

(b) The University of Delaware shall pay on a regularly scheduled basis as determined by the Secretary of Finance to the State Treasurer, at a rate determined under Title 29, Section 6340, Delaware Code, or otherwise by the Secretary of Finance, the amount of all fringe benefits applicable to salaries and wages paid to employees of the University of Delaware as the term "employee" is defined in Title 29, Sections 5501(a) and 5505, Delaware Code, or any other fringe benefit costs applicable to the University of Delaware.

(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 \$150.0.

(d) Section 1 of this Act provides an appropriation for MCI/Equipment. These funds shall not be subject to reversion until June 30, 2000.

Section 281. Section 1 of this Act provides an appropriation to the University of Delaware (90-01-01) and to Delaware State University (90-03-01), to assist with the operational costs associated with Summer School for Teachers. It is intended that the curriculum of the summer classes offered through this program, to teachers and aides, be consistent with the curriculum standards which are currently under development or have previously been adopted by the State Board of Education. Both the University of Delaware and Delaware State University shall incorporate into their Summer School for Teachers course structure the appropriate and necessary elements that will enable participants to develop relevant classroom curriculum as well as gain additional exposure to best teaching practices in the standardized content areas. The Department of Public Instruction shall make staff available to assist each institution in the preparation of the summer coursework, on an as needed basis.

Section 282. Section 1 of this Act appropriates amounts for "Scholarships", "Agricultural Programs" and "Other Programs" to the University of Delaware (90-01-01). Those amounts shall be allocated as follows:

Scholarships:

General	\$ 1,482.1
Scholarships	1,440.6
Minority Student Recruitment	1,158.7
Aid-to-Needy Students	927.9
Governor's Scholars Program	432.6
Student Employment Program	136.9
Academic Incentive	114.6
Total	\$ 5,693.4

Agricultural Programs:

Agricultural Experimental Station	\$ 353.1
Agricultural Cooperative Extension	584.3

Agricultural Research & Education Center	75.0
Poultry Disease Research	428.2
Crop Extension	119.7
Agricultural Environmental Quality	43.0
Soil Testing and Pesticide Control	175.6
Diagnostic Poultry Program	<u>60.3</u>
Total	\$ 1,839.2

Other Programs:

Sea Grant	\$ 407.2
Summer School for Teachers	472.6
Urban Agent Program	110.2
Public Service and Applied Research Projects	360.9
Research Partnership Fund	1,179.9
Afro-American and Other Minority Person Recruitment	233.0
Pike Creek Greenway	50.0
Financial Services Center	28.3
Local Government Research and Assistance	86.6
Graduate Education (Southern Delaware)	64.9
Library Automation	52.0
MALS/BALS - Southern Delaware	56.2
Nurse Practitioner	218.4
Science, Engineering and Technology Service Program	34.7
Management Training and Technical Assistance	54.2
Molecular Biology/Biotechnology Program	404.2
Math/Science Education for DE Teachers	305.9
Advanced Materials	100.0
Center for Community Development & Family Policy	130.0
Educational Management and Governance Training	

and Research Program

50.0

Total

\$ 4,399.2

Section 283. Section 1 of this Act appropriates \$1,171.7 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 284. 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 Agents in Kent County and 2.5 Agents in Sussex County.

Section 285. 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 286. For the fiscal year covered by this Act, 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 287. Section 1 of this Act provides funds for Delaware State University (90-03-10) MCI/Equipment. These funds shall not be subject to reversion until June 30, 2000.

Section 288. Section 1 of this Act provides funds for Delaware Technical and Community College (90-04-00) MCI/Equipment. These funds shall not be subject to reversion until June 30, 2000.

Section 289. 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 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 290. 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.

Section 291. Section 1 of this Act contains an appropriation of \$121.0 for the Delaware Institute for Veterinary Medicine (90-07-01). Notwithstanding current Laws of Delaware relating to the DIVME Program, these funds shall be used to provide tuition support for up to five persons at Virginia Polytechnic Institute for Delaware residents accepted to veterinary school.

PUBLIC EDUCATION

Section 292. At the end of Fiscal Year 1997, 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 293. 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 approximately 259.6 FTE locally funded positions and 586.1 FTE federally funded positions in the school districts of the State in Fiscal Year 1998.

Section 294. The positions included in Section 1 of this Act that are authorized to the Department of Public Instruction shall be assigned in the manner shown on the Organization Chart memo and as subsequently amended by the FY 1995 and FY 1996 Budget Acts.

In order to complete the review of staffing patterns referenced in the first paragraph of this section, the Department is directed to work with the Office of State Personnel and the Budget Office in order to evaluate the existing staffing patterns and classifications. This effort shall include a detailed review of the job functions currently performed by existing staff and the development of recommendations that will support better alignment between staffing practice and the organizational mission of the Department.

The product of this effort shall be submitted to the Joint Finance Committee for its review upon completion and acceptance by the State Board. During the interim period, the State Board of Education

shall continue to obtain prior approval of the Budget Director and the Controller General before reclassifying or upgrading any position.

Section 295. Notwithstanding any provision of the Delaware Code to the contrary, the State Board of Education may designate one position within its authorized full-time complement as "special counsel" to the Board. Such individual shall be a member of the Delaware Bar and shall work under the supervision and control of the Deputy Attorney General assigned to the State Board, but shall remain an employee of the Department of Public Instruction.

Section 296. 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, 1998, 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 297. 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 298. The Department of Public Instruction shall provide for the reporting of school level financial data beginning with the fiscal year ending June 30, 1999. The Department of Finance shall assist the Department of Public Instruction by making available, as needed, staff from the Division of Accounting to advise and assist with the necessary changes to the Delaware Financial Management System, if any. As part of the development process, the Department of Public Instruction will investigate the feasibility of alterations to district budget unit structures and the enforcement of school level document coding, versus the purchase of vendor software designed to produce school level financial reports. Incidental costs involved during Fiscal Year 1998 may be charged to the General Contingency (95-02-02) with the prior approval of the Budget Director and Controller General.

Section 299. Local school districts are encouraged to utilize funds appropriated in Section 1 of this Act to contract for services with state social service and police agencies, including local police agencies. In order to facilitate such contracts, school districts are exempt from the provisions of Chapter 69, Title 29 of the Delaware Code. Such contracts shall be set forth in writing and shall be public documents pursuant to Chapter 100, Title 29 of the Delaware Code.

Section 300. For Fiscal Year 1998, the inflation factor for the local per pupil payments required under the state's Enrollment Choice Program, as specific in Title 14, Section 408(e), Delaware Code, and for the local per pupil payments required under the state's Charter School Program, as specified in Title 14, Section 509(d), Delaware Code, shall be 3.0 percent.

Section 301. Section 1 of this Act makes an appropriation to Public Education, State Board of Education and State Board for Vocational Education and Department of Public Instruction, State Board and Secretary of Education 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 II teacher and administrator assessment procedures; revision and update of teacher and administrator evaluation procedures (DPAS); the development of teacher and administrator standards; diversity recruiting; professional recertification and, establishing the alternative route to teacher certification program. 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.

Section 288. Section 1 of this Act provides funds for Delaware Technical and Community College (90-04-00) MCI/Equipment. These funds shall not be subject to reversion until June 30, 2000.

Section 289. 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 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.

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PUBLIC EDUCATION

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Section 293. 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 approximately 259.6 FTE locally funded positions and 586.1 FTE federally funded positions in the school districts of the State in Fiscal Year 1998.

Section 294. The positions included in Section 1 of this Act that are authorized to the Department of Public Instruction shall be assigned in the manner shown on the Organization Chart memo and as subsequently amended by the FY 1995 and FY 1996 Budget Acts.

In order to complete the review of staffing patterns referenced in the first paragraph of this section, the Department is directed to work with the Office of State Personnel and the Budget Office in order to evaluate the existing staffing patterns and classifications. This effort shall include a detailed review of the job functions currently performed by existing staff and the development of recommendations that will support better alignment between staffing practice and the organizational mission of the Department.

The product of this effort shall be submitted to the Joint Finance Committee for its review upon completion and acceptance by the State Board. During the interim period, the State Board of Education

shall continue to obtain prior approval of the Budget Director and the Controller General before reclassifying or upgrading any position.

Section 295. Notwithstanding any provision of the Delaware Code to the contrary, the State Board of Education may designate one position within its authorized full-time complement as "special counsel" to the Board. Such individual shall be a member of the Delaware Bar and shall work under the supervision and control of the Deputy Attorney General assigned to the State Board, but shall remain an employee of the Department of Public Instruction.

Section 296. 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, 1998, 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 297. 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 298. The Department of Public Instruction shall provide for the reporting of school level financial data beginning with the fiscal year ending June 30, 1999. The Department of Finance shall assist the Department of Public Instruction by making available, as needed, staff from the Division of Accounting to advise and assist with the necessary changes to the Delaware Financial Management System, if any. As part of the development process, the Department of Public Instruction will investigate the feasibility of alterations to district budget unit structures and the enforcement of school level document coding, versus the purchase of vendor software designed to produce school level financial reports. Incidental costs involved during Fiscal Year 1998 may be charged to the General Contingency (95-02-02) with the prior approval of the Budget Director and Controller General.

Section 299. Local school districts are encouraged to utilize funds appropriated in Section 1 of this Act to contract for services with state social service and police agencies, including local police agencies. In order to facilitate such contracts, school districts are exempt from the provisions of Chapter 69, Title 29 of the Delaware Code. Such contracts shall be set forth in writing and shall be public documents pursuant to Chapter 100, Title 29 of the Delaware Code.

Section 300. For Fiscal Year 1998, the inflation factor for the local per pupil payments required under the state's Enrollment Choice Program, as specific in Title 14, Section 408(c), Delaware Code, and for the local per pupil payments required under the state's Charter School Program, as specified in Title 14, Section 509(d), Delaware Code, shall be 3.0 percent.

Section 301. Section 1 of this Act makes an appropriation to Public Education, State Board of Education and State Board for Vocational Education and Department of Public Instruction, State Board and Secretary of Education 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 II teacher and administrator assessment procedures; revision and update of teacher and administrator evaluation procedures (DPAS); the development of teacher and administrator standards; diversity recruiting; professional recertification and, establishing the alternative route to teacher certification program. 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.

Section 302. Section 1 of this Act provides an appropriation of \$829.5 to Public Education, State Board of Education and State Board for Vocational Education and Department of Public Instruction, State Board and Secretary of Education and Department of Public Instruction (95-01-01) for Standards and Assessment. Part of the Standards and Assessment program agenda is to support the development of curriculum standards and staff development activities at the building level.

Section 303. Section 1 of this Act appropriates General Funds to Public Education, State Board of Education and State Board for Vocational Education and Department of Public Instruction, State Board and Secretary of Education and Department of Public Instruction (95-01-01) for Delaware State Testing Program (DSTP). This appropriation is to be used by the State Board of Education to assess student performance and to develop programs for educator accountability initiatives. The Secretary of Education shall provide reports on November 30, 1997, and April 30, 1998, to the Controller General and Budget Director on the progress of the development and implementation of the DSTP.

Section 304. Section 1 of this Act makes an appropriation of \$30.0 to Public Education, State Board of Education and State Board for Vocational Education and Department of Public Instruction, State Board and Secretary of 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 305. Section 1 of this Act makes an appropriation of \$350.0 to Public Education, State Board of Education and State Board for Vocational Education and Department of Public Instruction (95-01-01) for Student Mentoring. The State Board of Education is authorized to review and award grants competitively to schools with grades kindergarten through eighth grade. Programs selected shall provide at-risk children with academic tutoring and instruction, with the involvement of parents and volunteer mentors. School districts shall make direct application to the State Board on behalf of individual school buildings, addressing in their proposal the following: (a) one on one tutoring for academically at risk students; (b) early childhood preventive intervention strategies; (c) adherence to academic standards as adopted by the State Board of Education; (d) parental involvement; (e) provision of program evaluation and performance evaluation. Local schools are encouraged to utilize such programs for students during non-core academic class time. Grant awards for individual schools of no more than \$30,000 each shall be determined by the State Board no later than November 30, 1997.

Section 306. (a) It is the intent of the General Assembly that the sum of \$1,191.3 allocated in Section 1 of this Act be used for annual maintenance to school buildings. These funds shall not be subject to reversion until June 30, 2000.

(b) It is the intent of the General Assembly that the sum of \$5,836.0 allocated in Section 1 of this Act 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, 2000. This amount shall be paid by the State Board of Education to local districts in the following amounts:

	Maximum	Maximum	
<u>School District</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Appoquinimink	\$189,342	\$126,228	\$315,570
Brandywine	561,101	374,067	935,168
Special	2,473	0	2,473

Christina	982,816	655,211	1,638,027
Special	25,720	0	25,720
Colonial	507,830	338,553	846,383
Special	8,244	0	8,244
New Castle Vo-Tech	275,423	0	275,423
Red Clay	760,384	506,923	1,267,307
Special	11,871	0	11,871
Caesar Rodney	268,778	179,185	447,963
Special	12,613	0	12,613
Capital	315,668	210,445	526,113
Lake Forest	177,916	118,611	296,527
Milford	189,639	126,426	316,065
Polytech	87,713	0	87,713
Smyrna	161,940	107,960	269,900
Cape Henlopen	198,245	132,163	330,408
Special	10,964	0	10,964
Delmar	35,514	23,676	59,190
Indian River	348,264	232,176	580,440
Special	13,767	0	13,767
Laurel	103,030	68,687	171,717
Seaford	190,380	126,920	317,300
Sussex Vo-Tech	96,204	0	96,204
Woodbridge	85,125	56,750	141,875
Wilmington Charter	12,019	8,013	20,032
Positive Outcomes	3,017	2,011	5,028
Total to Schools	\$5,636,000	\$3,394,005	\$9,030,005

STATE BOARD OF EDUCATION	115,000	76,667	191,667
VOCATIONAL EQUIPMENT	<u>85,000</u>	<u>56,667</u>	<u>141,667</u>
TOTAL	\$5,836,000	\$3,527,339	\$9,363,339

(c) Not more than \$65.0 of any minor capital improvement funds appropriated to Polytech School District may be used to ensure proper wiring for educational technology is installed in the Polytech adult education facility.

Section 307. Section 1 of this Act provides appropriations of \$263,725.5 for Formula Salaries and \$95,280.1 for Other Employment Costs to Public Education, School District Operations, Division Funding (95-02-01). These amounts provide salaries and other employment costs for the following categories as determined by the September 30 unit count entitlement of each school district: Title 14, Section 1305, Section 1306, Section 1307, Section 1308, Section 1309, Section 1310, Section 1311, Section 1321, Section 1324, Section 1331 and Section 1332, Delaware Code. These appropriations also contain salaries and other employment costs funds for the Americanization Program operated by the Caesar Rodney and Red Clay Consolidated School Districts. These sums are \$8.4 and \$93.8, respectively.

Section 308. The Delaware Code notwithstanding, during Fiscal Year 1998, the Budget Director is authorized to continue funding for issues such as, but not limited to, the 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. This authorization, as it relates to administrative positions, shall apply only to positions filled for employment, and shall not be considered as authorization to fund any cash options pursuant to Chapter 13, Title 14, Delaware Code.

Section 309. 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 and Department of Public Instruction, 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; and 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, 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 310. 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
5. John G. Leach	<u>50.0</u>
Total	\$384.9

Section 311. Section I 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, 1998, 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 \$1,457.00. A Division II - All Other Costs Unit shall be valued at \$3,152.00. The Division II - All Other Costs appropriation shall be used for all school costs (including library resources) 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 Services Planning and Data Administration.

Section 312. For FY 1998, any school district whose per unit amount for Division III - Equalization funding, as computed under the provisions of Section 1707, Title 14 of the Delaware Code, is less than the computed per unit amount in FY 1997, shall receive Equalization funding for the number of units certified in FY 1997, based on a per unit amount that is equal to one-half of the difference between the FY 1997 and FY 1998 amount added to the FY 1998 amount. New units generated in FY 1998 will be funded at the FY 1998 computed amount.

Section 313. Amend Section 1707(b)(3), Title 14, Delaware Code by striking said section in its entirety and inserting in lieu thereof the following:

"Authorized amount" means \$23,800 for Fiscal Year 1998 and as established in the annual State Budget Appropriation Act thereafter."

Section 314. Amend Section 1707(b)(10) by deleting "69%" as it appears therein and substituting in lieu thereof "70%."

Section 315. Amend Section 1707(c) and (d) by deleting ".69" in each place that it appears therein and substituting in lieu thereof ".70."

Section 316. Amend Section 1707(e) by deleting "120%" in each place that it appears therein and substituting in lieu thereof "110%."

Section 317. Section 1 of this Act provides an appropriation of \$4,544.5 to Public Education, Block Grants and Pass Through Programs, Adult Education 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 1998, each program shall receive no less than the same allocation from this appropriation as its Fiscal Year 1997 allocation, except that the allocation for the Delaware Skills Center shall be increased by \$70.0. 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 318. Section 1 of this Act provides an appropriation of \$4,544.5 to Public Education, Block Grants and Pass Through Programs, Adult Education and Work Force Training Block Grant (95-03-10). Of this amount, \$10.0 shall be used to start a Marine Mechanics Apprenticeship Program to be offered by the Adult Education Division of the Sussex Vocational Technical School District.

Section 319. Section 1 of this Act makes an appropriation of \$5,325.4 to Public Education, Block Grants and Pass Through Programs, Professional Accountability and Instructional Advancement Fund (95-03-10).

(a) The following allocations shall be provided:

(1) \$145.0 for Alternative Routes programs. \$50.0 is provided for the Alternative Routes to Certification program, to be used to initiate implementation of this project in FY 1998, based upon the recommendations of the Professional Standards Council. The remaining \$95.0 may be used for Critical Curriculum Areas and the Summer Institute program.

(2) \$30.0 for National Certification Stipends, to be used to defray costs borne by teachers seeking National Board Certification through the National Board for Professional Teaching Standards.

(3) A total of \$2,000.0 is to be utilized for grants to districts for the purpose of developing and implementing curriculum based upon the content standards established by the Curriculum Framework Commissions, as approved by the State Board of Education. 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 1996-97 (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 curriculum. For purposes of this program, inter-district collaboration and cooperation is encouraged as a means toward maximizing resources on a state-wide basis.

(b) Of the remaining funds, the following minimum allocations shall be provided:

(1) \$140.0 for Delaware Principals Academy activities. The Department of Public Instruction shall determine, in coordination with the agency (or agencies) operating this program, the goals and objectives of this program, including how it will further the objectives of Standards and Assessment and integrate Shared Decision Making training into the program focus. The Controller General and the Budget Director shall ensure that the proposed program is cost efficient and meets the objectives outlined in this section before agreeing to transfer the appropriation from the Department of Public Instruction to the operating agency. All expenditures from this allocation shall serve principals from the State of Delaware only.

(2) \$480.0 for Professional Mentoring. The intent of this appropriation is for exemplary teachers to assist new teachers through leadership and guidance, and includes a training component in order for teachers to become better mentors. This funding level allows for a state-wide program.

(3) \$250.0 for Shared Decision Making training.

(4) \$500.0 for Tuition Reimbursement. This allocation 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. This allocation may be used by local school districts to defray the costs for teachers seeking application for national board certification from the National Board for Professional Teaching Standards.

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, 1997. 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, 1998. The second one-half shall be prorated as described above among eligible employees who complete their courses prior to June 15, 1998. 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.

(5) §628.4 for the Department of Public Instruction for the Teacher to Teacher Instructional Cadre which provides for the purchase of release time of exemplary teachers in the content areas in which the State Board of Education has adopted content standards, who will provide assistance to districts on a state-wide basis in designing, demonstrating and implementing best teaching practices in the development of curriculum to meet the established standards.

(6) §650.0 shall be allocated by the State Board to the districts for professional development activities, including, but not limited to, the following areas: Discipline, Special Education/Inclusion, Collaboration/Consensus Building, Conflict Resolution, Shared Decision Making, Educational Technology, and Curriculum/Instructional Development. Districts shall provide application to the State Board for this additional allocation which shall not exceed \$81.00 per certificated employee (beyond the original \$250 per certificated employee for Curriculum/Instructional Development activities).

In the application, districts shall detail the proposed utilization of the funds as well as the incorporation of the following criteria:

(a) Integration of proposal with existing resources and programs, such as the Comprehensive Discipline Act (House Bill 247), Goals 2000, Delaware Principals Academy, Delaware Teachers' Centers, Drug Free Schools, Chapters 1 and 2, Special Education, and local funds dedicated to Standards and Assessment.

(b) Inclusion of local staff in planning of grant proposal, with representation from all involved in student learning, including all professional employees by category. The plan(s) should focus on overall improved student performance, with a built-in level of accountability to determine effectiveness.

For purposes of these grants, schools are encouraged to collaborate as a means toward maximizing resources as well as focusing district activities on consistent priorities.

(7) Any funds remaining subsequent to these allocations may be disbursed at the discretion of the State Board of Education for professional accountability and instructional advancement activities.

(8) The funds appropriated under Subsection (a)(3), (b)(3), (b)(5), and (b)(6) of this section shall be appropriated on a 15 month basis and shall not be subject to reversion until September 30, 1998. Program expenses, however, may not be incurred subsequent to the start of the regular 1998-1999 school year.

Section 320. (a) Section 1 of this Act makes an appropriation to Public Education, Block Grants and Pass Through Programs, Professional Accountability and Instructional Advancement Fund (95-03-10) for Shared Decision making. The Governor and General Assembly recognize the importance of increased local board and school building level authority as a means toward improving student achievement and increasing accountability. This recognition is consistent with the requirements contained within the Federal Improve America's Schools Act (IASA) for any school receiving funds under said Act. Pursuant to Chapter 8, Title 14, Delaware Code, individual school buildings within local school districts that have adopted a district transition plan as specified in Section 803(d), Chapter 8, Title 14, Delaware Code, may apply for a school level grant to conduct structured conversations at the school building level, and subsequently develop a school transition plan. These grants shall be funded in the amount of \$7.5 per school building and shall be provided to the local school district. As stipulated in Chapter 8, Title 14, Delaware Code, one-third of the amount (\$2.5) shall be made available for the school level structured conversation, and the remaining two-thirds (\$5.0) will be used to design a transition plan at the school building level. Funding for these grants will be provided through a combination of the General Fund appropriation within the Professional Accountability and Instructional Advancement Fund (95-03-10) for this purpose, and Federal Goals 2000 funds, if a local district decides to prioritize its Goals 2000 application in favor of Shared Decision Making. It is anticipated that grants of \$7.5 will be offered for the purposes of this subsection in FY 1999.

(b) Local School Districts that did not apply for a district level grant pursuant to Section 807(b), Chapter 8, Title 14, Delaware Code, during FY 1997, shall receive a district level grant, if the district submits application by April 1, 1998, from FY 1996 and FY 1997 funds. Districts are eligible for grants in the amount of \$20.0 per district, provided they meet the criteria established in the Delaware Code. Approximately one-third of that award (or \$6,667) shall be available for the district level conversations, and the remaining two-thirds (or \$13,333) will be used to design a transition plan at the district level.

(c) Local school districts shall address the district's progress or intentions pursuant to the provisions of Chapter 8, Title 14, Delaware Code in the IASA consolidated application in a format specified by the Department of Public Instruction. Local school districts that are not prepared to make application for the school level grants specified in Chapter 8, Title 14, Delaware Code during Fiscal Year 1998 shall prioritize the use of Goals 2000 funding based on the competitive criteria developed by the State of Delaware. Any local school district that opts to prioritize the use of Goals 2000 funding in a manner so as to use the funds for the purposes other than Shared Decision Making shall not be eligible for funds for the purposes described in this Section from any source during FY 1998. The Federal Goals 2000 funding for this purpose shall be available as of July 1, 1997, and shall be made available at such time that a local school district meets the requirements contained in Chapter 8, Title 14, Delaware Code. Local school districts that do apply for school level grants as specified in Chapter 8, Title 14, Delaware Code shall make the full amount of the grants available to school buildings for the purposes specified in Chapter 8, Title 14, Delaware Code, regardless of the source of such funding, in the amounts specified in subsection (a) of this Section. Sufficient funding shall be made available to each local school district to provide for these grants and to cover indirect costs and audit fees. Pursuant to the Federal Goals 2000 requirements, each local school district must insure that 50 percent of the total district grant is provided to schools with special needs as defined by the local district. Special needs may be indicated by a high number or percentage of students from low-income families, low student achievement, or other similar criteria developed by the local school district.

(d) It is anticipated that individual school buildings that are successful in developing a school transition plan, and subsequently desire to develop a school improvement plan as specified in Section 806, Chapter 8, Title 14, Delaware Code, will be provided school improvement grants pursuant to said Chapter. It is anticipated that these grants will be composed of the conversion of certain discretionary state resources.

Section 321. Section 1 of this Act makes an appropriation to the State Board of Education Block Grant and Pass Through Programs, Academic Excellence Block Grant (95-03-10). Of the amount appropriated, \$21,131.0 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 \$3,782.5 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 1997. 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; provide extended day or extended year programs for students performing below the standard level; provide stipends for professionals engaged in curriculum or professional development activities sponsored by a local school district or the Department of Public

Instruction, outside of the regular school day. 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. The State Board of Education shall provide an annual summary of school district plans for use of Academic Excellence funds to the Budget Director and Controller General no later than December 1 of each year.

Section 322. For the fiscal year beginning July 1, 1997, any local school district that has had two consecutive failed current expense tax referendums during the time period July 1, 1995 to January 1, 1998, 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 1998 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 323. Amend Section 1716(f), Title 14, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(f) One unit of funding shall include Division I funding for one person funded under §1305 of this Title or two aides funded under §1324 of this Title, as specified in Subsection(e) of this section plus one unit of "Division II - All Other Costs" as contained in the Annual Appropriations Act. In addition, beginning with the fiscal year commencing July 1, 1997, any unit that is filled with an employee(s) as described in this subsection, and not taken as a cash option as described in subsection (g) of this section, shall also include one Division III Equalization unit amount as defined in Section 1707, Title 14, Delaware Code.

Section 324. Section 1 of this Act appropriates \$30.0 within Public Education, Block Grants and Pass Through Programs, Professional Accountability and Instructional Advancement Fund (95-03-10). This appropriation is to be used in FY 1998, along with any local school district and privately donated funding, to defray costs for teachers seeking national board certification from the National Board for Professional Teaching Standards (NBPTS). Recognizing the effort involved in pursuing such certification as well as the value it will bring to Delaware teachers and students, commencing July 1, 1998, a certification obtained under this program by a teacher paid under Title 14, Section 1305, Delaware Code, shall result in an additional \$1,500.00 in pay for each year such certification is maintained. The Department of Public Instruction shall report annually to the Budget Director and Controller General the number of certificates obtained under this program.

Section 325. 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 326. Section 1 of this Act provides an appropriation of \$150.0 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.

Section 327. 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 328. 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 329. Section 1 of this Act provides an appropriation of \$150.0 to Block Grants and Pass Through Programs, K-12 Pass Throughs (95-03-15) for Magnet School Start-Up Grants. The State Board of Education shall review and award grants to applicants who are proposing to establish a public magnet school. Applicants should detail the proposed public school's plan to attract students from outside the home district. Those applications which are designed to maintain a desegregated learning environment shall be given priority. Grants will be awarded on a competitive basis and shall be utilized for planning and/or program development. Individual grant awards shall not exceed \$25.0 and shall be one-time in nature to each recipient. Funds appropriated under this section shall be appropriated on a 15-month basis and shall not be subject to reversion until September 30, 1998. Program expenses, however, may not be incurred subsequent to the start of the regular 1998-99 school year.

Section 330. 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 331. Section 1 of this Act makes an appropriation of \$591.0 ASF to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the Children's Services Cost Recovery Project (CSCRP). All local school districts shall fully participate in the implementation and operation of the project for the fiscal year ending June 30, 1998. 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, 1998. 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 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 332. 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 3508, 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 3502, Delaware Code, except as may be herein specifically provided.

Section 333. Section 1 of this Act provides an appropriation of \$2,353.2 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 334. Section 1 of this Act provides an appropriation of \$2,353.2 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the Program for Children with Disabilities (PCD).

The Interagency Resource Management Committee (IRMC) shall be composed of the following members (or their designee with full voting powers):

Secretary of Education 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.
2. Coordinate resources to support family-centered services for eligible children and their families, as appropriate.
3. 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.
4. 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.

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 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 as required by the IRMC Policy Coordinator. 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 335. Section 1 of this Act appropriates \$2,542.2 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 1998, approximately 150 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 336. Amend Title 14, Chapter 30, of Delaware Code, by deleting Section 3001 in its entirety and substituting in lieu thereof:

- "(a) The Department of Public Instruction shall be authorized to provide early childhood educational services to eligible children, which shall include preschool age children who live in poverty, using such funds as are appropriated by the General Assembly for that purpose.
- (b) The Department of Public Instruction shall provide the early childhood educational services by contracting with public and private providers, including but not limited to providers administering federal Head Start programs within the State of Delaware, provided, however, that state funds paid to such contracting providers shall not be used to supplant state and/or federally funded programs, or to make a federal Head Start provider ineligible for a Head Start expansion grant. All contracts will be in place for a period of two years, provided there is sufficient funding contained within the annual Appropriations Act and the contractor adheres to the required performance standards, which include parental involvement and annual monitoring.
- (c) Each contracting provider will be required to establish written agreements within their respective service area with their local Head Start and/or other Early Childhood Initiative contracting provider as well as the local school district, to address issues including, but not limited to service areas, recruitment, transition of children and families, and sharing resources and information.
- (d) The Interagency Resource Management Committee (IRMC) shall have administrative responsibility for all appropriations made to the Department of Public Instruction pursuant to this section. Such administrative responsibility shall include, but not be limited to:
 - (1) Determining unserved and underserved areas within the State of Delaware, to be addressed in any given year. Such identified areas will be specified within the Request for Proposal (RFP) issued to prospective providers;
 - (2) Reviewing and recommending contracts to qualifying contracting providers to deliver early childhood educational services to preschool age children who live in poverty,
 - (3) Reallocating unobligated or unspent appropriations made to the Department of Public Instruction pursuant to this section, and;
 - (4) Verifying that the contracting providers use state funds paid to them for the purposes specified in their contracts."

Section 337. (a) Section 1 of this Act makes an appropriation of \$8,348.7 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: \$2,100.0 is allocated for the state-wide implementation of programs for severe discipline cases. Of that amount, a total of \$1,560.0 will be allocated to the three counties in the following manner: 50 percent to New Castle County, 25 percent to

Kent County and 25 percent to Sussex County. The additional \$540.0 will be disbursed on a competitive basis among the existing school district consortiums or to individual school districts. 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. Programs receiving funds under this section may utilize no more than \$200.0 in total from Pupil Transportation (95-04-01) for transportation expenses.

(b) A total of \$4,498.7 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 less than 799 pupils in grades K-12:	\$20.0
Schools with 800 to 1,199 pupils in grades K-12:	\$28.0
Schools with 1,200 or more pupils in grades K-12:	\$36.0

Enrollment levels shall be computed utilizing September 30, 1996, enrollment counts. 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.

Under Title 14, Chapter 16 of the Delaware Code, local school districts are eligible to receive a supplemental grant, equal to double the base award, for grades 7,8,9 and 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 Delaware Code requiring the establishment of school site-base 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.

(c) \$1,750.0 is appropriated for the prevention component which requires the Family Services Cabinet Council (FSCC) to identify three communities in which to develop comprehensive plans for delivering prevention services through a community-based, inter-agency collaborative effort. The FSCC, 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 funds for any project(s) which they deem likely to demonstrate effective and coordinated prevention strategies.

(d) For the purpose of facilitating the continuation of services, districts receiving an allocation under the provisions of subsections (a) and (b) of this section, may receive 50 percent of the prior year's base grant allocation at the outset of each Fiscal Year. These districts are required to present program proposals to the State Board of Education no later than November 15 each year. Upon State Board approval, adjustments to program allocations will be made.

Section 338. (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 approval of the Delaware State Clearinghouse Committee and maintain an ASF or NSF 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 339. Section 1 of this Act provides an appropriation of \$3,400.0 GF and \$500.0 ASF to Public Education, Block Grants and Pass Through Programs, Special Needs Programs, Unique Educational Alternatives (95-03-20) to implement Title 14, Section 3124, Delaware Code. For the fiscal year ending June 30, 1998, 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, 1998, the State Board of Education is authorized to continue utilizing funds appropriated in Section 1 of this Act to develop unique educational 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 educational 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 340. Section 1 of this Act makes an appropriation of \$3,400.0 GF and \$500.0 ASF to the Public Education, Block Grants and Pass Through Programs, Special Needs Programs, Unique Educational 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 (ICT).

The ICT shall consist of:

Division Director, Division of Child Mental Health Services of DSCYF;
 Division Director, Family Services of DSCYF;
 Division Director, Division of Youth Rehabilitation 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;
 Director, Exceptional Children's Group, DPI, who will serve as Chair;
 Associate Superintendent, Improvement and Assistance, DPI.

A Director assigned to the ICT may designate staff to represent them on the ICT only if these designated representatives are empowered to act on behalf of the Division Director including commitment of division resources.

The ICT 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 ICT 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 agencies.

If appropriate, designate agencies to be involved in collaborative monitoring of individual cases.

The ICT 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 ICT 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 ICT shall report on its activities to the Governor, Budget Director, President Pro-Tempore, Speaker of the House and the Controller General by February 15 of each year. The report shall address the status of items addressed in the previous February ICT Annual Report.

Section 341. 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 342. Section 1 of this Act provides an appropriation of \$608.0 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 343. (a) Section 1 of this Act provides an appropriation of \$7,650.0 to Public Education, Block Grant and Pass Through Programs, Special Needs Program (95-03-20) for Extra Time for Students. Of these funds, an amount of \$2,650.0 is to be utilized for programs serving students of any grade level; \$5,000.0 is to be utilized for programs serving students in grades K-6 only; and, of the \$5,000.0 provided to serve students in grades K - 6, \$400.0 is to be utilized for the Early Intervention Reading Program as specified in this Section. The \$2,650.0 allocation for any grade level, and \$5,000.0 allocation for grades K-6 shall be used exclusively to provide extra instructional time for low achieving students in order that they may improve their academic performance in the four primary content areas (mathematics, science, English language arts, and social studies) as measured against the state standards of such subjects. The only exceptions to this requirement are that up to 15 percent of a district's allocation may be used for Extended School Year (ESY) requirements, pursuant to the Administrative Manual for Exceptional Children (AMPAC) and up to 10 percent of a district's allocation may be used to provide services to Limited English Proficient (LEP) students. Of the amount set aside for LEP services, up to 50 percent may be used within the normal school day provided the services are in the form of specialized instruction designed to help LEP students succeed in regular classroom settings. Of the \$5,000.0 appropriated for students in Grades K-6, \$150.0 shall be used for mentor training.

(b) The following criteria shall apply to each of the components of the Extra Time for Students Program.

- (1) In order to qualify for an allocation, each district shall submit an application to the State Board of Education by November 15, 1997. The application must show evidence of building level staff involvement in the development of the district proposal.
- (2) The application provided to the State Board of Education shall indicate the student populations to be served, the type of program(s) proposed, the levels of academic improvement the additional services are intended to achieve, and the measurement and/or

evaluation process the district will use to determine program effectiveness. Associated transportation costs shall also be included in the district application.

- (3) Funding for this component shall only be used for academic instruction or remediation programs that are offered to a targeted population of low achieving students. These programs must be provided at a time that is in addition to the regularly scheduled six and one-half hour school day and/or the 180 day school year, sufficient to improve student performance. The Department of Public Instruction shall promote the use of "Best Practices" in this area through all available means.
 - (4) Funds appropriated pursuant to this Section may not be used for curriculum development or staff training functions, but may be used for the purchase of supplies and materials necessary to operate extra time programs. To the extent that these funds are used to pay salary expenses of district instructional staff, these funds may only be used for costs associated with the State share of salaries, as provided under Title 14, Section 1305, Delaware Code.
 - (5) In order to maximize resources provided under this program, local school districts may match their allocation, on a 70/30 state/local basis pursuant to the provisions of Title 14, Chapter 1902(b), Delaware Code.
 - (6) Local school districts may use funds appropriated pursuant to this Section to contract with private or non-profit instruction or tutoring services provided that there is evidence of building level conversations regarding contracted services.
 - (7) If, after the applications are received by the State Board of Education, a local district does not choose to utilize the full amount to which they are entitled, the State Board of Education may allocate any remaining amount through a competitive RFP process.
 - (8) Funds appropriated pursuant to this Section shall be appropriated on a 15 month basis and shall not be subject to reversion until September 30, 1998. Program expenses, however, may not be incurred subsequent to the start of the 1998-99 regular school year.
- (c) The following additional criteria shall apply to the component of the program that serves students in any grade levels only, for which \$2,650.0 has been appropriated:
- (1) Allocations for this component shall be provided in proportion to the total Division I units in each school district, multiplied by the state portion of the average teacher salary in the district in the immediately preceding fiscal year.
- (d) The following additional criteria shall apply to the component of the program that serves students in grades K-6 only, for which \$5,000.0 has been appropriated:
- (1) Allocations for this component shall be provided in proportion to the regular Division I units generated in grades K-6, multiplied by the state portion of the average teacher salary in the district in the immediately preceding fiscal year.
 - (2) Recognizing that reading skills provide the foundation for all future learning, a primary focus of this component shall be the identification and remediation of students identified as reading below grade level in grades 2 and 3.
 - (3) Funds allocated for this component may be used by local school districts to provide full day kindergarten for select targeted populations. Full day kindergarten may only be provided utilizing funds appropriated under this Section for children who have previously been enrolled in Head Start or the State of Delaware Early Childhood Initiative programs, children who are at risk of academic failure due to socio-economic conditions as defined by the local school district, or children who are at risk of academic failure due to some other clearly delineated factor as determined by the local school district. Local school districts wishing to utilize funds allocated under this Section to provide full day kindergarten to such targeted populations shall detail the determining factors for inclusion in such programs in the application provided to the State Board of Education. Nothing in this Section shall be considered to prohibit local school districts from providing full day kindergarten to other populations utilizing local resources or other discretionary state resources.
- (e) The following criteria shall apply to the Early Intervention Reading Program for which \$400.0 of the \$5,000.0 appropriated for students in grades K - 6 is to be utilized.
- (1) This funding shall serve students in kindergarten through grade 3 who are identified during their kindergarten and first grade years as being inadequately prepared to succeed in reading or are performing below grade level.

- (2) Allocations for this component shall be provided in proportion to the regular Division I units generated in grades K-3, multiplied by the state portion of the average teacher salary in the district in the immediately preceding fiscal year.
- (3) This funding shall be utilized exclusively to provide supplemental services or teaching methods designed to improve the reading abilities of students with the goal being that they achieve and maintain their appropriate grade level reading ability. These services should primarily utilize intensive systematic phonics as the instructional methodology.
- (4) The funding for this component may provide services outside of the normal school operation timeframe as specified in subsections (c) and (d) of this Section, or may be used during the regular school day, provided however that the services being offered are supplemental to the reading instruction the student would otherwise normally receive.

Section 344. 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, 1998. 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 345. Any provisions of the Delaware Code to the contrary notwithstanding, the State Board of Education is authorized and directed to provide an aide for the purpose of providing mainstreaming services to deaf students, three in the Lake Forest School District and the Capital School District, two for the Seaford School District and the Woodbridge School District, and one in the Brandywine School District, the Caesar Rodney School District, and the Milford School District.

Section 346. Section 1 of this Act makes an appropriation of \$381.1 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 or designee of the Delaware Technical and Community College; the Superintendents of New Castle County Vocational-Technical School District, Kent County Polytech 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 Polytech 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 347. (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, 1998, shall be allocated and shall not exceed \$44,885.0 (of which \$500.0 is designated as a transportation contingency for the Charter and Choice initiatives), 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 1998 operating allowance will be adjusted for inflation by a rate of 2.33 percent.
- (3) For the fiscal year ending June 30, 1998, the allowable cost of a new bus purchased by a contractor shall be the Fiscal Year 1997 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 1997. 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, 1998, 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 transmission shall be considered standard equipment on contractor and school district bus purchases.

(g) The State Board of Education is authorized to amend its transportation formula to change the miles-per-gallon allotment for 66/72 passenger diesel buses from 9.1 miles-per-gallon to 7.9 miles-per-gallon.

Section 348. (a) During the fiscal year ending June 30, 1998, 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 Picerson 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.
- (25) Smyrna Elementary School students who reside in the proximity of 4272 Judith Road.

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 349. During the fiscal year ending June 30, 1998, 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 350. Section 1 of this Act appropriates \$44,885.0 to Pupil Transportation (95-04-00) for Public School Transportation. Notwithstanding the provisions of Title 21, Chapter 43, Section 4366, Delaware Code, the following reimbursement methodology is in effect:

- (a) For those school districts or private contractors who are operating school buses equipped with cellular phone technology or have no radio or telephonic communication equipment, the Department of Public Instruction is authorized to bring said districts and contractors under a State negotiated cellular phone contract such that the State shall pay one-half of the costs associated with the monthly connect charge, subject to the availability of funds.

- (b) For those school districts or private contractors who are operating school buses equipped with radio equipment, the Department is authorized to reimburse said districts or contractors one-half of the installation cost of the radio equipment on a one-time basis.

Section 351. Section 1 of this Act contains an appropriation for the operation of the Center for Educational Technology. The State of Delaware has also committed \$30 million, through the 21st Century Fund, for this educational technology initiative that will provide the necessary technological infrastructure to enable students to meet newly established academic standards as well as to be prepared to compete in the work force. In order for all school districts to maximize the benefits of this project for their schools as well as to provide their employees with necessary assistance as required, school districts are encouraged to designate a district-wide technology coordinator, whose responsibilities will include assistance with the implementation of the state's educational technology initiative. This employee may be funded through the Academic Excellence Block Grant units.

Section 352. Amend Title 14, Section 1331, Delaware Code by adding a new subsection (d) to read as follows: "(d) In addition to staff otherwise authorized, the Sterck School for the Hearing Impaired may employ a Director and Statewide Coordinator. These shall be considered state unit positions and paid according to Delaware Code, Title 14, with appropriate local supplement.

Section 353. Amend § 1312, Chapter 13, Title 14, Delaware Code by redesignating subsection (c) as subsection (d) and inserting a new subsection (c) to read as follows: "(c) In the case of a Department of Public Instruction employee who is required to meet certification requirements as specified in the Manual for the Certification of Professional Public School Personnel but is employed in the non-instructional areas of transportation, finance/business management, human resources/personnel management, purchasing, community/public relations, administrative services, pupil services, audiology, occupational therapist, physical therapist, psychologist, speech language pathologist, human relations, nurse, social work/services, information technology, or a specialized assignment comparable to these areas, work experience shall be allowed on a year for year basis for full-time work experience in a directly related position in public or private business in accordance with rules established by the State Board of Education. Nothing in this Section shall be construed as changing or modifying the certification requirements relating to these non-instructional positions."

Section 354. Amend § 1321, Chapter 13, Title 14, Delaware Code by deleting subsection (g) and by redesignating subsections (h) through (k) as subsections (g) through (j).

Section 355. Amend § 1312, Chapter 13, Title 14, Delaware Code by adding a new subsection (e) as follows: "(e) Beginning with the Fiscal Year ending June 30, 1998, experience for all public education employees shall be credited according to the provisions of Sections (a) through (d) of § 1312. No employee shall be entitled to retroactive payment of salary as a result of any changes in experience resulting from the provisions of Sections (a) through (d)."

Section 356. Amend Title 14, Sections 1321(e)(13) and 1321(e)(14), Delaware Code, by deleting the phrase "paragraph (11) of this subsection" and substituting in lieu thereof the following: "paragraph (12) of this subsection."

Section 357. Amend Title 14, Section 511(e), Delaware Code, by deleting the phrase "on or before December 31" and substitute in lieu thereof the following: "between November 1st and December 31st."

Section 358. Amend Title 14, Section 511(f), Delaware Code, by deleting the phrase "within 20 days after receiving an application" and substituting in lieu thereof the following: "within 20 working days after December 31st."

Section 359. Amend Title 14, Section 511(g), Delaware Code, by deleting the phrase "within 90 days of receiving an application" and substituting in lieu thereof the following: "within 90 days of December 31st, and assuming the application is an application."

Section 360. Amend Title 14, Section 509(e), Delaware Code, by deleting the words "or Pupil Minutes" wherever they appear therein.

Section 361. Amend Title 14, Section 509(e), Delaware Code, by adding the following directly after the words "Minor Capital Improvement" as they appear therein and substituting in lieu thereof the following: "minus local cafeteria expenditures minus any other local expenditures deemed by the Secretary of Education to be inappropriate for inclusion for the purpose of this Chapter."

Section 362. Amend Title 14, Section 408(d), Delaware Code, by deleting the words "or Pupil Minutes" wherever they appear therein.

Section 363. Amend Title 14, Section 408(d), Delaware Code, by adding the following directly after the words "Minor Capital Improvement" as they appear therein and substituting in lieu thereof the following: "minus local cafeteria expenditures minus any other local expenditures deemed by the Secretary of Education to be inappropriate for inclusion for the purpose of this Chapter."

Section 364. Amend Title 14, Section 1049(1), Delaware Code, by deleting the words "up to 4 days per semester" as they appear therein and substituting in lieu thereof "days."

Section 365. During the Fiscal Year beginning July 1, 1997, local school districts are authorized to utilize discretionary state resources and local resources to contract for substitute services. For the purposes of this Section, discretionary state resources are defined as the following: Division II - All Other Costs, Administrative and Academic Excellence Cash Option Funds and Academic Excellence Allotment Funds.

Section 366. The Secretary of Education is authorized to reclassify position #032351 from Field Agent to Education Associate. This position reclassification is authorized in recognition of the additional responsibilities placed on the Department of Education Data Analysis and Reporting Team such as but not limited to: HB 85 reporting requirements, School Profiles, School Choice monitoring and reporting, and Charter School enrollments.

Section 367. Amend Title 14, Section 1321(a) by striking the number "\$7,000" as it appears therein and substituting in lieu thereof the number "\$7,210".

Section 368. Amend Title 29, Subsection 6904(b) Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(b) This chapter shall not apply to any purchase of materials or services from the federal government, or from the government of the State of Delaware including any agency of the State of Delaware, as defined in Section 6902".

Section 369. Amend Title 14, Section 409(a), Delaware Code, by deleting the portion of the subsection that appears after the semicolon "," and by replacing the semicolon "," with a period ".".

Section 370. Local school districts are authorized to request a dual incumbency in any position where the original incumbent is placed on leave awaiting a disability pension or in other cases of long term leave. Such request shall be made to the Budget Director and Controller General and shall be subject to approval of both.

Section 371. Amend Title 14, Section 511(a) Delaware Code, by inserting the following directly after the word "application:" " , together with such conditions imposed pursuant to subsection (j) of this title,".

Section 372. Amend Title 14, Section 511(j), Delaware Code, by adding a new sentence to read as follows:

"In cases where the approving authority finds a charter school application to be in substantial compliance with the majority of the approval criteria contained in Section 512, the authority may provisionally approve such application subject to such conditions as the approving authority, in its sole discretion, may deem appropriate to ensure the applicant's subsequent full compliance with the approval criteria."

Section 373. Amend Section 508 Title 14, Delaware Code by deleting the phrase "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 substitute in lieu thereof the following: "or to receive from the state a payment equal to the average cost per student of transportation within the Vocational District in which the Charter School is located". Further amend Section 508, Title 14, Delaware Code by deleting the phrase "; 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. "and substituting in lieu thereof the following: " In lieu of the payment from the state specified above, if a charter school utilizes a contractor for student transportation the charter school shall publicly bid the routes, and the state shall reimburse the charter school for the actual bid costs only if lower than the payment specified above."

Section 374. Amend Section 1321(c), Title 14, Delaware Code by adding a new subsection (18) to read as follows:

"(18) Supervisor of Buildings and Grounds for a period of 12 months per year at the rate of 1 per reorganized school district. For a school district to have a building and grounds supervisor, it must have 95 or more building units as defined by the State Board of Education."

Section 375. For the fiscal year ending June 30, 1998, local school districts shall calculate the state cost of the Building and Grounds Supervisor pursuant to Section 1321(c)(18), Title 14, Delaware Code first, and pursuant to Section 1311(a) second. The amount allowable to be charged to the state for the fiscal year ending June 30, 1998 shall be equal to the first calculation minus the second calculation, multiplied by .5, added to the second calculation. Additional funds charged to the state as a result of this section shall be passed on to the incumbent Buildings and Grounds Supervisor if the local district currently pays the incumbent on the same local salary scale as other supervisors. If the local school district has been utilizing a different local salary scale for the Buildings and Grounds supervisor to increase the incumbent's total salary, the additional funds charged to the state as a result of this section shall be offset by a decrease in local funds to the incumbent. All incumbents shall be given the same raise in total pay that they otherwise would have received from state and local salary policies for the fiscal year ending June 30, 1998. Nothing in this or any other section of this act shall be considered authorization for a local school district to employ more than 1 Buildings and Grounds Supervisor.

Section 376. Of the funds continued in Section 32 of this Act for (10-02-07-09-75-02), \$75.0 is intended to be used for the Tuition Savings Program and \$265.5 is intended to be used for the SCIP & Diamond State Scholars Program.

Section 377. Amend Section 1311, Title 14, Delaware Code by deleting subsection (c) in its entirety and renumbering subsection (d) as (c).

Section 378. During Fiscal Year 1998 only, the Colonial School District is authorized to cash in any ILC unit certified by the State Board of Education for an amount equal to the Master's plus 10 years experience value on schedule 1305, Chapter 13, Title 14, Delaware Code. This authorization is provided in recognition of the return of all of Colonial's ILC students from other districts, and the lack of physical space available to provide this program. This authorization is provided on a one year basis only. The Colonial School District shall remedy the situation during Fiscal Year 1998 so as to remove the need for this authorization in the future.

Section 379. Consistent with the provisions of Title 14, Section 509(b), charter schools eligible to receive allocations from the professional accountability and instructional advancement fund, school-based student discipline programs, extra time for students and minor capital improvements program will not be required to submit an application to the State Board of Education. Any funds received as a result of the allocation of these programs may be used for current operations, minor capital improvements, debt service payments or tuition payments."

Section 380. Section 1 of this Act makes an appropriation to the Delaware Higher Education Commission (95-08-01) in the amount of \$1,641.4 for scholarships and grants. Of that amount, \$30.0 shall be used for the Herman M. Holloway, Sr. Scholarship Program per the provisions of Title 14, Chapter 34 of the Delaware Code; \$110.0 shall be used for the FAME Scholarship Program; \$25.0 shall be used for the MERIT Scholarship Program; \$10.0 shall be used for the Professional Librarian/Archives Incentive Program.

Section 381: Amend Title 14, §8905C (b)(1) by deleting the last sentence and replacing it with the following :

"For each two years the recipient is so employed, the repayment of the equivalent of one full academic year's study will be forgiven".

Section 382: Amend Title 14, §8905C (b)(4) by deleting the last sentence and replacing it with the following:

"If during the period of repayment the recipient becomes employed as a librarian or archivist in a Delaware public library, public school district, state agency or political subdivision, payments will be deferred and the equivalent of one full academic year's study will be forgiven for each two years the recipient is so employed."

Approved July 1, 1997

CHAPTER 133

FORMERLY

SENATE BILL NO. 174

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO SOCIAL SECURITY NUMBERS ON DRIVER'S LICENSES AND IDENTIFICATION CARDS ISSUED BY THE DIVISION OF MOTOR VEHICLES.

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

Section 1. Amend § 2718(a), Title 21, Delaware Code, by adding the following sentence at the end of paragraph (a): "The licensee's Social Security number is used for identification purposes and shall be maintained in the Division of Motor Vehicle's record system. The license document shall contain a Social Security account number that can be read visually or by electronic means."

Section 2. Amend § 2718(d), Title 21, Delaware Code by deleting the current paragraph and substituting in lieu thereof the following:

"(d) A driver license applicant or holder of a driver's license shall provide the Division with his/her Social Security number. This shall take place at the time of renewal of such drivers license or at the time a new license is issued to the applicant for any reason."

Section 3. Amend § 3102(b), Title 21, Delaware Code by adding in the first sentence the words "social security number," after the word "name" and before the words "date of birth."

Section 4. Amend § 3104(a), Title 21, Delaware Code, by deleting the current paragraph and substituting in lieu thereof the following:

"(a) Every identification card shall bear a distinguishing number assigned to the holder and shall contain the name, social security number, date of birth, address, a photograph of the holder taken by the Department of Public Safety and a brief description of the holder for purposes of identification. The identification card holder's social security number is used for identification purposes and shall be maintained in the Division of Motor Vehicle's record system. The document shall contain a social security account number that can be read visually or by electronic means."

Approved July 3, 1997

CHAPTER 134

FORMERLY

SENATE BILL NO. 58

AN ACT TO AMEND CHAPTER 35, TITLE 6 OF THE DELAWARE CODE RELATING TO
LATE PAYMENTS TO SUPPLIERS UNDER CONSTRUCTION CONTRACTS.

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

Section 1. Amend subsection (a), Section 3506, Chapter 35, Title 6 of the Delaware Code by striking the word "subcontractor" as the same appears in paragraph (1), and substituting the words "subcontractor and each supplier" in lieu thereof.

Section 2. Amend subsection (a), Section 3506, Chapter 35, Title 6 of the Delaware Code by striking the word "subcontractor" as the same appears in paragraph (2), and substituting the words "subcontractor and each supplier" in lieu thereof.

Section 3. Amend §3506, Chapter 35, Title 6 of the Delaware Code by striking the word "subcontractor" as the same appears in the first sentence of subsection (c), and substituting the words "subcontractor and each supplier" in lieu thereof.

Section 4. Amend §3506, Chapter 35, Title 6 of the Delaware Code by striking the word "subcontractor" as the same appears twice in the last sentence of subsection (c), and substituting the words "subcontractor or supplier" in lieu thereof.

Section 5. Amend §3506, Chapter 35, Title 6 of the Delaware Code by striking the word "subcontractor" as the same appears in subsection (e), and substituting the words "subcontractor or supplier" in lieu thereof.

Approved July 3, 1997

CHAPTER 135

FORMERLY

SENATE BILL NO. 134

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO PENALTIES FOR CERTAIN DOG LAW VIOLATIONS.

BE IT 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 §1701(d), Title 7, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

“(d) Whoever fails to pay the license tax on or before March 1 of each year shall be fined not less than \$50 nor more than \$100. For each subsequent offense occurring within 12 months of a prior offense, the person shall be fined not less than \$100 nor more than \$200. The minimum fine for a subsequent offense shall not be subject to suspension. Failure to pay the license tax is a violation.”

Section 2. Amend §1702(c), Title 7, Delaware Code, by striking the last sentence of said subsection.

Section 3. Amend §1704(a), Title 7, Delaware Code, by adding to the end of said subsection the following:

“Any owner or custodian who violates this subsection shall be fined not less than \$25 nor more than \$50. For each subsequent offense occurring within 12 months of a prior offense, the person shall be fined not less than \$50 nor more than \$100. The minimum fine for a subsequent offense shall not be subject to suspension. For the purposes of this section, the term ‘dog’ shall mean any dog or dog hybrid. Allowing a dog to run at large is a violation.”

Section 4. Amend §1704(c), Title 7, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

“(c) Whoever, being the owner, custodian, possessor or harbinger of any female dog, allows such dog to run or remain at large in this State while in heat shall be fined not less than \$50 nor more than \$100. For each subsequent offense occurring within 12 months of a prior offense, the person shall be fined not less than \$100 nor more than \$200. The minimum fine for a subsequent offense shall not be subject to suspension. Allowing a female dog to run at large while in heat is a violation.”

Section 5. Amend §1707, Title 7, Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

“§1707. Dogs deemed personal property; theft; penalty.

(a) All dogs shall be deemed personal property, and may be the subject of theft pursuant to Chapter 5 of Title 11. Any warrant of arrest, or other process, issued under or by virtue of the several laws in relation to the theft of such property, may be directed to and executed by any sheriff, police officer, constable or Dog Warden.

(b) The presence of any dog, regardless of age, not confined on the premises of a person other than the lawful owner of such dog shall raise no presumption of theft against the owner or tenant of such premises.

(c) No person shall confine any dog, not his or her lawful property, without contacting the Department, a Dog Warden or other officer within 48 hours of confining such dog and providing the Department, Dog Warden or other officer with a complete description of the dog,

the exact location of the premises on which such dog is to be detained and the name of the owner or tenant of such property."

Section 6. Amend §1708, Title 7, Delaware Code, by striking the phrase "of an unlicensed dog" from the Title of said section and by inserting "dogs" in lieu thereof.

Section 7. Amend §1708(a), Title 7, Delaware Code, by inserting the phrase "licensed or" in between the words "Any" and "unlicensed".

Section 8. Amend §1708(c), Title 7, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(c) Any licensed or unlicensed dog that is attacking a human being, attacking livestock, or wounding a dog or household pet may be injured or killed by any person without liability or responsibility of any nature for such injury or killing."

Section 9. Amend §1709, Title 7, Delaware Code, by striking said section in its entirety.

Section 10. Amend §1714, Title 7, Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

"§1714. Penalties.

(a) Whoever violates this subchapter, unless otherwise specifically provided, shall be fined not less than \$50 nor more than \$100 for each offense. For each subsequent offense, the person shall be fined not less than \$100 nor more than \$250.

(b) Whoever violates this Subchapter and fails to comply with the payment provisions in §1311 of this Title, after having elected the option of accepting a voluntary assessment, shall be fined not less than \$25 nor more than \$50. For each subsequent offense, the person shall be fined not less than \$50 nor more than \$100."

Section 11. Amend §1715, Title 7, Delaware Code, by striking said section and substituting in lieu thereof the following:

"§1715. Dogs on state coastal beaches.

Whoever, being the owner, possessor, harbinger or custodian of any dog, allows such dog to be upon the designated swimming or sunbathing area of a state coastal beach strand at anytime between May 1 and September 30, inclusive, of any year, except when such dog is on said property on behalf of a law enforcement agency or a blind person, as defined in §2101 of Title 31, is guilty of a violation and shall be fined not less than \$25 nor more than \$50. For each subsequent offense, the person shall be fined not less than \$50 nor more than \$100. 'Coastal beach strand' shall mean all that coastal real property between the western base of the dunes and the low water mark."

Section 12. Amend §1716, Title 7, Delaware Code, by striking said section in its entirety.

Section 13. Amend §1721, Title 7, Delaware Code, by striking the phrase ", nor shall permits be issued for more than 4 special dog training areas in any one county".

Section 14. Amend §1723(b), Title 7, Delaware Code, by inserting the phrase "is guilty of a violation and" between the words "warning" and "shall", and by striking the phrase ", or in default of payment thereof shall be imprisoned not more than 10 days".

Section 15. Amend §1724, Title 7, Delaware Code, by inserting the phrase "is guilty of a violation and" between the words "section" and "shall", and by striking the phrase ", or in default of payment thereof shall be imprisoned for not more than 5 days".

Section 16. Amend Chapter 17, Title 7, Delaware Code, by striking the phrase "Fish and Wildlife Agent" wherever such phrase may appear and substituting in lieu thereof the phrase "Dog Warden".

Section 17. Amend §1725(a), Title 7, Delaware Code, by striking the phrase "dog control officers or dog wardens" and substituting in lieu thereof the phrase "Dog Wardens".

Section 18. Amend §1725(b), Title 7, Delaware Code, by striking the phrase "dog control officers or dog wardens" and substituting in lieu thereof the phrase "Dog Wardens", and by striking the phrase "dog control officer" and substituting in lieu thereof the phrase "Dog Wardens". Further amend § 1725(b) by striking the phrase "dog control officers" as it appears in the third sentence and substituting in lieu thereof the phrase "Dog Wardens", and by inserting the phrase "of the state" in between the word "laws" and the period ".".

Section 19. Amend §1725, Title 7, Delaware Code, by adding thereto a new subsection to read as follows:

"(c) For the purposes of this chapter, the term 'Dog Warden' shall mean a person employed by the Department or an animal control agency to enforce the dog control laws of this State. Fish and Wildlife Agents and all other peace officers shall be ex-officio Dog Wardens."

Section 20. This Act shall become effective 90 days after the date of enactment.

Approved July 3, 1997

CHAPTER 136

FORMERLY

SENATE BILL NO. 190

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO DONATED
LEAVE PROGRAM(S) FOR SCHOOL EMPLOYEES; AND SICK LEAVE.

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

Section 1. Delete subsection "(c)" of § 1318, Title 14 of the Delaware Code in its
entirety and substitute in lieu thereof the following:

"(c) In the case of a serious illness of a member of the employee's immediate
family, as defined in subsection (b) that requires the employee's personal attention, an
employee may use accrued sick leave. An employee needing sick leave under the
provisions of this Title shall inform his/her immediate supervisor of the fact and reason in
advance when possible, or otherwise before the expiration of the first hour of absence or
as soon thereafter as practicable; failure to do so may be cause for denial of pay for the
period of absence. Before approving pay for sick leave, the supervisor may at his/her
discretion require either a doctor's certificate or a written statement signed by the
employee setting forth the reason for the absence. In the case of an absence of more than
5 consecutive days, a doctor's certificate is required as a condition of approval."

Section 2. Amend Chapter 13 of Title 14 by adding thereto a new section, designated as
Section 1318A, which new section shall read as follows:

"Section 1318A. Donated Leave Program.

(a) 'Donated leave program' means a program:

(1) in which one or more employees of a public school district may
transfer accrued, unused sick leave days to one or more other employees of the
same public school district;

(2) is established by the public school district as a local Board of
Education policy and/or pursuant to the terms of a collective bargaining
agreement negotiated under the terms of Chapter 40 of Title 14; and

(3) is consistent with the provisions set forth in subsection (b) hereof. No
donated leave program shall prohibit participation by employees based on
inclusion in or exclusion from a certified bargaining unit.

(b) Any donated leave shall be required to comply with the following
requirements:

(1) Employees wishing to donate accrued sick leave must donate in
increments of whole days. For every two days donated, one day will be made
available to a recipient.

(2) Donated days shall be made available only for recipients within the
school district for a catastrophic illness. For this section, '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
consecutive work days or more each, resulting from the same or a related medical
condition and occurring within any 12 month consecutive period, shall be
considered the same period of disability.

(3) The local school district shall convert the donated leave available for use by a recipient 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.

(4) The recipient of the donated leave shall have been an employee with the local school district for at least 6 months before he or she is eligible for donated leave time.

(5) The recipient shall have used all of his or her sick days and personal days and half of his or her annual leave where applicable.

(6) The recipient shall have established medical justification for such receipt, which must be renewed every 30 days during any absence.

(7) No potential donor, nor any other person, shall sell any accrued leave which might otherwise be donated under this section.

(8) No person who is permitted to donate leave under this section shall make any such donation within the last 6 months immediately prior to such person's retirement from State employment.

(9) The liability of the State under this program shall be limited to paying the State share of salary, benefits and other employment costs, paid to employees for sick leave properly utilized pursuant to a donated leave program established pursuant to and in compliance with this section and § 4002 of Title 14, if applicable.

(10) Any recipient of this program is subject to a one work year cap with the number of days specified in § 1318(g).

(11) If a long-term disability program is available to employees, a period of disability defined herein shall be limited to the waiting or elimination period defined in the policy."

Section 4. Amend subsection (r) of § 4002, Title 14 by inserting the words "donated leave program(s) in compliance with Chapter 13 of this Title," between the word and symbol "salaries", and the word and symbol "hours,".

Approved July 3, 1997

CHAPTER 137

FORMERLY

SENATE BILL NO. 48

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO
PROTECTION FROM ABUSE PROCEEDINGS.

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

Section 1. Amend Title 10, Section 1041(l)(iv) of the Delaware Code by deleting the section in its entirety and substituting in its place the following:

"(iv) Engaging in a course of alarming or distressing conduct in a manner which is likely to cause fear or emotional distress, or to provoke a violent or disorderly response."

Section 2. Amend Title 10, Section 1045 of the Delaware Code by adding a new subsection (c) to read as follows:

"(c) Any subsequent support, custody, or visitation order entered by the Court in any proceeding brought pursuant to Title 13 shall supersede any relevant provisions regarding those issues which are included in a Protection from Abuse order, without the need to modify such protective order."

Section 3. Amend Title 10, Section 1045(c) of the Delaware Code by inserting the following language after the word "title":

"Orders may be extended only after the Court finds by a preponderance of the evidence that domestic violence has occurred since the entry of the order, a violation of the order has occurred, if the respondent consents to the extension of the order or for good cause shown."

Section 4. Amend Title 10, Section 1045(a)(5) by deleting the words "and provide for visitation with the respondent, if appropriate, including" and substituting the following language in its place:

". Either party may request visitation at any time during the proceeding. The Court may provide for visitation by separate interim visitation order pursuant to Title 13, which order shall be binding upon and enforceable against both parties.

Approved July 3, 1997

CHAPTER 138

FORMERLY

SENATE BILL NO. 76
AS AMENDED BY SENATE AMENDMENT NO. 2AN ACT TO AMEND TITLES 3, 11, 19, 28 AND 29 OF THE DELAWARE CODE RELATING
TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES.

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

Section 1. Amend Title 3, § 10107 of the Delaware Code by striking the words "Administrative Services" as they appear therein and substituting in lieu thereof the word "Agriculture".

Section 2. Amend Title 11, § 1942(1) of the Delaware Code by striking the words "Administrative Services" as they appear therein and substituting in lieu thereof the words "Public Safety".

Section 3. Amend Title 11, § 1942(3) of the Delaware Code by striking the words "Administrative Services" as they appear therein and substituting in lieu thereof the words "Public Safety".

Section 4. Amend Title 28, § 1121 of the Delaware Code by striking said section in its entirety.

Section 5. Amend Title 29, § 423 of the Delaware Code by striking said section in its entirety.

Section 6. Amend Title 29, § 2517(c)(1)c. of the Delaware Code by striking the words "§ 8824" as they appear therein and substituting in lieu thereof the words "§ 2518".

Section 7. Amend Title 29, § 7002(e) of the Delaware Code by striking the words "in accordance with subsection (i) of § 6902 of this title".

Section 8. Amend Title 29, § 7305(b) of the Delaware Code by striking the word "six" as it appears therein and substituting in lieu thereof the word "five".

Section 9. Amend Title 29, § 8802(a) of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(a) The administrator and head of the Department shall be the Secretary of the Department of Administrative Services, who shall be known as the Secretary of Administrative Services. The Secretary shall be a person qualified by training and experience to perform the duties of the office and preference shall be given to a resident of this State, provided that s/he is acceptable and equally qualified. The Secretary shall be appointed by the Governor with the advice and consent of the Senate and shall serve at the pleasure of the Governor."

Section 10. Amend Title 29, §§ 8803-8805 of the Delaware Code by striking said sections in their entirety and substituting in lieu thereof the following:

"§ 8803. Powers, duties and functions of the Secretary.

The Secretary shall have the following powers, duties and functions:

(1) To supervise, direct and account for the administration and operation of the Department, its divisions, subdivisions, offices, functions and employees;

(2) To appoint and fix the salary of, with the written approval of the Governor, the following division directors, who may be removed from office by the Secretary with the written approval of

the Governor and who shall have such powers, duties and functions in the administration and operation of the Department as may be assigned by the Secretary:

a. A Director of the Division of Administration who shall be known as the Director of Administration, and who shall be qualified by training and experience to perform the duties of the office.

b. A Director of the Division of Facilities Management who shall be known as the Director of Facilities Management, and who shall be qualified by training and experience to perform the duties of the office.

c. A Director of the Division of Professional Regulation who shall be known as the Director of Professional Regulation, and who shall be qualified by training and experience to perform the duties of the office.

d. A Director of the Division of Public Utilities Control who shall be known as the Director of Public Utilities Control, and who shall be qualified by training and experience to perform the duties of the office.

e. A Director of the Division of Purchasing who shall be known as the Director of Purchasing, and who shall be qualified by training and experience to perform the duties of the office.

f. A Director of the Division of Support Operations who shall be known as the Director of Support Operations, and who shall be qualified by training and experience to perform the duties of the office.

(3) To appoint such additional personnel as may be necessary for the administration and operation of the Department within such limitations as may be imposed by law;

(4) To establish, consolidate or abolish such divisions, subdivisions and offices within the Department or transfer or combine the powers, duties and functions of the divisions and offices within the Department as the Secretary, with the written approval of the Governor, may deem necessary, provided that all powers, duties and functions required by law shall be provided for and maintained;

(5) To make and enter into any and all contracts, agreements or stipulations, and to 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, whenever they shall be deemed by the Secretary necessary or desirable in the performance of the functions of the Department and whenever funds shall be available for such purpose. All necessary legal services shall be provided pursuant to Chapter 25 of this title;

(6) To delegate any of his or her powers, duties or functions to a director of a division, except the power to remove employees of the Department or to fix their compensation;

(7) To establish and to promulgate such rules and regulations governing the administration and operation of the Department as may be deemed necessary by the Secretary and which are not inconsistent with the laws of this State;

(8) To maintain such facilities throughout the State as may be required for the effective and efficient operation of the Department;

(9) To adopt an official seal or seals for the Department;

(10) Notwithstanding any law to the contrary, to establish specific biennial renewal dates for professional licensure registration of Title 23 and Title 24 professional licensing boards in such manner as to promote the efficient administration of professional licensure renewal throughout each biennial period, and to provide for the imposition of licensure and related fees in accordance with § 8807(c) of this Title;

(11) To accept and to receive, in furtherance of the Department's function, funds, grants and services from the federal government or its agencies;

(12) Assume such other powers, duties and functions as the Governor may assign which are not otherwise inconsistent with the laws of this State;

(13) To be the only state agency authorized to rent parking space in the underground facilities located at the Carvel State Building;

(14) To negotiate, review and approve on behalf of all state departments and agencies all leases and lease renewals for facilities throughout the State;

(15) To approve all proposed contracts for architectural, engineering and construction management services and all architectural, structural and electrical plans, specifications and cost estimates for public building projects to be undertaken by all state departments and agencies. All projects planned, designed, maintained and/or constructed by the Department of Transportation, with the exception of projects for the construction of public buildings, are specifically exempted from the requirements of this subsection.

(16) To prepare, in cooperation with the division directors, a proposed budget for the operation of the Department, to be submitted for the consideration of the Governor and the General Assembly. The Department shall be operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly. Special funds may be used in accordance with approved programs, grants, and appropriations.

§ 8804. Exemptions.

The following positions set forth in this section shall be exempt from Chapter 59 of this title:

- (1) Secretary of Administrative Services;
- (2) Director of Administration;
- (3) Director of Facilities Management;
- (4) Director of Professional Regulation;
- (5) Public Advocate;
- (6) Director of Public Utilities Control;
- (7) Director of Purchasing;
- (8) Director of Support Operations.

§ 8805. Division of Administration.

The Division of Administration is established, having the powers, duties and functions as follows:

(1) Administer and coordinate the recordkeeping, fiscal affairs, data processing, statistics, accounting, budgeting, personnel, and other general services for the Department as the Secretary may deem necessary for the proper, efficient, and economical operation of the Department;

(2) Coordinate such general services and business administration with departments, agencies, and offices of this State, other states, and the federal government;

(3) Perform special studies and reports and direct services of the Department to coordinate the services of the Department with other departments, agencies and offices of this State;

(4) Assume such other powers, duties and functions as the Secretary may assign which are not inconsistent with the laws of the State."

Section 11. Amend Title 29, §§ 8806-8807 of the Delaware Code by striking said sections in their entirety.

Section 12. Amend Title 29, § 8808 of the Delaware Code by redesignating said section as § 8806 of Title 29.

Section 13. Amend new § 8806(c), Title 29 of the Delaware Code by striking the words "state-facilities" as they appear each time therein and substituting in lieu thereof the words "State facilities"

Section 14. Amend new § 8806(e), Title 29 of the Delaware Code by redesignating said subsection as § 8806 (g) of Title 29.

Section 15. Amend new § 8806, Title 29, of the Delaware Code by adding a new § 8806(e) to read as follows: "(e) The Division of Facilities Management shall be responsible for the design, construction, and/or renovation of all public buildings for State departments and agencies. 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 minor capital improvement projects to be bid upon and awarded, approval of final architectural and engineering drawings for major capital projects, and approval of change orders greater than or equal to 2 percent of a project cost. For the purpose of this subsection, State departments and agencies shall not include school districts and institutions of higher learning."

Section 16. Amend Title 29, § 8810 of the Delaware Code by redesignating said section as § 8807 of Title 29.

Section 17. Amend Title 29, §§ 8808 - 8809 of the Delaware Code by striking said sections in their entirety and substituting in lieu thereof the following:

"§ 8808. Division of the Public Advocate.

(a) There is established within the Department of Administrative Services the Division of the Public Advocate. The Public Advocate shall be a person qualified by training and/or experience to perform the duties of the office. The Public Advocate shall be appointed by the Governor with the advice and consent of the majority of the Senate and shall hold office at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of the Public Advocate's successor. The Public Advocate shall be a full-time employee of the State.

(b) No person shall be eligible for appointment to be Public Advocate who owns or controls, in that person's own name or as a fiduciary, or whose spouse or minor child residing in that person's household owns or controls, any stock, note or debenture in any public utility, or who holds any office or position with any public utility or whose employment or vocation depends directly upon or is under the control of a public utility.

(c) The Public Advocate shall comply with and be held strictly accountable for compliance with the highest standards of Chapter 58A of this title and § 22, Article II of the Delaware Constitution. The Division of the Public Advocate is an agency subject to Chapters 64 and 100 of this Title.

(d) The Public Advocate shall have the following powers and duties:

(1) To appear before the Public Service Commission on behalf of the interest of consumers in any matter or proceeding over which the Commission has jurisdiction and in which he deems the interest of consumers requires such participation.

(2) To advocate the lowest reasonable rates for consumers consistent with the maintenance of adequate utility service and consistent with an equitable distribution of rates among all classes of consumers.

(3) To appear on behalf of the interest of consumers in the courts of this State, the federal courts and federal administrative and regulatory agencies and commissions in matters involving rates, service and practices of public utilities.

(4) To hire, from time to time, as needed, in connection with proceedings before the Commission, experts in the utility regulation field, including, but not limited to, economists, cost of capital experts, rate design experts, accountants, engineers and other specialists. A budget for compensation and/or expenses of these experts shall be provided annually, through the Delaware Public Service Commission Regulatory Fund. Nothing in this section shall be construed to preclude the Public Advocate from applying to the General Assembly for additional funds in specific instances, including emergencies, and from receiving such additional amounts as the General Assembly shall determine.

(5) To have the same access to and the same right to inspect any and all books, accounts, records, memoranda, property, plant facilities and equipment of the public utilities as is afforded by law or by rule of the Public Service Commission to any other party in interest.

(6) To have full access to the records of the Public Service Commission.

(7) To call upon the assistance of the staff and experts of the Public Service Commission in the performance of his duties.

(8) To appoint, fix the compensations and terms of service and prescribe the duties and powers of such staff as may be necessary for the proper conduct of the work of the Division of the Public Advocate, within the conditions and limitations imposed by the merit system of personnel administration.

(c) The Public Service Commission shall notify the Public Advocate of all hearings and meetings of the Commission and shall forward to the Public Advocate copies of all applications submitted by public utilities and all formal complaints and petitions filed with the Commission. No formal action taken by the Commission, without proof of the receipt of notice by the Public Advocate, shall have any legal effect.

(f) The Public Advocate shall be entitled to be present and be heard at any public meeting of the Public Service Commission.

(g) When the Public Advocate shall determine to intervene in a matter before the Public Service Commission, the Public Advocate shall file a statement to that effect with the Public Service Commission. Thereupon, the Public Advocate shall be deemed a party in interest and shall have full power to present evidence, subpoena and cross-examine witnesses, submit proof, file briefs, appeal and do any other act appropriate for a party to the Commission."

Section 18. Amend Title 29, § 8811 of the Delaware Code by redesignating said section as § 8809 of Title 29.

Section 19. Amend Title 29, § 8810-8815 of the Delaware Code by striking said sections in their entirety and substituting in lieu thereof the following:

"§ 8810. Division of Purchasing.

(a) As used in this section:

(1) 'Duly authorized volunteer fire department' shall mean a volunteer fire department recognized as such by the State Fire Prevention Commission.

(2) 'Local government unit' shall mean any municipality incorporated in this State under the authority of the General Assembly and any of the three counties.

(b) The Division of Purchasing is established having powers, duties and functions relating to the distribution of surplus property as follows:

(1) The Division may:

a. Acquire from the United States of America in conformity with the federal Property and Administrative Services Act of 1949 as amended (40 U.S.C. § 484 et seq.), surplus property;

b. Warehouse such property;

c. Distribute such property within the State to tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges and universities within the State, to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which have been held exempt from taxation under § 501 of the United States Internal Revenue Code of 1954 (26 U.S.C. § 501), to civil defense organizations of the State, duly authorized volunteer fire departments within the State or political subdivisions and instrumentalities thereof, which are established pursuant to state law and to such other types of institutions or activities as may become eligible under federal law to acquire such property;

d. Receive applications from eligible institutions for the acquisition of federal surplus real property, investigate the same, make recommendations regarding the need of such applicant for the property and otherwise assist in the processing of such applications for acquisition of real and related personal property of the United States under § 203(k) of the federal Property and Administrative Services Act of 1949 (40 U.S.C. § 484);

e. Make such certifications, take such action, make such expenditures and enter into such contracts, agreements and undertakings for and in the name of the State including cooperative agreements with any federal agencies providing for utilization by, and exchange between them, of the property, facilities, personnel and services of each by the other, and require such reports and make such investigations as may be required by law or regulation of the United States of America in connection with the disposal of real property and the receipt, warehousing and distribution of personal property received from the United States of America.

(2) The Division shall:

a. Act as the responsible agency to operate the surplus commodity program in Delaware, in accordance with the regulations and procedures prescribed by the United States Department of Agriculture. The Department may take such action, make such expenditures and enter into such contracts, agreements and undertakings for the State to provide for the distribution of available commodities, to all eligible recipients in the State who make proper application therefor;

b. Act as the sole state agency to receive, warehouse and distribute food commodities issued by the federal government for use in non-profit school lunch programs, nonprofit summer camps for children, non-penal, nonprofit, tax-exempt private or public institutions, state correctional institutions and assistance to other needy persons in accordance with § 416 of the Agricultural Act of 1949 (7 U.S.C. § 1431), as amended, and other applicable federal laws and regulations; provided, however, that the Department shall have no control over the administration of the school lunch program beyond receiving, warehousing and distributing such food commodities.

(3) a. The State Treasurer shall maintain in the name of the Department of Administrative Services, Division of Purchasing, a special revolving account. There shall be deposited in this special account all moneys received as handling charges for the acquisition, warehousing, distribution or transfer of property of the United States of America as authorized under paragraph (1) of this subsection.

(b) All funds collected by the Division of Purchasing shall be accounted for as provided by law for receipts of state agencies. Such funds shall be used to cover the expenses of the program. In accordance with federal regulations no funds in such special account shall revert to the General Fund of the State.

(c) The Division of Purchasing shall have the powers, duties and functions relating to the central contracting for materiel and services throughout the State as outlined in § 6908 of this title.

(d) The Division of Purchasing shall not contract for printed matter, forms, bond paper, or pads larger than 8 1/2 inches by 11 inches unless such printed matter, forms, bond paper or pads are perforated or otherwise designed to produce finished printed matter or forms not larger than 8 1/2 inches by 11 inches.

(e) The Division of Purchasing shall not contract for vertical file cabinets designed to hold completed documents larger than 8 1/2 inches by 11 inches.

(f) Each agency may use its existing supply of printed matter, forms, bond paper and pads until the supply is exhausted and each agency may use its existing vertical file cabinets for so long as such cabinets remain serviceable.

(g) This section shall not prohibit the purchase or use of printed matter or forms larger than 8 1/2 inches by 11 inches, if the printed matter or forms are to be used to maintain accounting or bookkeeping records, for preparing architectural or engineering drafts or documents, or for preparing maps, graphs, posters, charts or art work, or if the printed matter or forms are authorized by the Chief of the Bureau of Archives and Records Management, Division of Historical and Cultural Affairs, Department of State. This section does not prohibit the purchase or use of fan-fold paper designed for use in computer peripheral devices.

(h) The Division of Purchasing shall assume such other powers, duties and functions as the Secretary may assign which are not otherwise inconsistent with the laws of this State.

§ 8811. Division of Support Operations.

(a) The Division of Support Operations is established having powers, duties and functions as follows:

(1) Provide communication, telephone, messenger and mail services to state agencies;

(2) Provide graphics and printing services, including but not limited to printing, duplicating, photography and photocopying, to all state agencies;

(3) Provide transportation services to State agencies through the Office of Fleet Services.

(4) Provide information services to the general public through a State Information Guide system.

(b) No agency of state government shall procure, purchase or lease any postage meters or equipment for the metering of mail or the affixing of postage without the prior approval of the Division of Support Operations.

(c) The Division of Support Operations shall not procure or purchase printed matter, forms, bond paper or pads larger than 8 1/2 inches by 11 inches unless such printed matter, forms, bond paper or pads are perforated or otherwise designed to produce finished printed matter or forms not larger than 8 1/2 inches by 11 inches.

(d) This section shall not prohibit the purchase or use of printed matter or forms larger than 8 1/2 inches by 11 inches, if the forms are to be used to maintain accounting or bookkeeping records, for preparing architectural or engineering drafts or documents, or for preparing maps, graphs, posters, charts, art work or uses approved by the Director of the Division of Support Operations. This section does not prohibit the purchase or use of fan-fold paper designed for use in computer peripheral devices.

(e) The Division of Support Operations shall assume such other powers, duties and functions as the Secretary may assign which are not otherwise inconsistent with the laws of this State.

§ 8812. Office of Fleet Services.

The Office of Fleet Services is established within the Division of Support Operations, and shall have the following powers, duties, and functions. The Office of Fleet Services shall:

- (1) Have the administrative, ministerial, budgetary and clerical functions of the Office;
- (2) Establish and operate a statewide fleet management system, as established by § 7105 of this title;
- (3) Investigate and resolve all citizens' complaints relating to abuse or misuse of all agency/school district owned vehicles;
- (4) Recommend to the Budget Office appropriate funding levels for all agency/school districts for in-state travel requirements;
- (5) Be the sole agency to receive the proceeds from the disposal of vehicles and vehicle parts, including all non-general funds except those funds that, as a basis for their authorization, require the proceeds of such disposal to be returned to the original source of the funds;
- (6) Establish an appropriated special fund account to sustain the total cost and operation of the Office of Fleet Services and its function, including staff salaries and the statewide fleet management system; and
- (7) Have such other powers, duties and functions as the Secretary may assign which are not inconsistent with the laws of the State.

§ 8813. State Council for Persons with Disabilities.

- (a) There is hereby established a State Council for Persons with Disabilities.
- (b) This Council shall have the following duties and responsibilities:
 - (1) Promote coordination among all state programs, services and plans established for or related to persons with disabilities.
 - (2) Review, on a continuing basis, all state policies, plans, programs and activities concerning persons with disabilities which are conducted, or assisted in whole or part, by state departments, agencies or funds in order to determine whether such policies, programs, plans and activities effectively meet the needs of persons with disabilities.
 - (3) Make recommendations to the Governor, the General Assembly and all state departments and agencies respecting ways to improve the administration of services for persons with disabilities, and for facilitating the implementation of new or expanded programs.
 - (4) Provide the Governor, the General Assembly, all interested agencies and the general public with review and comment on all state legislative proposals affecting people with disabilities.
 - (5) Provide policymakers and the general public with analyses and recommendations on federal and local governmental legislation, regulations, and policies affecting state programs and persons with disabilities.
 - (6) Propose and promote legislation, regulations, and policies to improve the well-being of persons with disabilities.
 - (7) Serve as a central state clearinghouse for information and data regarding:
 - a. The current numbers of persons with disabilities and their needs;
 - b. The location, provision and availability of services and programs for persons with disabilities;
 - c. Any other relevant information and data about persons with disabilities which the council deems appropriate.

(8) Prepare and submit to the Governor and the General Assembly an annual report of the activities of the Council and the status of services and programs for persons with disabilities.

(c) For administrative purposes, this Council is placed within the Office of Disability Affairs in the Department of Administrative Services.

(d) This Council shall consist of the following members:

(1) The Secretary of Health and Social Services, or a designee of the Secretary;

(2) The Secretary of Labor, or a designee of the Secretary;

(3) The Secretary of Education, or a designee of the Secretary;

(4) The Secretary of Administrative Services, or a designee of the Secretary;

(5) The Secretary of Services to Children, Youth and Their Families, or a designee of the Secretary;

(6) The following councils and committees shall elect one of their members each year to serve as a member of the Council:

a. The Governor's Advisory Council for Exceptional Citizens;

b. Developmental Disabilities Planning Council;

c. Governor's Committee on Employment of Persons with Disabilities;

d. Council on Mental Retardation;

e. Governor's Advisory Council for the Division of Alcoholism, Drug Abuse and Mental Health;

f. Architectural Accessibility Board;

g. Delaware Transit Corporation;

h. Governor's Advisory Council on Services for Aging and Adults with Physical Disabilities;

i. Council on Public Health;

j. Council on Deaf Equality;

k. Criminal Justice Council;

l. State Rehabilitation Advisory Council.

m. Other councils and committees as approved by both the State Council for Persons with Disabilities and the affected council or committee.

(7) Consumers appointed by the Council chairperson in a number equal to members elected pursuant to paragraphs (1) through (6) of this subsection.

(e) In appointing persons under subsection (d)(7) of this section, preference should be given to persons with disabilities, and any vacancy among the members referred to in subdivisions (d)(6) and (d)(8) of this section should be filled by the respective council/committee within 1 month of the vacancy.

(f) Any member who misses either 3 consecutive meetings or 4 out of any 12 consecutive meetings shall be presumed to have resigned from the Council.

(g) Members of the Council shall serve without compensation, except that they may be reimbursed by the Office of Disability Affairs, Department of Administrative Services, for

reasonable and necessary expenses incident to their duties as members of the Council to the extent funds are available therefor and in accordance with state law.

(h) The Council shall elect its own Chairperson.

(i) The Council shall determine its meeting schedule, but there shall be not less than 4 meetings each calendar year, open to the public, held in an accessible place, and with accommodations as requested.

(j) A simple majority of the total membership shall constitute a quorum which shall be necessary to vote on any issue.

(k) As used in this section, "persons with disabilities" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment with the exception of the visually impaired.

(l) For purposes of this section, the operations and activities of the Division for the Visually Impaired and the Governor's Advisory Council on the Blind shall be exempt from the purview of the State Council for Persons with Disabilities."

Section 20. Amend Title 29, §§ 8816-8818 of the Delaware Code by redesignating said sections as §§ 8814-8816 of Title 29.

Section 21. Amend Title 29, § 8819 of the Delaware Code by striking said section in its entirety.

Section 22. Amend Title 29, § 8820 of the Delaware Code by redesignating said section as § 8817 of Title 29.

Section 23. Amend Title 29, § 8821 of the Delaware Code by striking said section in its entirety.

Section 24. Amend Title 29, § 8822 of the Delaware Code by redesignating said section as § 8818 of Title 29.

Section 25. Amend Title 29, §§ 8824-8825 of the Delaware Code by redesignating said sections as §§ 2518-2519 of Title 29.

Section 26. Amend Title 29, §§ 8826-8831 of the Delaware Code by striking said sections in their entirety.

Section 27. This Act shall become effective upon enactment.

Approved July 3, 1997

CHAPTER 139

FORMERLY

SENATE BILL NO. 16
AS AMENDED BY SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE BOARD
OF ACCOUNTANCY.

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

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

“Chapter 1. BOARD OF ACCOUNTANCY

§101. Objectives and functions.

The primary objective of the Board of Accountancy, 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, including incompetent auditing, accounting, and tax services rendered by certificate and permit holders, and from occupational practices which tend to reduce competition or fix the price of services rendered. Secondary objectives of the Board include maintaining minimum standards of competency in accounting, auditing, and tax services rendered by certificate and permit holders and maintaining minimum standards in the delivery of such 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, adjudicate such complaints at formal hearings, promulgate rules and regulations, and impose sanctions where necessary against practitioners.

§102. Definitions.

The following definitions shall apply, unless the definition is inappropriate for the context:

- (1) ‘Board’ means the Delaware State Board of Accountancy.
- (2) ‘Certificate’ means a certificate of ‘certified public accountant’ issued by the Board pursuant to this Chapter or the prior law of this State, or a reciprocal certificate of certified public accountant issued by this Board.
- (3) ‘Certified Public Accountant’ means the holder of a certificate.
- (4) ‘Certified Public Accounting’ or ‘the Practice of Certified Public Accountancy’ means public accounting that is being practiced by a certified public accountant.
- (5) ‘Division’ means the State of Delaware Division of Professional Regulation.
- (6) ‘Firm’ means a sole proprietorship, partnership, corporation or any other entity authorized under Delaware law or a similar statute of another state.
- (7) ‘Non-public entity’ means an entity other than one whose securities trade in a public market either on a stock exchange (domestic or foreign) or in the over-the-counter market, including securities quoted only locally or regionally, or an entity that makes a filing with a regulatory agency in preparation for the sale of any of its securities in a public market.

(8) 'Permit' or 'Permit to Practice' means a permit issued by the Board to practice either public accountancy or certified public accountancy.

(9) 'Public Accountant' means the holder of a permit to practice public accountancy.

(10) 'Public Accounting' or 'Practice of public accountancy' means the performance, or offer to perform, for a client or a potential client, by a person or firm holding itself out to the public as a permit holder, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports or financial statements, or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.

(11) 'Regulation' means any rule or regulation, duly adopted by the Board.

(12) 'State' means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam; except that 'this State' means the State of Delaware.

§ 103. Board of Accountancy; appointments; qualifications; term; vacancies.

(a) There is created a State Board of Accountancy which shall administer and enforce this Chapter.

(b) The Board shall consist of 9 members who are residents of this State and are appointed by the Governor, as follows:

(1) four certified public accountants, three of whom must hold valid permits to practice certified public accountancy;

(2) two public accountants who hold valid permits to practice public accountancy; and

(3) two members from the public at large; and

(4) one practicing attorney, who is neither a certified public accountant nor a public accountant.

(c) To serve on the Board, the public members, including the attorney, shall not be, nor ever have been, a certified public accountant or public accountant, nor a member of the immediate family of a certified public accountant or public accountant; shall not be, nor ever have been, employed by a person or firm which provides certified public accounting or public accounting services; shall not have a material financial interest in the providing of goods and services to any person or firm which provides accounting services; nor have been engaged in an activity directly related to accounting services. The public members shall be accessible to inquiries, comments and suggestions from the general public.

(d) Except as provided in subsection (e) of this section, each member shall serve for 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.

(e) 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 6 years within any 9-year period, shall again be appointed to the Board until an interim period of at least 3 years has expired since such person last served.

(f) 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 (c) of this Section, unless such amendment or revision amends this Section to permit such an appointment.

(g) No member of the Board of Accountancy, while serving on the Board, shall be an officer (president, chairperson, president-elect, vice president, secretary or treasurer) of a professional accounting organization, including American Institute of Certified Public Accountants (AICPA), Delaware Society of Certified Public Accountants (DSCPA), National Society of Public Accountants (NSPA), Delaware Association of Public Accountants (DAPA), or any other professional accounting association.

(h) The provisions set forth for 'employees' in Chapter 58, Title 29 of the Delaware Code shall apply to 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 \$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.

§104. Officers; meetings; conduct of business; quorum; absences.

(a) The Board shall hold a regularly scheduled business meeting at least once in each quarter of a calendar year, and at such other times as the president may deem necessary, or at the request of a majority of Board members.

(b) The Board shall elect annually from its members a president and a secretary. Each officer shall serve for 1 year, and shall not succeed himself or herself for more than 2 consecutive years.

(c) A majority of members of the Board shall constitute a quorum for the transaction of all business; and no disciplinary action shall be taken without the affirmative vote of at least 5 members.

(e) Minutes of all meetings shall be recorded, and copies shall be maintained by the Division. At any hearing in which evidence is presented, a record from which a verbatim transcript can be prepared shall be made. The expense of preparing any transcript shall be incurred by the person requesting it.

§105. Powers and duties.

The Board of Accountancy shall have the authority to :

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

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

(3) Designate a written examination to be taken by persons applying for certification or permit, as follows:

a. The Board shall adopt the Uniform Certified Public Accountant Examination as the national examination to be taken by all applicants for certification as certified public accountants; and use the advisory grading service of the American Institute of Certified Public Accountants (AICPA), or its successor organization.

b. The Board shall adopt the examination recognized by the National Society of Public Accountants (NSPA) as the national examination to be taken by applicants for permits as public accountants; and use the advisory grading service of the NSPA.

c. The Division shall have the power to review, approve and execute all contracts for examination services;

(4) Provide notice and information to applicants regarding their applications;

(5) Designate the requirements for the issuance of certificates and permits to practice consistent with the provisions of this Chapter;

(6) Issue certificates to all persons who meet the qualifications for certification;

(7) Issue permits to practice to individuals and firms who meet the qualifications of this Chapter;

(8) Require the completion of continuing education requirements for all certificate and permit holders;

(9) Evaluate certified records to determine whether an applicant for a certificate and/or permit to practice, who has been previously licensed, certified, or who has held a certificate and/or permit in another jurisdiction, 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 accountants and the practice of public accounting or certified

public accounting, or concerning practices of the Board or of the profession, to the Division for investigation pursuant to §8810, Chapter 88 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;

(11) Conduct hearings and issue orders in accordance with procedures established pursuant to this Chapter, the Administrative Procedures Act (Chapter 101, Title 29 of the Delaware Code) and §8810, Chapter 88, 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 person or firm shall be subject to a disciplinary hearing, and if so, shall conduct such hearing in accordance with this Chapter, the Administrative Procedures Act (Chapter 101, Title 29 of the Delaware Code) and §8810, Chapter 88, Title 29 of the Delaware Code.

(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) Bring proceedings in the courts for the enforcement of this Chapter;

(14) To become a member of the National Association of State Boards of Accountancy, or its successor organization, and to pay such dues which that association shall establish; to send delegates to its meetings; and to assist members attending that association's meetings;

(15) To require all applicants for permits to practice to obtain a passing grade on the Code of Ethics examination administered and graded by the American Institute of Certified Public Accountants (AICPA).

§106. Certificate or permit required.

(a) The use of the title or designation 'certified public accountant' or the abbreviation 'CPA' or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that a person is a certified public accountant, shall be limited to a person who holds a valid certificate issued by the Board pursuant to this Chapter or issued under the laws of another jurisdiction; except that a person who holds a valid certificate, but is not engaged in the practice of certified public accountancy or public accountancy, may use the abbreviation 'CPA' provided it is clearly indicated that such person is not holding himself or herself out as practicing certified public accountancy.

(b) The use of the title or designation 'public accountant' or the abbreviation 'PA' or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant shall be limited to a person who holds a valid permit to practice.

§107. Certificate requirements.

(a) A certificate shall be granted by the Board to any person who meets the following requirements:

(1) Is of good character. Good character for purposes of this Section means that an applicant has not been convicted of a felony of any type, nor been convicted of a misdemeanor involving mishandling or misuse of another's financial, accounting, or tax matters.

(2) Meets one of the following education requirements:

a. Holds a Master's Degree, conferred by an accredited college or university, with a concentration in accounting, or what the Board determines to be substantially the equivalent of such concentration;

b. Holds a Baccalaureate Degree, conferred by an accredited college or university, with a concentration in accounting, or what the Board determines to be substantially the equivalent of such concentration;

c. Holds an Associate Degree, conferred by an accredited college or university, or a degree from an accredited 2-year college with a concentration in accounting, or what the Board determines to be substantially the equivalent of such concentration;

(3) Unless otherwise provided in §113 of this Chapter, shall have successfully passed the Uniform Certified Public Accountant Examination, and/or such successor examinations as may be required to qualify for a certificate; and

(4) Shall have passed the AICPA self-study course and examination in professional ethics;

(b) A concentration in accounting is considered to be successful completion of 21 semester hours of accounting courses.

(c) A candidate who expects to meet the education requirement within 120 days following the examination shall be eligible to take the examination provided he or she also meets the requirements of paragraph (1) of subsection (a) of this Section. In the case of any candidate admitted to the examination on the expectation that he or she will complete the education requirement within 120 days, no certificate shall be issued, nor shall credit for the examination or any part of it be given, unless such education requirement is, in fact, completed within that time or within such time as the Board in its discretion may determine upon application.

(d) The Board may refuse or reject an applicant for a certificate if, after a hearing, the Board finds that an applicant has misstated or misrepresented a material fact in connection with his or her application; has violated any section of the Code of Professional Conduct for Accountants; or practiced public accountancy or certified public accountancy without being registered in accordance with this Chapter.

(e) In the event that the Board has questions about an applicant's qualifications or application materials, the Board may request an explanation or additional information.

§108. Requirements for permits to practice certified public accountancy.

(a) Each certificate holder, who has met the experience requirements of this Section and who intends to be or is engaged in the practice of certified public accountancy in this State, whether as a principal or employee of a firm, shall be required to obtain and maintain a valid permit to practice certified public accountancy. The Board shall grant or renew permits to persons who make application and demonstrate their qualifications in accordance with this Section. Permits shall be renewed biennially.

(b) The Board shall grant or deny any such application for a permit no later than 120 days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied, or where the Board is not able to determine whether it should be granted or denied, the Board may issue to the applicant a provisional permit, which shall expire 90 days after its issuance, or when the Board determines whether or not to issue or renew the permit for which application was made, whichever shall first occur.

(c) An applicant for initial issuance of a permit under this Section shall show:

(1) That the applicant holds a valid certificate;

(2) That the applicant meets one of the following experience requirements:

a. Has at least the equivalent of one year's accounting experience as an employee of a firm engaged in the practice of certified public accountancy; or not less than one year's experience as an accountant in government, commerce, industry or other field of endeavor which, in the opinion of the Board, is substantially equivalent to one year's experience as an employee of a firm engaged in the practice of certified public accountancy; or two years' full-time experience as an owner, principal or employee of a firm engaged in the practice of public accountancy, when such experience has occurred and the individual has obtained the education requirement described in §107(a)(2)a. of this Chapter; or

b. Has at least the equivalent of two year's accounting experience as an employee of a firm engaged in the practice of certified public accountancy; or not less than two years' experience as an accountant in government, commerce, industry or other field of endeavor, which in the opinion of the Board is substantially equivalent to two years' experience as an employee of a firm engaged in the practice of certified public accountancy; or four years' full-time experience as an owner, principal or employee of a firm engaged in the practice of public accountancy when

such experience has occurred and the individual has obtained the education requirement described in §107(a)(2)b. of this Chapter; or

c. Has at least the equivalent of four years' accounting experience as an employee of a firm engaged in the practice of certified public accountancy; or not less than four years' experience as an accountant in government, commerce, industry or other field of endeavor, which in the opinion of the Board is substantially equivalent to four years' experience as an employee of a firm engaged in the practice of certified public accountancy; or eight years' full-time experience as an owner, principal or employee of a firm engaged in the practice of public accountancy when such experience has occurred and the individual has obtained the education requirement described in §107(a)(2)c. of this Chapter;

d. for purposes of this subsection, experience shall not include experience completed more than ten (10) years prior to the date of an individual's application for a permit.

(3) If the applicant's certificate was issued more than four years prior to his or her application for issuance of an initial permit under this Section, then the applicant, in the two years immediately preceding such application, will have completed no less than the 80 hours of continuing professional education that would have been applicable under subsection (d) of this Section for renewal of such permit.

(d) An applicant for renewal of a permit under this Section shall show that he or she has completed no less than 80 hours of continuing professional education in accordance with the Board guidelines during the two-year renewal period that has elapsed since the last biennial renewal date. If an applicant's initial permit to practice was issued less than two years prior to the renewal date, the applicant must fulfill the following continuing professional education requirements:

(1) No continuing education requirement if initial permit was issued less than one year prior to the renewal date;

(2) A prorated continuing professional education requirement based on 80 hours (but no less than 40 hours) if initial permit was issued one year or more, but less than two years, prior to the renewal date.

(e) The Board may also provide by regulation that fulfillment of continuing professional education requirements of other states will be accepted in lieu of the requirements of subsections (c)(3) and (d) of this Section, provided that such other states require at least 80 hours in a two-year period.

(f) Applicants for initial issuance or renewal of permits under this Section shall not have engaged in any of the acts or offenses that would be grounds for disciplinary action under this Chapter; and have no disciplinary proceedings or unresolved complaints pending against him or her in any jurisdiction where the applicant has previously held or currently holds a permit to practice. Each holder of, or applicant for, a permit under this Section shall notify the Board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a certificate or permit by another state.

(g) 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.

(h) 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 the applicant than for other applicants or permit holders; or has in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

§109. Reciprocity.

(a) The Board shall issue a permit to a holder of a certificate or permit issued by another state upon a showing that the applicant:

(1) meets all current requirements in this State for issuance of a certificate or permit at the time the application is made; or

(2) at the time of the issuance of the applicant's certificate or permit in the other state, met all such requirements then applicable in this State; or

(3) has had five years' experience in the practice of certified public accountancy or its equivalent, with such experience having been obtained after passing the examination upon which his or her certificate was based and within the 10 years immediately preceding his or her application; or

(4) meets the requirements of §108(c)(2) of this Chapter, the requirements of §108(c)(3) of this Chapter, if applicable, and the requirements of §108(f) of this Chapter.

(b) The applicant shall contact the licensing authority, or comparable agency, in such other jurisdiction(s) in which the applicant currently or previously has been authorized to practice and shall request that the jurisdiction provide a certified statement as to whether or not there are, or have been, any 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 issued a permit until the proceeding or complaint has been resolved. Applicants for permits to practice 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.

§110. Requirements for permits to practice public accountancy.

(a) Each person, who intends to be or is engaged in the practice of public accountancy in this State, whether as a principal of a firm or an employee of a firm, shall be required to obtain and maintain a valid permit to practice public accountancy. The Board shall grant and/or renew permits to persons who make application and demonstrate their qualifications in accordance with this Section.

(b) Permits shall be issued and renewed for periods of two years. The Board shall grant or deny any application for issuance or renewal of a permit no later than 120 days after the application is filed in proper form. In any case, where the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied, or where the Board is not able to determine whether a permit should be granted or denied, the Board may issue to the applicant a provisional permit, which shall expire 90 days after its issuance or when the Board determines whether or not to issue or renew the permit for which application was made, whichever shall first occur.

(c) An applicant for initial issuance of a permit under this Section shall show that he or she:

(1) meets the requirements of §107(a)(1) of this Chapter; and

(2) meets, as a minimum, the education requirement of §107(a)(2)c. of this Chapter; and

(3) has passed either all parts of the examination recognized by the National Society of Public Accountants, or both the Accounting and Reporting and Auditing portions of the Uniform Certified Public Accounting Examination; and

(4) has passed the AICPA self-study course and examination in professional ethics and

(5) 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 the applicant in any jurisdiction where the individual has been or currently holds a permit to practice. Each holder of, or applicant for, a permit under this Section shall notify the Board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a permit by another state.

(d) An applicant for renewal of a permit under this Section shall show that he or she has completed no less than 80 hours of continuing professional education in accordance with Board guidelines during the two-year renewal period that has elapsed since the last biennial renewal date. Prorated continuing professional education requirements consisting of no less than 40 hours are to be met by an applicant whose initial permit was issued less than two years and at least one year prior to the renewal date. No continuing professional education is required of an applicant whose initial permit was issued less than one year prior to the renewal date. The Board may also provide by regulation that fulfillment of continuing professional education requirements of other states will be accepted in lieu of the foregoing requirements, provided that such other states require at least 80 hours in a two-year period.

§111. Requirements for permits to practice by firms.

(a) Each firm which intends to be or is engaged in the practice of certified public accountancy or the practice of public accountancy in this State shall be required to obtain and maintain a valid permit to practice. The Board shall grant or renew permits to firms that make application and demonstrate their qualifications in accordance with this Section.

(b) Permits shall be renewed biennially. The Board shall grant or deny any application for issuance or renewal of a permit no later than 120 days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied or where the Board is not able to determine whether it should be granted or denied, the Board may issue to the applicant a provisional permit, which shall expire 90 days after its issuance, or when the Board determines whether or not to issue or renew the permit for which the application was made, whichever shall first occur.

(c) An applicant for initial issuance or renewal of a permit to practice certified public accountancy under this Section shall be required to show that each principal, who performs services in this State, or who performs services for a client(s) located in this State, and each employee holding a certificate who performs services in this State, or who performs services for a client(s) located in this State, except for employees who have not as yet accumulated sufficient experience to qualify for a permit under §108 of this Chapter, holds a valid individual permit to practice certified public accountancy issued under §108 of this Chapter.

(d) An applicant for initial issuance or renewal of a permit to practice public accountancy under this Section shall be required to show that each principal, who performs services in this State, or who performs services for a client(s) located in this State, and each employee who performs services in this State, or who performs services for a client(s) located in this State, except for employees who have not as yet met the requirements to qualify for a permit under §110 of this Chapter, holds a valid individual permit to practice.

(c) For purposes of this Section, the employees of a firm with its principal office(s) outside of this State must obtain a permit for those employees who work in excess of 80 hours in this State, or who work for a client(s) located in this State. However, any firm which is engaged to practice certified public accountancy or public accountancy in this State, for even one hour, is required to obtain a permit. Every principal of a firm, who is responsible for the accounting work in this State, shall obtain an individual permit to practice.

(f) An applicant for initial issuance or renewal of a permit to practice under this Section shall be required to register each office of the firm within this State with the Board, and to show that each such office is under the charge of a person holding a valid permit to practice issued under this Chapter.

(g) Each holder of, or applicant for, a permit under this Section shall notify the Board in writing, within 30 days after its occurrence, of any change in the identities of principals who work regularly within this State, of any change in the number or location of offices within this State, of any change in the identity of the persons supervising such offices, and of any issuance, denial, revocation or suspension of a permit, issued by any other State, to the firm or to any principal or employee regulated by this Board.

§112. Professional responsibilities.

While §111(a) of this Chapter requires firms to obtain permits to practice, and §102(6) of this Chapter defines 'firm' to include valid partnerships and corporations, this Chapter shall not be interpreted to alter professional responsibility standards. All firms and accountants practicing in firms shall continue to be bound by professional responsibility standards no less stringent than those stated in §608, Title 8 of the Delaware Code.

§113. Examinations.

The Board may, by regulation, prescribe the terms and conditions for granting credit to a candidate for a certificate, or an applicant for a permit to practice public accountancy, based on his or her satisfactory completion of a written examination in any one or more of the subjects of the Uniform Certified Public Accountant Examination, the examination recognized by the National Society of Public Accountants, and any written examination in any other subject or subjects given by the Board or by the licensing authority in any other jurisdiction.

§114. Waiver of examination.

(1) The Board may waive the examination of, and issue a certificate to, any person possessing qualifications equivalent to those set forth in §107(a)(1) and (2) of this Chapter, who, at the time of application for said certificate:

(a) is engaged full-time in the practice of certified public accountancy in this State; and

(b) is the holder of a certificate under the laws of another jurisdiction, provided the requirements for such certificate in the jurisdiction which has granted it to the applicant are, in the opinion of the Board, comparable to those provided in this Chapter; or, is the holder of a currently valid certificate, license or degree of a foreign country constituting a recognized qualification for the practice of public accountancy in such country, which in the opinion of the Board, is comparable to that of a certified public accountant of this State.

§115. Prohibited acts; limitation of services.

(a) No person or firm shall perform compilation, review or audit services as defined by the American Institute of Certified Public Accountants (AICPA) except holders of a valid permit to practice.

(b) Audit services provided by holders of permits to practice public accountancy shall be limited to services for non-public entities.

§116. Complaints.

(a) The Board, or any aggrieved person, may file a complaint against any individual or firm holding a permit to practice or any certificate holder. All complaints shall be received and investigated by the Division in accordance with §8810, Chapter 88, Title 29 of the Delaware Code; and the Division shall be responsible for issuing a final written report at the conclusion of its investigation.

(b) When it is determined that an individual or firm is engaged in the practice of certified public accountancy or public accountancy, without having first obtained the appropriate permit, the Board shall apply to the Office of the Attorney General to issue a cease and desist order after formally warning the individual or firm in accordance with the provisions of this Chapter.

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

§117. Grounds for discipline.

(a) An individual holding a certificate, and any individual or firm holding a permit to practice, shall be subject to those disciplinary actions set forth in §118 of this Chapter, if after a hearing, the Board finds that the individual or firm:

(1) has employed or knowingly cooperated in fraud or material deception in order to acquire a certificate or permit to practice, or be otherwise authorized to practice accountancy; has impersonated another person holding a certificate or permit to practice; or allowed another person to use his or her certificate or permit to practice; or aided or abetted a person not holding a certificate or permit to practice, to represent himself or herself as holding a certificate or permit to practice;

(2) has engaged in an act of fraud or gross negligence in the practice of accounting, or engaged in dishonorable, unethical or unprofessional conduct, intended to or likely to deceive, defraud or harm the public;

(3) has been found guilty of, or has entered a plea of guilty or nolo contendere to, a felony or any crime which includes an element of dishonesty or fraud;

(4) has been subject to disciplinary sanction or censured; or has had his or her certificate or permit to practice revoked or suspended in any other state for any cause other than failure to pay an annual registration fee;

(5) has been subject to disciplinary sanction or censured, or has had his or her right to practice revoked before any state or federal agency;

(6) has violated a lawful provision of this Chapter, or any lawful regulation or rule of professional conduct established thereunder.

§118. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, or take any of the following actions, singly or in combination, when it finds that one of the conditions or violations set forth in §117 of this Chapter applies to a certificate or permit holder:

(1) issue a letter of reprimand;

(2) censure the practitioner or firm;

(3) suspend the certificate or permit to practice of any certificate or permit holder or firm;

(4) place the certificate or permit holder on probationary status and require him or her 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 the areas which are the basis of the probation.

(5) revoke the certificate or permit to practice of an individual certificate holder or the permit to practice of an individual or firm.

(b) The Board may refuse or reject an applicant for a certificate if, after a hearing, the Board finds that an applicant has misstated or misrepresented a material fact in connection with his or her application; has violated any section of the Code of Professional Conduct for Accountants; or practiced public accountancy or certified public accountancy without being registered in accordance with this Chapter.

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

(d) Upon an application (or petition) in writing, and after notice and a hearing, the Board may issue a new certificate or a permit to a person or firm whose certificate or permit has been revoked or suspended, or modify the terms of any suspension.

§119. Board hearings; procedure.

(a) If a complaint is filed with the Board pursuant to §8810, Chapter 88, Title 29 of the Delaware Code, alleging violation of §117 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 this Chapter and §8810, Title 29 of the Delaware Code, and the Administrative Procedures Act, Chapter 101, 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 reason for such decision. A copy of the decision shall be mailed by registered mail immediately to the complainant and to the individual or firm.

(c) Any person or firm affected by any action of the Board may appeal the Board's decision to the Superior Court within 30 days of receipt of the Board's decision or of the postmarked date of the copy of the decision mailed to such person or firm. Upon such appeal, the Court shall hear the evidence on the record. Stays shall be granted in accordance with §10144, Chapter 101, Title 29 of the Delaware Code.

§120. Ownership of working papers.

(a) All statements, records, schedules, working papers, and memoranda made by a permit holder or a partner, shareholder, officer, director, or employee of a permit holder, incident to, or in the course of, rendering services to a client, except the reports submitted by the permit holder to the client, and except for records that are part of the client's records, shall be and remain the property of the permit holder in the absence of an express agreement between the permit holder and the client to the contrary. No such statement,

record, schedule, working paper, or memorandum shall be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners or stockholders or new partners or stockholders of the permit holder, or any combined or merged firm or successor in interest to the permit holder. Nothing in this Section should be construed as prohibiting any temporary transfer of working papers or other material necessary in the course of carrying out quality reviews.

(b) A permit holder shall furnish to his or her client or former client, upon request and reasonable notice:

(1) a copy of the permit holder's working papers, to the extent that such working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; or

(2) any accounting or other records belonging to, or obtained from or on behalf of, the client that the permit holder removed from the client's premises or received for the client's account; the permit holder may make and retain copies of such documents of the client when they form the basis for work done by the permit holder.

(c) Nothing herein shall require a permit holder to keep any working paper beyond the period prescribed in any other applicable statute.

§ 121. Violations and penalties; jurisdiction.

(a) Any person who represents himself or herself to the public as the recipient of a certificate or permit, or holds himself or herself out as being authorized to practice certified public accountancy or public accountancy, or otherwise wrongfully uses such title or any similar title to practice certified public accountancy or public accountancy, or continues to practice certified public accountancy or public accountancy after revocation, suspension or expiration of a certificate or permit, or otherwise misleads the public or violates this Chapter or associated regulations, shall be fined not less than \$500 nor more than \$1,000. Restitution may also be imposed.

(b) The penalties for firms, which improperly hold themselves out as being authorized to practice certified public accountancy or public accountancy, or who otherwise mislead the public, violate this Chapter or associated regulations, shall be fined not less than \$2,000 nor more than \$5,000. Restitution may be imposed. Where a partnership or corporation engages in the practice of certified public accountancy or public accountancy in this State in violation of this Chapter, every partner of such partnership and every officer, director, shareholder, or principal of such corporation, shall be deemed to be in violation of this Chapter.

(c) The Superior Court of this State shall have exclusive jurisdiction of any violation of this Chapter.

§ 122. Status of existing certificates preserved.

(a) Any person legally authorized to practice as a certified public accountant in this State as of July 12, 1985, shall thereafter possess the same rights and privileges as persons to whom certificates of certified public accountant shall be issued pursuant to this Chapter; subject, however, to the power of the Board, as provided in this Chapter, to suspend or revoke the certificate of such person, or censure or reprimand such person for any of the causes set forth in this Chapter.

(b) Any person, who has successfully passed the Uniform Certified Public Accountant Examination under this Chapter, and regulations of the Board in effect on or before June 30, 1985, who has not been issued a certificate because of not having met the experience requirements of such prior law and regulations, shall be granted such

certificate upon submitting an appropriate application to the Board and the Board having approved such application as meeting the applicable requirements.

(c) Any person who holds a valid certificate issued under this Chapter and regulations of the Board in effect on or before June 30, 1985, shall be deemed to have sufficient education and experience to satisfy the experience requirement of §108(c)(2) of this Chapter.

§123. Status of existing public accountants preserved.

Any person legally authorized to practice as a public accountant in this State as of June 30, 1985, or who had a permit to practice public accountancy on that date, shall thereafter possess the same rights and privileges as persons to whom permits to practice public accountancy shall be issued pursuant to §110 of this Chapter; subject, however, to the power of the Board, as provided in this Chapter, to suspend or revoke the permit of such person, or censure or reprimand such person for any of the causes set forth in this Chapter."

Section 2. Existing Terms of Office Preserved.

All members of the Board of Accountancy will continue to serve as members until the expiration of their current terms of office.

Section 3. 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 4. 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 July 3, 1997

CHAPTER 140

FORMERLY

SENATE BILL NO. 180

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CRIMINAL PENALTIES.

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

Section 1. Amend §6013(b), Title 7, of the Delaware Code by inserting the following:

"Each day of violation shall constitute a separate offense." after the words "for not more than 6 months, or both." and before the words "The Superior Court".

Approved July 3, 1997

CHAPTER 141

FORMERLY

SENATE BILL NO. 186

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 FOR SALE OF THE CITY OF REHOBOTH BEACH'S REAL AND PERSONAL PROPERTY.

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

Section 1. Amend Section 41, of Chapter 197, Volume 54, Laws of Delaware, the Charter of the City of Rehoboth Beach as amended by striking paragraph 2 in its entirety and by inserting in lieu thereof the following new paragraph 2 in its place to read as follows:

"The Commissioners of Rehoboth Beach are hereby authorized and empowered in their discretion to sell and convey or lease to any responsible person or persons, firm or firms, association or associations, or corporation or corporations, any or all real and personal property or both, within or without its boundaries, now or hereafter owned by the Commissioners for any municipal purpose provided, however, that the sale or conveyance of any real property must be approved by the majority vote of the Commissioners after a public hearing held in relation thereto."

Approved July 3, 1997

CHAPTER 142

FORMERLY

SENATE BILL NO. 197

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO STATE POLICE PENSIONS AND THE EMPLOYMENT OF PENSION BENEFICIARIES BY THE STATE.

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

Section 1. AMEND §8352(4) of Title 11, Delaware Code by inserting after the word "service" and before the word "or" the following:

“, disability,”.

Section 2. AMEND §8352 Title 11, Delaware Code by adding a sentence to the end of said section to read as follows:

“The employment, except employment as an elected official, may not be used for further retirement benefits.”

Section 3. AMEND Subsection (c) of Section 8323 of Title 11, Delaware Code, by striking that Subsection in its entirety and substituting therefor a new Subsection (c) to read as follows:

“(c) An individual shall not receive a pension under this subchapter for any month which the individual is an employee, as defined in §8301 of this Title or §5501 of Title 29, unless the individual is:

- (1) An official elected by popular vote at a regular or special election; or
- (2) An official appointed by the Governor; or
- (3) A registration or election official, or a juror; or
- (4) Receiving an ordinary service, disability, or survivor's pension.

The employment, except employment as an elected official, may not be used for further retirement benefits.”

Section 4. The provisions of Section 3 shall be retroactive to January 1, 1994.

Approved July 3, 1997

CHAPTER 143

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 166

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE, RELATING TO HEALTH INSURANCE CONCERNING MEASURES NECESSARY FOR DELAWARE TO MAINTAIN REGULATORY AUTHORITY OVER CERTAIN ASPECTS OF HEALTH CARE COVERAGE UNDER THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", AND, IN CONNECTION THEREWITH, MAKING DELAWARE REQUIREMENTS RELATED TO THE RENEWABILITY OF HEALTH INSURANCE POLICIES, PREEXISTING CONDITION LIMITATIONS, AND GUARANTEED ISSUE OF COVERAGE CONSISTENT WITH FEDERAL LAW.

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

Section 1. Amend § 3601, Title 18, Delaware Code, by adding to the end of subsection (a) the following:

"Additionally, the purpose of this chapter is to promote the availability of health insurance coverage to recently uninsured individuals regardless of their health status or claims experience and to improve the overall fairness and efficiency of the individual health insurance market."

Section 2. Amend § 3602, Title 18, Delaware Code, by adding thereto the following new paragraphs and by renumbering the existing paragraphs accordingly:

- "(1) 'Affiliation period' means a period of time not to exceed two months (three months for late enrollees) during which a health maintenance organization does not collect premium and coverage issued is not effective.
- (2) 'Bona fide association' means, with respect to health insurance coverage offered in Delaware, an association which:
 - a. Has been actively in existence for at least five years;
 - b. Has been formed and maintained in good faith for purposes other than obtaining insurance and does not condition membership on the purchase of association-sponsored insurance;
 - c. Does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee) and clearly so states in all membership and application materials;
 - d. Makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member) and clearly so states in all marketing and application materials;
 - e. Does not make health insurance coverage offered through the association available other than in connection with a member of the association and clearly so states in all marketing and application materials; and

- f. Provides and annually updates information necessary for the Commissioner to determine whether or not an association meets the definition of a bona fide association before qualifying as a bona fide association for the purposes of this chapter.
- (3) 'Carrier' means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the Commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services.
- (4) 'Church plan' has the meaning given such term under section 3(33) of the Employee Retirement Income Security Act of 1974.
- (5) 'Creditable coverage' means, with respect to an individual, health benefits or coverage provided under any of the following:
- a. A group health benefit plan;
 - b. An individual health benefit plan or individual insurance coverage;
 - c. Part A or Part B of Title XVIII of the Social Security Act;
 - d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
 - e. Chapter 55 of Title 10, United States Code;
 - f. A medical care program of the Indian Health Service or of a tribal organization;
 - g. A State health benefits risk pool;
 - h. A health plan offered under chapter 89 of Title 5, United States Code;
 - i. A public health plan as defined in federal regulations;
 - j. A health benefit plan under section 5(e) of the Peace Corps Act [22 U.S.C. 2504(e)]. Such term does not include coverage consisting solely of coverage of excepted benefits as defined in 3602(10)b.
- (6) 'Dependent' means a spouse, an unmarried child under the age of eighteen (18) years, an unmarried child who is a full-time student under the age of twenty-five (25) years and who is financially dependent upon the enrollee, and an unmarried child of any age who is medically certified as totally disabled and dependent upon the enrollee.
- (7) 'Federally eligible individual' means an individual:
- a. For whom, as of the date on which the individual seeks coverage under this Act, the aggregate of the periods of creditable coverage, as defined in this section, is 18 or more months;
 - b. Whose most recent prior creditable coverage was under a group health plan, governmental plan, church plan or health insurance coverage offered in connection with any such plan;
 - c. Who is not eligible for coverage under a group health plan, part A or part B of title XVIII of the Social Security Act, or a State plan under title XIX of such Act or any successor program, and who does not have other health insurance coverage;

- d. With respect to whom the most recent coverage within the period of aggregate creditable coverage was not terminated based on a factor relating to nonpayment of premiums or fraud;
 - e. Who, if offered the option of continuation coverage under a COBRA continuation provision or under a similar State program, elected such coverage, and
 - f. Who has exhausted such continuation coverage under such provision or program, if the individual elected the continuation coverage described in subparagraph e. above.
- (9) 'Governmental plan' has the meaning given such term under section 3(32) of the Employee Retirement Income Security Act of 1974 and any Federal governmental plan.
- (10) a. 'Health benefit plan' means any hospital or medical expense policy or certificate, major medical expense insurance policy or certificate, any hospital or medical service plan contract, health maintenance organization or health service corporation subscriber contract, or any other similar health contract subject to the jurisdiction of the Commissioner.
- b. 'Health benefit plan' does not include: Accident only; credit; dental; vision; Medicare supplement; benefits for long term care, home health care, community-based care or any combination thereof; disability income insurance; liability insurance including general liability insurance and automobile liability insurance; coverage for on-site medical clinics; coverage issued as a supplement to liability insurance, worker's compensation or similar insurance; or automobile medical payment insurance. The term also excludes specified disease, hospital confinement indemnity, or limited benefit health insurance if such types of coverage do not provide coordination of benefits and are provided under separate policies or certificates, provided that the carrier offering such policies or certificates complies with the following:
- (i) The carrier files on or before March 1 of each year a certification with the Commissioner that contains the statement and information described in Subparagraph (ii).
 - (ii) The certification shall contain the following:
 - A. A statement from the carrier certifying that policies or certificates described in this paragraph are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance or major medical expense insurance.
 - B. A summary description of each policy or certificate described in this paragraph, including the average annual premium rates (or range of premium rates in cases where premiums vary by age or other factors) charged for these policies and certificates in this state.
 - (iii) In the case of a policy or certificate that is described in this paragraph and that is offered for the first time in this state on or after July 1, 1997, the carrier files with the Commissioner the information and statement required in Subparagraph (ii) at least thirty (30) days prior to the date the policy or certificate is issued or delivered in this state.
- (12) 'Health status-related factor' means any of the following factors:
- a. Health status;
 - b. Medical condition, including both physical and mental illnesses;

- c. Claims experience;
 - d. Receipt of health care;
 - e. Medical history;
 - f. Genetic information;
 - g. Evidence of insurability, including conditions arising out of acts of domestic violence;
 - h. Disability.
- (13) 'Medical care' means amounts paid for:
- a. The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;
 - b. Transportation primarily for and essential to medical care referred to in paragraph a.; and
 - c. Insurance covering medical care referred to in paragraphs a. and b.
- (14) 'Network plan' means health insurance coverage offered by a health carrier under which the financing and delivery of medical care including items and services paid for as medical care are provided, in whole or in part, through a defined set of providers under contract with the carrier.
- (16) 'Waiting Period' means, with respect to an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible for benefits under the terms of the plan. For purposes of calculating periods of creditable coverage, a waiting period shall not be considered a gap in coverage."

Section 3. Amend Chapter 36, Title 18, Delaware Code, by adding thereto the following new sections:

"§ 3607. Limited Guaranteed Issue.

- (a) Every carrier offering individual health benefit plans in Delaware shall offer and accept for enrollment pursuant to Subsection (b) of this section every federally eligible individual who applies for coverage within sixty-three (63) days after termination of such individual's prior coverage; except that this requirement shall not apply to carriers offering coverage only through bona fide associations or to carriers offering individual coverage only through conversion policies.
- (b) A carrier shall meet the requirements of subsection (a) of this section if:
 - (1) The carrier offers at least two (2) different health benefit policy forms, both of which are designed for, are made generally available and actively marketed to, and enroll both federally eligible and other individuals; and
 - (2) The offering of policy forms includes, at a minimum:
 - a. The policy forms for health benefit plan coverage with the largest and next to largest premium volume of all such policy forms offered by the carrier in Delaware; or
 - b. A lower-level coverage policy form and a higher-level coverage policy form which include benefits substantially similar to other individual health insurance coverage offered by the carrier in Delaware and are covered under a risk adjustment, risk spreading, or financial subsidization method. As used in this subparagraph b.:

- i. 'Higher-Level Coverage' means a policy form for which the actuarial value of the benefits under the coverage is at least fifteen (15%) percent greater than the actuarial value of lower-level coverage offered by the carrier in Delaware, and the actuarial value of the benefits under the coverage is at least one hundred (100%) percent but not greater than one hundred twenty (120%) percent of the policy form weighted average.
 - ii. 'Lower-Level Coverage' means a policy form for which the actuarial value of the benefits under the coverage is at least eight-five (85%) percent but not greater than one hundred (100%) percent of the policy form weighted average.
 - iii. 'Policy Form Weighted Average' means the average actuarial value of the benefits provided by all the health insurance coverage issued (as elected by the carrier) either by that carrier or, if such data are available, by all carriers in Delaware in the individual health benefit plan market during the previous year (not including coverage issued under this section) weighted by enrollment for the different coverage.
- (c) With respect to the provisions of subsection (b) of this section, a carrier that offers coverage in the individual market through a network plan may limit the individuals who may be enrolled to those that live, reside, or work within the service area of the plan. Such a carrier may deny coverage to eligible individuals if it demonstrates to the Commissioner that it will not have the capacity to deliver services adequately to additional enrollees and it is applying this subsection (c) uniformly to individuals without regard to any health status-related factor of such individuals and without regard to whether the individuals are eligible individuals.
 - (d) A carrier may apply to the Commissioner to suspend for a period of time its duty to issue coverage pursuant to subsection (b) of this section where continued compliance would adversely affect the financial condition of the company. Where such a suspension is granted, the carrier may not offer coverage in the individual market for a period of at least one hundred eighty (180) days after the suspension is granted.
 - (e) For the purposes of this section, the term 'health benefit plan' as defined in § 3602 (10) does not include nonrenewable short term individual health benefit plans with a duration of six (6) months or less.

§ 3608. Renewability of Coverage.

- (a) An individual health benefit plan shall be renewable with respect to an enrollee or dependents at the option of the enrollee, except in any of the following cases:
 - (1) The individual has failed to pay premiums or contributions in accordance with the terms of the health benefit plan or the health carrier has not received timely premium payments;
 - (2) The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;
 - (3) A decision by the individual carrier to discontinue offering a particular type of health benefit plan in the state's individual insurance market. A type of health benefit plan may be discontinued by the carrier in the individual market only if the carrier:
 - a. Provides notice of the decision not to renew coverage to all affected individuals and to the Commissioner in each state in which an affected insured individual is known to reside at least 90 days prior to the nonrenewal of any health benefit plans by the carrier. Notice to the

Commissioner under this subparagraph shall be provided at least three (3) working days prior to the notice to the affected individuals;

- b. Offers to each individual provided the particular type of health benefit plan, the option to purchase all other health benefit plans currently being offered by the carrier to individuals in the state; and
 - c. In exercising the option to discontinue the particular type of health benefit plan and in offering the option of coverage under paragraph (3), the carrier acts uniformly without regard to the claims experience of any affected individual or any health status-related factor relating to any covered individuals or beneficiaries who may become eligible for the coverage.
- (4) The carrier elects to discontinue offering and to nonrenew all its individual health benefit plans delivered or issued for delivery in the state. In that case, the carrier shall provide notice of its decision not to renew coverage to all enrollees and to the Commissioner in each state in which an enrollee is known to reside at least 180 days prior to the nonrenewal of the health benefit plan by the carrier. Notice to the Commissioner under this paragraph shall be provided at least three (3) working days prior to the notice of the enrollees;
- (5) The Commissioner finds that the continuation of the coverage would not be in the best interests of the enrollees, the plan is obsolete, or would impair the carrier's ability to meet its contractual obligations. Once the Commissioner has made such a finding, the carrier shall provide notice to each affected covered individual provided coverage of this type of such discontinuation and shall provide each affected covered individual the opportunity to purchase any other individual health insurance coverage being offered by the carrier. In exercising this option the carrier shall act uniformly without regard for any health status-related factor of enrolled individuals or individuals who may become eligible for such coverage.
- (6) The Commissioner finds that the product form is being uniformly modified and is being replaced with comparable coverage.
- (b) An individual carrier that elects not to renew all its health benefit plans under paragraph (a)(4) shall be prohibited from writing new business in the individual market in this state for a period of five (5) years from the date of the discontinuation of the last health benefit plan not so renewed.
 - (c) In the case of an individual carrier doing business in one established geographic service area of the state, the rules set forth in this section shall apply only to the carrier's operations in that service area.
 - (d) An individual carrier offering coverage through a network plan shall not be required to renew, offer coverage or accept applications pursuant to subsection (a) of this section to an eligible person who no longer resides, lives, or works in the service area, or in an area for which the carrier is not authorized to do business, but only if coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.
 - (e) In applying this section in the case of a health benefit plan that is made available in the individual market to individuals only through one or more bona fide associations, a reference to an 'individual' is deemed to include a reference to such an association (of which the individual is a member)."

Section 4. Amend § 7202, Title 18, Delaware Code, by striking paragraphs (15)(17) and (24) in their entirety, by substituting the following paragraphs, and by redesignating existing paragraphs accordingly:

"(2) 'Affiliation period' means a period of time not to exceed two months (three months for late enrollees) during which, a health maintenance organization does not collect premium and coverage issued is not effective.

(7) 'Bona fide association' means, with respect to health insurance coverage offered in Delaware, an association which:

- a. Has been actively in existence for at least five years;
- b. Has been formed and maintained in good faith for purposes other than obtaining insurance and does not condition membership on the purchase of association-sponsored insurance;
- c. Does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee) and clearly so states in all membership and application materials;
- d. Makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member) and clearly so states in all marketing and application materials;
- e. Does not make health insurance coverage offered through the association available other than in connection with a member of the association and clearly so states in all marketing and application materials; and
- f. Provides and annually updates information necessary for the Commissioner to determine whether or not an association meets the definition of a bona fide association before qualifying as a bona fide association for the purposes of this chapter.

(14) 'Creditable coverage' means, with respect to an individual, health benefits or coverage provided under any of the following:

- a. A group health benefit plan;
- b. An individual health benefit plan or individual insurance coverage;
- c. Part A or Part B of Title XVIII of the Social Security Act;
- d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
- e. Chapter 55 of Title 10, United States Code;
- f. A medical care program of the Indian Health Service or of a tribal organization.
- g. A State health benefits risk pool;
- h. A health plan offered under chapter 89 of Title 5, United States Code;
- i. A public health plan as defined in federal regulations;
- j. A health benefit plan under section 5(c) of the Peace Corps Act [22 U.S.C 2504(c)].

(18) 'Health benefit plan' means any hospital or medical expense policy or certificate, hospital or medical service corporation contract, health maintenance organization or health service corporation subscriber contract, or any other similar health contract, including a high deductible medical expense policy used in conjunction with a medical savings account, subject to the jurisdiction of the Commissioner available for use, offered, or sold to an individual in the State of Delaware. This term includes a

bona fide association plan if such plan provides coverage to one or more eligible employees of a small employer in Delaware.

'Health benefit plan' does not include: Accident only; credit; dental; vision; Medicare supplement; benefits for long term care, home health care, community-based care or any combination thereof; disability income insurance; liability insurance including general liability insurance and automobile liability insurance; coverage for on-site medical clinics; coverage issued as a supplement to liability insurance, worker's compensation or similar insurance; or automobile medical payment insurance. The term also excludes specified disease, hospital confinement indemnity, or limited benefit health insurance if such types of coverage do not provide coordination of benefits and are provided under separate policies or certificates, provided that the carrier offering such policies or certificates complies with the following:

- a. The carrier files on or before March 1 of each year a certification with the Commissioner that contains the statement and information described in Subparagraph b.
- b. The certification shall contain the following:
 - (i) A statement from the carrier certifying that policies or certificates described in this paragraph are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance or major medical expense insurance.
 - (ii) A summary description of each policy or certificate described in this paragraph, including the average annual premium rates (or range of premium rates in cases where premiums vary by age or other factors) charged for these policies and certificates in this state.
- c. In the case of a policy or certificate that is described in this paragraph and that is offered for the first time in this state on or after the effective date of the Act, the carrier files with the Commissioner the information and statement required in Subparagraph b at least thirty (30) days prior to the date the policy or certificate is issued or delivered in this state.

(19) 'Health status-related factor' means any of the following factors:

- a. Health status;
- b. Medical condition, including both physical and mental illnesses;
- c. Claims experience;
- d. Receipt of health care;
- e. Medical history;
- f. Genetic information;
- g. Evidence of insurability, including conditions arising out of acts of domestic violence;
- h. Disability.

(21) 'Late enrollee' means an eligible employee or dependent who requests enrollment in a group health benefit plan following the initial enrollment period during which such individual is entitled to enroll under the terms of the health benefit plan, if such initial enrollment period is a period of at least thirty days. An eligible employee or dependent shall not be considered a late enrollee if:

- a. The individual:

- (i) Was covered under other creditable coverage at the time of the initial enrollment period and, if required by the employer, policyholder, carrier or issuer, the employee stated at the time of initial enrollment that this was the reason for declining enrollment;
 - (ii) Lost coverage under the other creditable coverage as a result of termination of employment or eligibility, reduction in the number of hours of employment, the involuntary termination of the creditable coverage, death of a spouse, legal separation or divorce, or employer contributions towards such coverage was terminated; and
 - (iii) Requests enrollment within thirty days after termination of the other creditable coverage; or
- b. The individual is employed by an employer that offers multiple health benefit plans and elects a different plan during an open enrollment period;
 - c. A court has ordered that coverage be provided for a dependent under a covered employee's health benefit plan and the request for enrollment is made within thirty days after issuance of such court order; or
 - d. A person becomes a dependent of a covered person through marriage, birth, adoption, or placement for adoption and requests enrollment no later than thirty days after becoming such a dependent. In such case, coverage shall commence on the date the person becomes a dependent if a request for enrollment is received in a timely fashion before such date.
- (22) 'Medical care' means amounts paid for:
- a. The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;
 - b. Transportation primarily for and essential to medical care referred to in paragraph (a); and
 - c. Insurance covering medical care referred to in paragraphs (a) and (b).
- (29) 'Qualifying previous coverage' and 'qualifying existing coverage' shall have the same meaning as the term "creditable coverage". Provided, however, for purposes of determining a participation requirement, 'qualifying previous coverage' and 'qualifying existing coverage' means benefits or coverage provided under:
- a. Medicare or Medicaid;
 - b. An employer-based health insurance or health benefit arrangement that provides benefits similar to or exceeding benefits provided under the basic health benefit plan; or
 - c. An individual health insurance policy (including coverage issued by a health maintenance organization, health service organization and fraternal benefit society) that provides benefits similar to or exceeding the benefits provided under the basic health benefit plan, provided that such policy has been in effect for one (1) year.
- (37) 'Waiting Period' means, with respect to a group health plan and an individual who is a potential participant in or beneficiary of the plan, the period that must pass with respect to the individual before the individual is eligible for benefits under the terms of the plan. For purposes of calculating periods of creditable coverage, a waiting period shall not be considered a gap in coverage."

Section 5. Amend § 7202, Title 18, Delaware Code, by adding to the end of the definition of "small employer carrier" the following:

"In the case of an employer that was not in existence throughout the preceding calendar quarter, the determination of whether such employer is a small or large employer shall be based on the average number of employees that is reasonably expected such employer will employ on business days in the current calendar year."

Section 6. Amend § 7205(4), Title 18, Delaware Code, by adding to the end thereof the following:

"This prohibition shall not be construed to prevent a carrier from establishing premium discounts or rebates or modifying otherwise applicable co-payments or deductibles in return for adherence to programs of health promotion and disease prevention, if otherwise allowed by law."

Section 7. Amend § 7206, Title 18, Delaware Code, by striking the word "or" that appears at the end of subparagraph (a)(6)b. thereof and by adding to § 7206(a) new subparagraphs to read as follows:

- "(8) With respect to a carrier that offers a health benefit plan through a managed care plan, there is no longer any enrollee in connection with such plan that lives, resides, or works in the service area of the carrier;
- (9) An employer is no longer actively engaged in the business in which it was engaged on the effective date of the plan; or
- (10) With respect to coverage that is made available only through one or more bona fide associations, the membership of an employer ceases."

Section 8. Amend § 7207(c)(1), Title 18, Delaware Code, by striking the first sentence thereof and by substituting in lieu thereof the following:

"A health benefit plan shall not deny, exclude or limit benefits for a covered individual for losses due to a preexisting condition where such were incurred more than twelve (12) months following the date of enrollment in such plan or, if earlier, the first day of the waiting period for such enrollment."

Section 9. Amend § 7207(c)(1), Title 18, Delaware Code, by striking the word "or" as it appears at the end of subparagraph b. thereof, by adding to the end of paragraph a. thereof the word "or" and by striking in its entirety subparagraph c. thereof.

Section 10. Amend § 7207(c)(2), Title 18, Delaware Code, by striking the number "60" as it appears therein and by substituting in lieu thereof "sixty-three (63)".

Section 11. Amend § 7207(c), Title 18, Delaware Code, by redesignating the existing paragraphs "(2)", "(3)", "(4)" and "(5)" as "(3)", "(4)", "(5)" and "(6)"; by striking the number "3" as it appears in the newly designated paragraph (6)a thereof, and by substituting in lieu thereof the number "4"; and by inserting a new paragraph (2) to read as follows:

- "(2) a. A health benefit plan shall not impose any preexisting condition exclusion relating to pregnancy or in the case of a child who is adopted or placed for adoption before attaining eighteen years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of such adoption or placement for adoption.
- b. If a health maintenance organization does not utilize preexisting condition limitations in any health benefit plan, it may impose an affiliation period. An affiliation period shall run concurrently with any waiting period imposed. Such a health maintenance organization may, in lieu of an affiliation period, use an alternative method to address adverse selection with the prior approval of the Insurance Commissioner."

Section 12. Amend § 7207, Title 18, Delaware Code, by adding thereto new subsections to read as follows:

- "(f) Effective July 1, 1997, every small employer carrier shall also offer to small employers a choice of all the other small group plans the carrier markets in Delaware; except that this requirement shall not apply to:
- (1) A health benefit plan offered by a carrier if such plan is made available in the small group market only through one or more bona fide association plans; or
 - (2) A business group of one where the business group of one does not meet the carrier's actuarially-based underwriting criteria.
- (g) A health benefit plan shall not establish rules for eligibility for any individual to enroll under the plan based on any health status-related factors in relation to the individual or a dependent of the individual."

Section 13. Amend § 7217(a), Title 18, Delaware Code, by adding thereto a new paragraph to read as follows:

- "(5) The benefits available under all health benefit plans for which the employer is qualified."

Section 14. Amend chapter 35, title 18, Delaware Code by adding thereto a new subchapter to read as follows:

"Subchapter IV. Large Employer Health Insurance Standards

§ 3560. Definitions.

As used in this subsection:

- (1) 'Affiliation period' means a period of time not to exceed two months (three months for late enrollees) during which a health maintenance organization does not collect premium and coverage issued is not effective.
- (2) 'Bona fide association' means, with respect to health insurance coverage offered in Delaware, an association which:
 - a. Has been actively in existence for at least five years;
 - b. Has been formed and maintained in good faith for purposes other than obtaining insurance and does not condition membership on the purchase of association-sponsored insurance;
 - c. Does not condition membership in the association on any health status-related factor relating to an employee of an employer or a dependent of an employee and clearly so states in all membership and application materials;
 - d. Makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member) and clearly so states in all marketing and application materials;
 - e. Does not make health insurance coverage offered through the association available other than in connection with a member of the association and clearly so states in all marketing and application materials; and
 - f. Provides and annually updates information necessary for the Commissioner to determine whether or not an association meets the definition of a bona fide association before qualifying as a bona fide association for the purposes of this chapter.
- (3) 'Creditable coverage' means, with respect to an individual, health benefits or coverage provided under any of the following:

- a. A group health benefit plan;
 - b. A health benefit plan;
 - c. Part A or Part B of Title XVIII of the Social Security Act;
 - d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
 - e. Chapter 55 of Title 10, United States Code;
 - f. A medical care program of the Indian Health Service or of a tribal organization;
 - g. A State health benefits risk pool;
 - h. A health plan offered under chapter 89 of Title 5, United States Code;
 - i. A public health plan as defined in federal regulations;
 - j. A health benefit plan under section 5(c) of the Peace Corps Act [22 U.S.C. 2504(c)].
- (4) 'Health benefit plan' means any hospital or medical policy or certificate, major medical expense insurance policy or certificate, any hospital or medical service plan contract, health maintenance organization or health service corporation subscriber contract, or any other similar health contract subject to the jurisdiction of the Commissioner.
- 'Health benefit plan' does not include: Accident only; credit; dental; vision; Medicare supplement; benefits for long term care, home health care, community-based care or any combination thereof; disability income insurance; liability insurance including general liability insurance and automobile liability insurance; coverage for on-site medical clinics; coverage issued as a supplement to liability insurance, worker's compensation or similar insurance; or automobile medical payment insurance. The term also excludes specified disease, hospital confinement indemnity, or limited benefit health insurance if such types of coverage do not provide coordination of benefits and are provided under separate policies or certificates, provided that the carrier offering such policies or certificates complies with the following:
- a. The carrier files on or before March 1 of each year a certification with the Commissioner that contains the statement and information described in subparagraph b.
 - b. The certification shall contain the following:
 - (i) A statement from the carrier certifying that policies or certificates described in this paragraph are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance or major medical expense insurance.
 - (ii) A summary description of each policy or certificate described in this paragraph, including the average annual premium rates (or range of premium rates in cases where premiums vary by age or other factors) charged for these policies and certificates in this state.
 - c. In the case of a policy or certificate that is described in this paragraph and that is offered for the first time in this state on or after July 1, 1997, the carrier files with the Commissioner the information and statement required in Subparagraph (b) at least thirty (30) days prior to the date the policy or certificate is issued or delivered in this state.
- (5) 'Health status-related factor' means any of the following factors:

- a. Health status;
 - b. Medical condition, including both physical and mental illnesses;
 - c. Claims experience;
 - d. Receipt of health care;
 - e. Medical history;
 - f. Genetic information;
 - g. Evidence of insurability, including conditions arising out of acts of domestic violence;
 - h. Disability.
- (6) 'Large employer' means any person, firm, corporation, partnership or association that is actively engaged in business that, on at least 50 percent of its working days during the preceding calendar quarter, employed more than 50 eligible employees, as defined in §7202 of this Title the majority of whom were employed within this State. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of state taxation, shall be considered 1 employer. In the case of an employer that was not in existence throughout the preceding calendar quarter, the determination of whether such employer is a small or large employer shall be based on the average number of employees that is reasonably expected such employer will employ on business days in the current calendar year.
- (7) 'Late enrollee' means an eligible employee or dependent who requests enrollment in a group health benefit plan following the initial enrollment period during which such individual is entitled to enroll under the terms of the health benefit plan, if such initial enrollment period is a period of at least thirty days. An eligible employee or dependent shall not be considered a late enrollee if:
- a. The individual:
 - (i) Was covered under other creditable coverage at the time of the initial enrollment period and, if required by the carrier or issuer, the employee stated at the time of initial enrollment that this was the reason for declining enrollment;
 - (ii) Lost coverage under the other creditable coverage as a result of termination of employment or eligibility, reduction in the number of hours of employment, the involuntary termination of the creditable coverage, death of a spouse, legal separation or divorce, or employer contributions towards such coverage was terminated; and
 - (iii) Requests enrollment within thirty (30) days after termination of the other creditable coverage; or
 - b. The individual is employed by an employer that offers multiple health benefit plans and elects a different plan during an open enrollment period; or
 - c. A court has ordered that coverage be provided for a dependent under a covered employee's health benefit plan and the request for enrollment is made within thirty days after issuance of such court order; or
 - d. A person becomes a dependent of a covered person through marriage, birth, adoption, or placement for adoption and requests enrollment no later than thirty days after becoming such a dependent. In such case, coverage shall commence

on the date the person becomes a dependent if a request for enrollment is received in a timely fashion before such date.

- (8) 'Medical care' means amounts paid for:
- a. The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;
 - b. Transportation primarily for and essential to medical care referred to in paragraph (a); and
 - c. Insurance covering medical care referred to in paragraphs (a) and (b).
- (9) 'Waiting Period' means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible for benefits under the terms of the plan. For purposes of calculating periods of creditable coverage, a waiting period shall not be considered a gap in coverage.

§ 3561. Limitations on Preexisting Condition Limitations.

A health benefit plan that covers a large group in this state:

- (1) Shall not deny, exclude, or limit benefits for a covered individual because of a preexisting condition for losses incurred more than twelve months following the date of enrollment of the individual in such plan or, if earlier, the first day of the waiting period for such enrollment;
- (2) May impose a preexisting condition exclusion only if such exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition for which medical advice, diagnosis, care, or treatment was recommended or received within six months immediately preceding the effective date of coverage;
- (3) Shall not impose any preexisting condition exclusion relating to pregnancy or in the case of a child who is adopted or placed for adoption before attaining eighteen (18) years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of such adoption or placement for adoption.
- (4) May impose an affiliation period, if it does not utilize preexisting condition limitations. An affiliation period shall run concurrently with any waiting period. A health maintenance organization may, in lieu of an affiliation period, use an alternative method to address adverse selection with the prior approval of the Commissioner;
- (5) Shall waive any affiliation period or time period applicable to a preexisting condition exclusion or limitation for the period of time an individual was previously covered by creditable coverage, if such creditable coverage was continuous to a date not more than sixty-three (63) days prior to the effective date of the new coverage. For purposes of calculating continuous coverage, a waiting period shall not be considered a gap in coverage. This paragraph (5) shall not preclude application of any waiting period applicable to all new enrollees under the plan. The method of crediting and certifying coverage shall be determined by the Commissioner by regulation; and
- (6) May exclude coverage for late enrollees for no more than an eighteen (18) month preexisting condition exclusion; except that, if both a waiting period and a preexisting condition exclusion are applicable to a late enrollee, the combined period shall not exceed eighteen (18) months from the date the individual enrolls for coverage under the health benefit plan. Health maintenance organizations

that do not use preexisting condition exclusion periods in any of their plans may impose up to a three (3) months affiliation period in lieu of the eighteen (18) months preexisting condition period.

- (7) A health benefit plan shall not establish rules for eligibility for any individual to enroll under the plan based on any health status-related factors in relation to the individual or a dependent of the individual.

§ 3562. *Renewability of Coverage.*

- (a) A health benefit plan shall be renewable with respect to an enrollee or dependents at the option of the enrollee, except in any of the following cases:
 - (1) The policyholder fails to comply with participation or contribution rules;
 - (2) With respect to a network plan, there is no longer any enrollee in connection with such plan that lives, resides, or works in the service area of the carrier;
 - (3) With respect to a coverage that is made available only through one or more bona fide associations, the membership of the employer ceases.
 - (4) The policyholder has failed to pay premiums or contributions in accordance with the terms of the health benefit plan or the health carrier has not received timely premium payments;
 - (5) The policyholder has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;
 - (6) A decision by the carrier to discontinue offering a particular type of group health benefit plan in the state's large group insurance market. A type of health benefit plan may be discontinued by the carrier in the large group market only if the carrier:
 - a. Provides notice of the decision not to renew coverage to all affected enrollees and to the Commissioner in each state in which an affected enrollee is known to reside at least 90 days prior to the nonrenewal of any health benefit plans by the carrier. Notice to the Commissioner under this subparagraph shall be provided at least three (3) working days prior to the notice to the affected individuals;
 - b. Offers to each large employer provided the particular type of health benefit plan, the option to purchase any other health benefit plans currently being offered by the carrier to large employers in the state; and
 - c. In exercising the option to discontinue the particular type of health benefit plan and in offering the option of coverage under paragraph b, the carrier acts uniformly without regard to the claims experience of any affected individual or any health status-related factor relating to any covered individuals or beneficiaries who may become eligible for the coverage.
 - (7) The carrier elects to discontinue offering and to nonrenew all its health benefit plans delivered or issued for delivery in the state. In that case, the carrier shall provide notice of the decision not to renew coverage to all enrollees and to the Commissioner in each state in which an enrollee is known to reside at least 180 days prior to the nonrenewal of the health benefit plan by the carrier. Notice to the Commissioner under this paragraph shall be provided at least three (3) working days prior to the notice of the enrollees;
- (b) A carrier that elects not to renew all its health benefit plans under paragraph (a)(5) shall be prohibited from writing new business in the large group market in this state for a period of five (5) years from the date of the discontinuation of the last health benefit plan not so renewed.

- (c) A carrier may modify a large group health benefit plan if all those large groups covered by the same policy form are uniformly modified."

§ 3563. Rate Regulation.

A carrier offering a large group health benefit plan may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution that is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or to an individual enrolled under the plan as a dependent of the individual. This prohibition shall not be construed to restrict the amount that an employer may be charged for coverage under a large group health benefit plan or to prevent a carrier from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention, if not otherwise prohibited by law.

§ 3564. Mental Health Parity.

A carrier offering a large group health plan shall comply with the provisions of 42 USCA § 300gg-5, Public Law 104-204 and any subsequent changes in federal law.

§ 3565. Newborns and Mothers Health Protection.

A carrier offering a health benefit plan shall comply with the provisions of 42 USCA § 300gg-4 and any subsequent changes in federal law."

Section 15. Amend § 3506, Title 18, Delaware Code by striking same and by substituting in lieu thereof the following:

"§ 3506. Association groups.

- (a) 'Bona fide association' means, with respect to health insurance coverage offered in Delaware, an association which:
- (1) Has been actively in existence for at least five years;
 - (2) Has been formed and maintained in good faith for purposes other than obtaining insurance and does not condition membership on the purchase of association-sponsored insurance;
 - (3) Does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee) and clearly so states in all membership and application materials;
 - (4) Makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member) and clearly so states in all marketing and application materials;
 - (5) Does not make health insurance coverage offered through the association available other than in connection with a member of the association and clearly so states in all marketing and application materials; and
 - (6) Provides and annually updates information necessary for the Commissioner to determine whether or not an association meets the definition of a bona fide association before qualifying as a bona fide association for the purposes of this chapter.
- (b) An association policy shall be subject to the following requirements:

- (1) The policy may insure members of such association or associations, employees thereof or employees of members, or 1 or more of the preceding or all of any class or classes thereof for the benefit of persons other than the employer.
- (2) The premium for the policy shall be paid from funds contributed by the association or associations, or by the employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations or employer members.
- (3) A policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing."

Section 16. Amend Chapter 33, Title 18, Delaware Code by adding a new section to read as follows:

"§ 3340. Newborns and Mothers Health Protection.

A carrier offering a health benefit plan shall comply with the provisions of 42 USCA § 300gg-51 and any subsequent changes in federal law."

Section 17. Effective Date - Applicability.

This Act shall take effect and apply to health benefit plans issued, renewed, extended, or modified on or after July 1, 1997.

Section 18. Severability.

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

Approved July 3, 1997

CHAPTER 144

FORMERLY

SENATE BILL NO. 201

AN ACT TO AMEND TITLE 30, OF THE DELAWARE CODE RELATING TO
ASSESSMENT AND COLLECTION OF TAXES.

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

Section 1. Amend Section 531, Title 30 of the Delaware Code by adding a new subsection "(h)" to read as follows:

"(h) The running of the period of limitations provided for in this section on the making of assessments shall, in a case under Title 11 of the United States Code, be suspended for the period during which the Director is prohibited by reason of such case from making the assessment plus 60 days thereafter."

Section 2. Amend Section 553, Title 30 of the Delaware Code by adding a new subsection "(e)" to read as follows:

"(e) The running of the period of limitations on collections provided for in this section shall, in a case under Title 11 of the United States Code, be suspended for the period during which the Director is prohibited from collecting by reason of such case plus 6 months thereafter."

Section 3. This Act shall be effective for cases under Title 11 of the United States Code on or after the date on which this Act is enacted into law.

Approved July 3, 1997

CHAPTER 145

FORMERLY

HOUSE BILL NO. 123

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE CREATING THE UNIFORM
FOREIGN MONEY-JUDGMENTS RECOGNITION ACT.

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

Section 1. Amend Title 10 of the Delaware Code by adding a new chapter to read as follows:

"CHAPTER 48. UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT

§ 4801. Definitions.

As used in this Chapter:

(1) 'foreign state' means any governmental unit other than the United States, or any state, district, commonwealth, territory, insular possession thereof, or the Panama Canal Zone, the Trust Territory of the Pacific Islands, or the Ryukyu Islands:

(2) 'foreign judgment' means any judgment of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters.

§ 4802. Applicability.

This Act applies to any foreign judgment that is final and conclusive and enforceable where rendered even though an appeal therefrom is pending or it is subject to appeal.

§ 4803. Recognition and Enforcement.

Except as provided in Section 4804 of this chapter, a foreign judgment meeting the requirements of Section 4802 of this chapter is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit.

§ 4804. Grounds for Non-recognition.

(a) A foreign judgment is not conclusive if:

(1) the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) the foreign court did not have personal jurisdiction over the defendant.
or

(3) the foreign court did not have jurisdiction over the subject matter.

(b) A foreign judgment need not be recognized if:

(1) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;

(2) the judgment was obtained by fraud;

(3) the cause of action on which the judgment is based is repugnant to the public policy of this state;

(4) the judgment conflicts with another final and conclusive judgment;

(5) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court; or

(6) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

§ 4805. Personal Jurisdiction.

(a) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if:

(1) the defendant was served personally in the foreign state;

(2) the defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him;

(3) the defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(4) the defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate had its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign state;

(5) the defendant had a business office in the foreign state and the proceedings in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign state; or

(6) the defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a cause of action arising out of such operation.

(b) The courts of this state may recognize other bases of jurisdiction.

§ 4806. Stay in Case of Appeal.

If the defendant satisfies the court either that an appeal is pending or that he is entitled and intends to appeal from the foreign judgment, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal.

§ 4807. Savings Clause.

This chapter does not prevent the recognition of a foreign judgment in situations not covered by this chapter.

§ 4808. Uniformity of Interpretation.

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it."

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

Approved July 3, 1997

CHAPTER 146

FORMERLY

HOUSE BILL NO. 121
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2AN 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 §3313(m), Chapter 33, Title 19 of the Delaware Code by redesignating the current subsection (3) as subsection (4).

Section 2. Amend §3313(m), Chapter 33, Title 19 of the Delaware Code by inserting a new subsection "(3)" to read as follows:

"(3) In the case of a payment in the form of a pension, annuity, retirement, or retired payment paid to an individual under the Social Security Act or the Railroad Retirement Act of 1974, the individual's contribution shall be taken into consideration and the weekly benefit amount payable to said individual for any week which begins after July 1, 1997 shall be reduced by 25% of the individual's weekly benefit amount under the Social Security Act or the Railroad Retirement Act of 1974."

Approved July 3, 1997

CHAPTER 147

FORMERLY

HOUSE BILL NO. 374

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 (three-fifths of all members elected to each house thereof concurring
therein):

Section 1. Amend Section 3302(17), Chapter 33, Title 19, of the Delaware Code by
deleting "30%" as it appears in the first sentence therein and inserting in its place "50%".

Section 2. Amend Section 3313(j), Chapter 33, Title 19, of the Delaware Code by
deleting "30 percent" as it appears in the first sentence therein and inserting in its place "50%".

Section 3. Amend Section 3350(9), Title 19, of the Delaware Code by redesignating
subsections "c." and "f." as they appear therein as subsections "f." and "g." respectively.

Section 4. Amend Section 3350(9), of the Delaware Code by inserting a new subsection
"e." to read as follows:

"e. For any calendar year beginning January 1, 1998, 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
\$215 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/	=	Supplemental
Basic Assessment Rate		Assessment Rate
.1 - 3.9%	=	.5%
4.0 - 5.9%	=	.5%
6.0 - 7.9%	=	.5%
8.0%	=	.5%"

Section 5. Amend Section 3350(9), Title 19, of the Delaware Code by adding a new
subsection "h." to read as follows:

"h. For any calendar year beginning January 1, 1998, 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 \$215 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.,
paragraph c., or paragraph d. of this subdivision as determined by the balance in the
Unemployment Insurance Trust Fund."

Section 6. Amend Section 3401(a), Chapter 34, Title 19, of the Delaware Code by
deleting the statutory reference to "3302(18)" as it appears therein and inserting in its place the
statutory reference "3302(19)".

Section 7. Amend Section 3401, Chapter 34, Title 19, of the Delaware code by
redesignating subsection "(b)" as it appears therein as subsection "(c)".

Section 8. Amend Section 3401, Chapter 34, Title 19, of the Delaware Code by adding a new subsection "(b)" to read as follows:

"(b) For any calendar year beginning January 1, 1998, 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 \$215 million as of the preceding September 30, the special assessment rate shall be fifteen one-hundredths of one percent (.15%) per year on all taxable wages, as defined in 3302(19) of this Title, payable by each employer. When the Unemployment Trust Fund balance is less than \$215 million as of the preceding September 30, as certified by the Director of Unemployment Insurance to the Secretary of Labor, the special assessment shall be one-tenth of one percent (.1%) on all taxable wages, as defined in 3302(19) of this Title, payable by each employer."

Section 9. Effective Date Provisions.

(a) Sections 1 and 2 of this Act shall be effective July 1, 1997.

(b) Sections 3, 4, 5, 6, 7 and 8 of this Act shall be effective upon enactment and apply to assessments due for CY 1998 and thereafter.

Approved July 3, 1997

CHAPTER 148

FORMERLY

HOUSE BILL NO. 225

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO COURTS AND JUDICIAL PROCEDURE, AND PROVIDING FOR A "UNIFORM FOREIGN-MONEY CLAIMS ACT".

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

Section 1. Amend Title 10 of the Delaware Code by adding the following as Chapter 52:

"CHAPTER 52. DELAWARE UNIFORM FOREIGN-MONEY CLAIMS ACT.

§ 5201. Definitions. In this chapter:

(1) 'Action' means a judicial proceeding or arbitration in which a payment in money may be awarded or enforced with respect to a foreign-money claim.

(2) 'Bank-offered spot rate' means the spot rate of exchange at which a bank will sell foreign money at a spot rate.

(3) 'Conversion date' means the banking day next preceding the date on which money, in accordance with this chapter, is:

(i) paid to a claimant in an action or distribution proceeding;

(ii) paid to the official designated by law to enforce a judgment or award on behalf of a claimant; or

(iii) used to recoup, set-off, or counterclaim in different moneys in an action or distribution proceeding.

(4) 'Distribution proceeding' means a judicial or nonjudicial proceeding for the distribution of a fund in which one or more foreign-money claims is asserted and includes an accounting, an assignment for the benefit of creditors, a foreclosure, the liquidation or rehabilitation of a corporation or other entity, and the distribution of an estate, trust, or other fund.

(5) 'Foreign money' means money other than money of the United States of America.

(6) 'Foreign-money claim' means a claim upon an obligation to pay, or a claim for recovery of a loss, expressed in or measured by a foreign money.

(7) 'Money' means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by inter-governmental agreement.

(8) 'Money of the claim' means the money determined as proper pursuant to § 5204 of this chapter.

(9) 'Person' means an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, limited liability company, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(10) 'Rate of exchange' means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate

rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) 'Spot rate' means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding two days.

(12) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

§ 5202.Scope.

(a) This chapter applies only to a foreign-money claim in an action or distribution proceeding. The provisions of this chapter are applicable to such foreign-money claims notwithstanding any contrary provisions of law.

(b) This chapter applies to foreign-money issues even if other law under the conflict of laws rules of this State applies to other issues in the action or distribution proceeding.

§ 5203.Variation by Agreement.

(a) The effect of this chapter may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(b) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different moneys for different aspects of the transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction.

§ 5204.Determining Money of the Claim.

(a) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(b) If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is the money:

(1) regularly used between the parties as a matter of usage or course of dealing;

(2) used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or

(3) in which the loss was ultimately felt or will be incurred by the party claimant.

§ 5205. Determining Amount of the Money of the Money of Certain Contract Claims.

(a) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(b) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding 30 days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(c) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.

§ 5206. Asserting and Defending Foreign-Money Claim.

(a) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(b) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(c) A person may assert a defense, set-off, recoupment, or counterclaim in any money without regard to the money of other claims.

(d) The determination of the proper money of the claim is a question of law.

§ 5207. Judgments and Awards on Foreign-Money Claims; Times of Money Conversion; Form of Judgment.

(a) Except as provided in subsection (c), a judgment or award on a foreign-money claim must be stated in an amount of the money of the claim. Such a judgment or award on a foreign-money claim shall be considered a judgment or claim for an ascertained amount.

(b) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars which will purchase that foreign money on the conversion date at a bank-offered spot rate.

(c) Assessed costs must be entered in United States dollars.

(d) Each payment in United States dollars must be accepted and credited on a judgment or award on a foreign-money claim in the amount of the foreign money that could be purchased by the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.

(e) A judgment or award made in an action or distribution proceeding on both (i) a defense, set-off, recoupment, or counterclaim and (ii) the adverse party's claim, must be netted by converting the money of the smaller into the money of the larger, and by subtracting the smaller from the larger, and specify the rates of exchange used.

(f) A judgment substantially in the following form complies with subsection (a):

IT IS ADJUDGED AND ORDERED, that Defendant (insert name) pay to Plaintiff (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the rate of (insert rate) percent a year or, at the option of the judgment debtor, the number of United States dollars which will purchase the (insert name of foreign money) with interest due, at a bank-offered spot rate at or near the close of business on the banking day next before the day of payment, together with assessed costs of (insert amount) United States dollars.

(g) If a contract claim is of the type covered by Section 5(a) or (b), the judgment or award must be entered for the amount of money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars which will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.

(h) A judgment must be entered and indexed in foreign money in the same manner, and has the same effect as a lien, as other judgments. It may be discharged by payment.

§ 5208. Conversions of Foreign Money in Distribution Proceeding.

The rate of exchange prevailing at or near the close of business on the day the distribution proceeding is initiated governs all exchanges of foreign money in a distribution proceeding. A foreign-money claimant in a distribution proceeding shall assert its claim in the named foreign money and show the amount of United States dollars resulting from a conversion as of the date the proceeding was initiated.

§ 5209. Pre-Judgment and Judgment Interest.

(a) With respect to a foreign-money claim, recovery of pre-judgment or pre-award interest and the rate of interest to be applied in the action or distribution proceeding, except as provided in subsection (b), are matters of the substantive law governing the right to recovery under the conflict-of-laws rules of this State.

(b) The court or arbitrator shall increase or decrease the amount of pre-judgment or pre-award interest otherwise payable in a judgment or award in foreign-money to the extent required by the law of this State governing a failure to make or accept an offer of settlement or offer of judgment, or conduct by a party or its attorney causing undue delay or expense.

(c) A judgment or award on a foreign-money claim bears interest at the rate applicable to judgments of this State.

§ 5210. Enforcement of Foreign Judgments.

(a) If an action is brought to enforce a judgment of another jurisdiction expressed in a foreign money and the judgment is recognized in this State as enforceable, the enforcing judgment must be entered as provided in § 5207 of this chapter, whether or not the foreign judgment confers an option to pay in an equivalent amount of United States dollars.

(b) A foreign judgment may be entered and indexed in accordance with any rule or statute of this State providing a procedure for its recognition and enforcement.

(c) A satisfaction or partial payment made upon the foreign judgment, on proof thereof, must be credited against the amount of foreign money specified in the judgment, notwithstanding the entry of judgment in this State.

(d) A judgment entered on a foreign-money claim only in United States dollars in another state must be enforced in this State in United States dollars only.

§ 5211. Determining United States Dollar Value of Foreign-Money Claims for Limited Purposes.

(a) Computations under this section are for the limited purposes of the section and do not affect computation of the United States dollar equivalent of the money of the judgment for the purpose of payment.

(b) For the limited purpose of facilitating the enforcement of provisional remedies in an action, the value in United States dollars of assets to be seized or restrained pursuant to a writ of attachment, garnishment, execution, or other legal process, the amount of United States dollars at issue for assessing costs, or the amount of United States dollars involved for a surety bond or other court-required undertaking, must be ascertained as provided in subsections (c) and (d).

(c) A party seeking process, costs, bond, or other undertaking under subsection (b) shall compute in United States dollars the amount of the foreign money claimed from a

bank-offered spot rate prevailing at or near the close of business on the banking day next preceding the filing of a request or application for the issuance of process or for the determination of costs, or an application for a bond or other court-required undertaking.

(d) A party seeking the process, costs, bond, or other undertaking under subsection (b) shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used and how it was obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount of United States dollars stated in the affidavit or certificate.

§ 5212. Effect of Currency Revalorization..

(a) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(b) If substitution under subsection (a) occurs after a judgment or award is entered on a foreign-money claim, the court or arbitrator shall amend the judgment or award by a like conversion of the former money.

§ 5213. Supplementary General Principles of Law.

Unless displaced by particular provisions of this chapter, the principles of law and equity, including the law merchant, and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement its provisions.

§ 5214. Uniformity of Application and Construction..

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

§ 5215. Short Title.

This chapter may be cited as the Uniform Foreign-Money Claims Act.

§ 5216. Severability clause.

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

Section 2. This Act becomes effective on January 1st following its enactment.

Section 3. This Act applies to actions and distribution proceedings commenced after its effective date.

Approved July 3, 1997

CHAPTER 149

FORMERLY

HOUSE BILL NO. 144

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NOS. 3 AND 4

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO
PROFESSIONS AND OCCUPATIONS.

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 § 904, Title 24, Delaware Code by designating existing § 904 as § 904(a) and
inserting as new § 904(b) the following:

“(b) Any person engaging in the business described in this Chapter shall keep and maintain a list of current employees including their names, former names used, date of births, physical descriptions and social security numbers. The required employee list and all attachments thereto shall be considered confidential but shall, nevertheless, be open for inspection by any police officer of this State or of any political subdivision of this State, within their respective jurisdiction at any time at the licensee's primary place of business and during the licensee's regular business hours. No person licensed under this Chapter shall knowingly allow any employee who is a person prohibited from possessing a deadly weapon pursuant to 11 Del. C. § 1448 to facilitate a sale of a deadly weapon. All employers licensed to do business pursuant to this chapter shall, prior to employment and at least once during each calendar year thereafter, perform a telephonic criminal history record check of each employee utilizing the procedures set forth in Section 1448 of Title 11 and shall make and maintain a record thereof using the State Bureau of Identification Criminal History Record Information and Mental Health Information Consent Form (Form 544). A copy of each such form shall be attached to the above required employee list for inspection upon the valid request of a police officer of this State or of any political subdivision of this State, within their respective jurisdiction.”

Approved July 3, 1997

CHAPTER 150

Formerly

House Bill No. 400

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES FOR THE FISCAL YEAR ENDING JUNE 30, 1998; DEAUTHORIZING STATE GUARANTEED BOND AUTHORIZATIONS; 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 CERTAIN FUNDS OF THE TRANSPORTATION TRUST FUND; APPROPRIATING SPECIAL FUNDS OF THE DELAWARE TRANSPORTATION AUTHORITY; REVERTING AND REPROGRAMMING CERTAIN FUNDS OF THE STATE; AMENDING CHAPTER 51, TITLE 30, DELAWARE CODE RELATING TO MUNICIPAL STREET AID; AND AMENDING CHAPTER 43, TITLE 30, DELAWARE CODE REALLOCATING AND PLEDGING CERTAIN TRANSPORTATION RELATED GENERAL FUNDS TO THE TRANSPORTATION TRUST FUND; AND ESTABLISHING CERTAIN FEES PLEDGED TO THE TRANSPORTATION TRUST FUND; 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; AMENDING THE FISCAL YEAR 1998 APPROPRIATIONS ACT; 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 1998 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 1998 Governor's Recommended Capital Budget and Project Information document. Any authorization balance (excluding Transportation Trust Fund balances) remaining unexpended or unencumbered by June 30, 2000, shall be subject to reversion or deauthorization.

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 "\$8,113,015" wherever it appears in said Section and inserting in lieu thereof the number "\$7,095,015."

SECTION 1 ADDENDUM
FISCAL YEAR 1998 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	OFMS NO.	BOND AUTHOR- IZATIONS AND REAUTHOR- IZATION	DEAUTHOR- IZATION OF STATE GUAR- ANTEED BONDS	NON-TRANS REVERSION & REPRO- GRAMMING	STRIPPER WELL	TRANS. TRUST FUND REAUTH.	TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUND	TOTAL
OFFICE OF THE BUDGET											
800 MHz Statewide Backbone Radio System	10-02-01	80002WBC	\$4,633,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$4,633,000
800 MHz Statewide Portable/Mobile Radios	10-02-01	86001WGE	0	0	0	0	0	0	1,460,300	0	1,460,300
Electronic Voting Machines (10)	10-02-01	81002WGE	0	0	0	0	0	0	55,000	0	55,000
Subtotal:			\$4,633,000	\$0	\$0	\$0	\$0	\$0	\$1,515,300	\$0	\$6,148,300
DELAWARE ECONOMIC DEVELOPMENT OFFICE											
Delaware Strategic Fund	10-03-03	84001WGD	\$0	\$0	\$0	\$0	\$0	\$0	\$10,000,000	\$0	\$10,000,000
Laurel Footbridge	10-03-03	98001WGC	\$0	\$0	\$0	\$0	\$0	\$0	\$100,000	\$0	\$100,000
Riverfront Development Corporation	10-03-03	96004WGD	\$0	\$0	\$0	\$0	\$0	\$0	\$2,000,000	\$0	\$2,000,000
Subtotal:			\$0	\$0	\$0	\$0	\$0	\$0	\$12,100,000	\$0	\$12,100,000
STATE											
Port of Wilmington	20-01-01	84008WGC	\$0	\$0	\$0	\$0	\$0	\$0	\$2,000,000	\$0	\$2,000,000
Redding House Moving/Relocation	20-06-01	91013WGR	0	0	0	0	0	0	150,000	0	150,000
South Coastal Library Land	20-08-01	91040WGL	0	0	0	0	0	0	165,600	0	165,600
Abbott's Mill	20-08-04	96008WGC	0	0	0	0	0	0	110,000	0	110,000
Millsboro Library Completion	20-08-01	93005WGC	0	0	0	0	0	0	100,000	0	100,000
Subtotal:			\$0	\$0	\$0	\$0	\$0	\$0	\$2,525,600	\$0	\$2,525,600
ADMINISTRATIVE SERVICES											
Architectural Barrier Removal	30-05-10	91016WBM	\$210,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$210,000
Sussex County Courthouse Renovations	30-05-10	96010WBR	1,000,000	0	0	0	0	0	1,500,000	0	2,500,000
		96010WGR									
Energy Efficiency Program	30-05-10	96014WSM	0	0	0	250,000	0	0	0	0	250,000
Carvel Building Renovations	30-05-10	97009WBR	3,954,000	0	0	0	0	0	0	0	3,954,000

AGENCY/PROJECT	BOND AUTHOR-		DEAUTHOR-	NON-TRANS	TRANS						
	IZATIONS AND		IZATION OF	REVERSION							
	BUDGET		REAUTHOR-	STATE GUAR-	& REPRO-	STRIPPER	TRUST FUND	TRANS	GENERAL	21st CENTURY	
	UNIT	OFMS NO	IZATION	ANTEED BONDS	GRAMMING	WELL	REAUTH	TRUST FUNDS	FUNDS	FUND	TOTAL
ADMINISTRATIVE SERVICES Continued:											
Legislative Hall Renovations	30-05-10	90020WBR	1,550,000	0	0	0	0	0	1,052,700	0	2,602,700
		90020WGR									
Legislative Hall Equipment	30-05-10	90020WGE	0	0	0	0	0	0	104,200	0	104,200
MCI & Equipment Supplement - OAS	30-05-10	82021WGM	0	0	0	0	0	0	500,000	0	500,000
MCI Supplement - Judicial	30-05-10	96013WGC	0	0	0	0	0	0	200,000	0	200,000
J.P. Court 7/16 Completion	30-05-10	96013WGC	0	0	0	0	0	0	370,400	0	370,400
Wilmington Courthouse	30-05-10	98002WGP	0	0	0	0	0	0	500,000	0	500,000
Department of State Projects:											
Delaware Public Archives Facility	30-05-10	96015WBC	4,415,000	0	0	0	0	0	0	0	4,415,000
Veterans Cemetery Enhancement	30-05-10	94013WBC	252,000	0	0	0	0	0	0	0	252,000
MCI Supplement - State	30-05-10	98003WGM	0	0	0	0	0	0	884,400	0	884,400
Ossett Mills	30-05-10	97010WGM	0	0	0	0	0	0	215,000	0	215,000
Department of Health and Social Services Projects:											
Campus Renewal	30-05-10	87036WBR	350,000	0	0	0	0	0	0	0	350,000
Forensic Mental Health Fac.-Comegys Replacement	30-05-10	95017WBC	500,000	0	0	0	0	0	0	0	500,000
Bissell Demolition Banton, Tailman, Nurses' Bldg.	30-05-10	98004WBR	0	0	0	0	0	0	556,300	0	556,300
MCI & Equipment Supplement	30-05-10	83029WGM	0	0	0	0	0	0	600,000	0	600,000
Bridgeville State Service Center Acquisition	30-05-10	98005WGL	0	0	0	0	0	0	100,000	0	100,000
Department of Services for Children, Youth & Their Families Project:											
MCI Supplement - DSCVF	30-05-10	96016WGM	0	0	0	0	0	0	200,000	0	200,000
NCCo Detention Center 16 Bed Addition	30-05-10	91024WGC	0	0	0	0	0	0	825,000	0	825,000
Farris Demolition	30-05-10	91022WGC	0	0	0	0	0	0	225,000	0	225,000
Asbestos Removal/Demolition-Bridge House	30-05-10	98006WGM	0	0	0	0	0	0	145,000	0	145,000
Asbestos Removal-Woodshaven-Kruse	30-05-10	95016WGM	0	0	0	0	0	0	706,000	0	706,000

*10-Year Bonds

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SECTION 1 ADDENDUM
FISCAL YEAR 1998 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT			BOND AUTHOR-	DEAUTHOR-	NON-TRANS.	TRANS.			GENERAL FUNDS	21st CENTURY FUNO	TOTAL
	BUDGET	OFMS NO.	IZATIONS AND	IZATION OF	REVERSION	STRIPPER	TRUST FUNO	TRANS			
	UNIT		REAUTHOR- IZATION	STATE GUAR- ANTEEO BONOS	& REPRO- GRAMMING	WELL	REAUTH	TRUST FUNDS			
ADMINISTRATIVE SERVICES Continued:											
Department of Correction Projects											
Prison Construction Program	30-05-10	95019WBC	32,737,200	1,018,000	2,145,400	0	0	0	21,899,400	0	57,800,000
		95019WRC									
		95019WGC									
MCI/Equipment Supplemental - Correction	30-05-10	80005WGM	0	0	0	0	0	0	2,500,000	0	2,500,000
Department of Public Safety Projects:											
DEMA Emergency Center/OIS Backup Facility	30-05-10	94016WBC	1,406,000	0	0	0	0	0	1,433,200	0	2,839,200
		94016WGC									
Troop 2 Replacement Planning	30-05-10	97013WBC	500,000	0	0	0	0	0	0	0	500,000
MCI/Equipment Supplemental-Public Safety	30-05-10	83049WGM	0	0	0	0	0	0	700,000	0	700,000
State Police Firing Range	30-05-10	95023WGC	0	0	0	0	0	0	500,000	0	500,000
Department of Agriculture											
Education Center/Meeting Room-Redden State Forest	30-05-10	97014WGC	0	0	0	0	0	0	140,000	0	140,000
Manager's House Conversion-Redden State Forest	30-05-10	94017WCR	0	0	0	0	0	0	60,000	0	60,000
Office Space/Conference Rm.-Blackbird State Forest	30-05-10	98007WGC	0	0	0	0	0	0	160,000	0	160,000
Fire Prevention Commission											
Minor Capital Improvements and Equipment	30-05-10	98008WGE	0	0	0	0	0	0	100,000	0	100,000
Delaware National Guard											
Dagsboro Readiness Center	30-05-10	88015WBC	1,138,500	0	0	0	0	0	133,500	0	1,272,100
		88015WGC									
MCI/Equipment Supplemental-DNG	30-05-10	91051WGM	0	0	0	0	0	0	500,000	0	500,000
Subtotal:			\$48,012,700	\$1,018,000	\$2,145,400	\$250,000	\$0	\$0	\$36,810,200	\$0	\$88,236,300
HEALTH AND SOCIAL SERVICES											
Maintenance and Restoration	35-01-20	97016WGM	\$0	\$0	\$0	\$0	\$0	\$0	\$1,000,000	\$0	\$1,000,000
Subtotal:			\$0	\$0	\$0	\$0	\$0	\$0	\$1,000,000	\$0	\$1,000,000

*10-Year Bonds

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AGENCY/PROJECT	BUDGET		REAUTHOR- IZATION	STATE GUAR. ANTEED BONDS	& REPRO- GRAMMING	STRIPPER WELL	TRUST FUND REAUTH	TRANS TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUND	TOTAL
	UNIT	DFMS NO.									
NATURAL RESOURCES AND ENVIRONMENTAL CONTROL											
Conservation Cost Sharing Prog.	40-07-04	85033WGO	\$0	\$0	\$0	\$0	\$0	\$0	\$800,000	\$0	\$800,000
Park Rehabilitation	40-06-02	81031WBM	1,250,000	0	0	0	0	0	0	0	1,250,000
Livesaving Station Restoration, DE Seashore Park	40-06-02	97018WGR	0	0	0	0	0	0	600,000	0	600,000
Aquatic Weed Harvester	40-07-02	98009WGE	0	0	0	0	0	0	150,000	0	150,000
Open Space Program (Morris Farm/Smith Estate)	40-06-02	98010WGL	0	0	0	0	0	0	115,000	0	115,000
Island Creek Dredging	40-07-02	98011WGC	0	0	0	0	0	0	72,200	0	72,200
Piney Point Boat Ramp	40-05-01	98012WGC	0	0	0	0	0	0	35,000	0	35,000
Beach Preservation	40-07-03	78032WGO	0	0	0	0	0	0	1,000,000	0	1,000,000
Tax/Public Ditches	40-07-02	78031WGC	0	0	0	0	0	0	600,000	0	600,000
Subtotal:			\$1,250,000	\$0	\$0	\$0	\$0	\$0	\$3,372,200	\$0	\$4,622,200
PUBLIC SAFETY											
DE State Police Helicopter Replacement	45-01-01	96023WGE	\$0	\$0	\$0	\$0	\$0	\$0	\$460,000	\$0	\$460,000
Subtotal:			\$0	\$0	\$0	\$0	\$0	\$0	\$460,000	\$0	\$460,000
TRANSPORTATION											
System Preservation (75/00)	55-05-00	95034WTT	\$0	\$0	\$0	\$0	\$0	\$57,277,000	\$0	\$0	\$57,277,000
System Management (76/00)	55-05-00	95035WTT	0	0	0	0	1,500,000	32,602,000	0	0	34,102,000
System Expansion (77/00)	56-05-00	95036WTT	0	0	0	0	0	10,362,000	0	0	10,362,000
Engineering and Contingencies (57/00)	55-05-00	78049WTT	0	0	0	0	0	1,000,000	0	0	1,000,000
Suburban Streets/Misc. Drainage (56/00)	55-05-00	78043WTT	0	0	0	0	0	16,700,000	0	0	16,700,000
Municipal Street Aid (71/00)	55-05-00	89034WTT	0	0	0	0	0	4,000,000	0	0	4,000,000
Reserve Account	55-05-00	90044WTT	0	0	0	0	0	1,800,000	0	0	1,800,000
Subtotal:			\$0	\$0	\$0	\$0	\$1,500,000	\$123,741,000	\$0	\$0	\$125,241,000

**10-Year Bonds

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SECTION 1 ADDENDUM
FISCAL YEAR 1998 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET		BOND AUTHOR-	OEAUTHOR-	NON-TRANS	TRANS			GENERAL FUNDS	21st CENTURY FUND	TOTAL
	UNIT	DFMS NO	IZATIONS AND REAUTHOR- IZATION	OF STATE GUAR- & REPRO- STRIPPER TRUST FUND	WELL REAUTH TRUST FUNDS						
FIRE PREVENTION COMMISSION											
Hydraulic Rescue Tools (Dover and Rehoboth)	75-02-01	92017WGE	0	0	0	0	0	0	15,000	0	15,000
Subtotal			\$0	\$0	\$0	\$0	\$0	\$0	\$15,000	\$0	\$15,000
UNIVERSITY OF DELAWARE											
Add./Renovate Purnell Hall	90-01-01	95037WBC	\$3,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,000,000
Renovate/Addition Memorial Hall	90-01-01	98013WBC	4,000,000	0	0	0	0	0	500,000	0	4,500,000
		98013WGC									
Parking Lot - Bob Carpenter Center	90-01-01	98014WGM	0	0	0	0	0	0	275,000	0	275,000
MCI-Georgetown/Newark Campus	90-01-01	98015WGM	0	0	0	0	0	0	195,000	0	195,000
800 MHz Radio Upgrade, Newark Campus	90-01-01	98016WGE	0	0	0	0	0	0	280,000	0	280,000
MCI/Equipment Supplemental	90-01-01	97023WGE	0	0	0	0	0	0	750,000	0	750,000
Subtotal			\$7,000,000	\$0	\$0	\$0	\$0	\$0	\$2,000,000	\$0	\$9,000,000
DELAWARE STATE UNIVERSITY											
Economic/Business Administration Bldg	90-03-01	95039WBC	\$7,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$7,000,000
MCI/Equipment Supplemental	90-03-01	80074WGM	0	0	0	0	0	0	2,000,000	0	2,000,000
Subtotal			\$7,000,000	\$0	\$0	\$0	\$0	\$0	\$2,000,000	\$0	\$9,000,000
DELAWARE TECHNICAL AND COMMUNITY COLLEGE											
Repair and Renovations-Jason Bldg., Owens Campus	90-04-02	95041WBR	\$500,000	\$0	\$0	\$0	\$0	\$0	\$1,075,000	\$0	\$1,575,000
		95041WGR									
Wilmington Campus Expansion	90-04-04	95042WBC	4,400,000	0	0	0	0	0	0	0	4,400,000
Excellence Through Technology	90-04-01	97024WGE	0	0	0	0	0	0	500,000	0	500,000
Polytech Renovations, Terry Campus	90-04-06	97025WBP	500,000	0	0	0	0	0	125,000	0	625,000
Student Services & Child Dev. Center Complex, Owens	90-04-02	96029WBC	1,600,000	0	0	0	0	0	300,000	0	1,900,000
		96029WGC									
Subtotal			\$7,000,000	\$0	\$0	\$0	\$0	\$0	\$2,000,000	\$0	\$9,000,000

AGENCY/PROJECT			BOND AUTHOR-	DEAUTHOR-	NON-TRANS	TRANS					21st CENTURY	TOTAL
			IZATIONS AND	IZATION OF	REVERSION				GENERAL			
	BUOGET		REAUTHOR-	STATE GUAR-	& REPRO-	STRIPPER	TRUST FUND	TRANS	FUNOS			
	UNIT	OFMS NO	IZATION	ANTEEO BONDS	GRAMMING	WELL	REAUTH	TRUST FUNDS			FUND	
STATE BOARD OF EDUCATION												
Christina, Renovate Stubbs Elementary (60/40)	95-33-00	98017WBR	\$2,968,600		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,968,600
Christina, Renovate Bayard Elementary (60/40)	95-33-00	98018WBR	2,534,700		0	0	0	0	0	0	0	2,534,700
Christina, Renovate Pyle Elementary (60/40)	95-33-00	98019WBR	1,201,000		0	0	0	0	0	0	0	1,201,000
Christina, Renovate Oouglass Kindergarten (60/40)	95-33-00	98020WGR	0		0	0	0	0	0	720,900	0	720,900
Caesar Rodney, Replace Existing Jr. HS-Middle (80/20)	95-10-00	97038WBC	6,792,500		0	0	0	0	0	0	0	5,792,500
Seaford, Renovate Seaford Middle School (78/22)	95-23-00	97046WGR	0		0	0	0	0	0	996,300	0	996,300
Caesar Rodney, Conslruct Middle School @ Frear (80/20)	95-10-00	97039WBC	5,792,500		0	0	0	0	0	0	0	5,792,500
Seaford, Renovate/Modernize Central Elementary (78/22)	95-23-00	98021WGR	0		0	0	0	0	0	709,000	0	709,000
Seaford, Renovate/Modernize Oouglass Intermediate (78/22)	95-23-00	98022WGR	0		0	0	0	0	0	1,808,400	0	1,808,400
Seaford, Renovate/Modernize West Seaford Elem. (78/22)	95-23-00	98023WGR	0		0	0	0	0	0	538,600	0	538,600
Architectural Barrier Removal (60/40)	95-01-01	91074WGM	0		0	0	0	0	0	160,000	0	160,000
Public Ed. Enhanced Minor Capital Imprv Fund (100% State)	95-01-01	78050WGM	0		0	0	0	0	0	10,000,000	0	10,000,000
Brandywine Districtwide Roofing (60/40)	95-31-00	98024WGR			0	0	0	0	0	810,000	0	810,000
(Hanby, Talley, Lancashire)												
Brandywine, Bush Roof (100%)	95-31-00	98025WGR	0		0	0	0	0	0	340,000	0	340,000
Brandywine, Harlan Elementary Planning (60/40)	95-31-00	98026WGR	0		0	0	0	0	0	69,000	0	69,000
Delaware Skills Center (100%)	95-38-00	98027WGM	0		0	0	0	0	0	100,000	0	100,000
State Consortium on Tech Prep Programs (100%)	95-39-00	97042WGE	0		0	0	0	0	0	250,000	0	250,000
Milford Land Acquisition - Morris (80/20)	95-18-00	98028WGL	0		0	0	0	0	0	25,600	0	25,600
NCCo. Vo-Tech, Renovate/Expand Howard Gym (60/40)	95-38-00	98029WGC			0	0	0	0	0	1,161,000	0	1,161,000
Delmar, Construct Middle/High School for 950 (79/21)	95-37-00	98030WGR	0		0	0	0	0	0	1,800,000	0	1,800,000
Subtotal:			\$18,289,300		\$0	\$0	\$0	\$0	\$0	\$19,488,800	\$0	\$37,778,100

*10-Year Bonds

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SECTION 1 ADDENDUM
FISCAL YEAR 1998 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BOND AUTHOR-IZATIONS AND		DEAUTHOR-IZATION OF	NON-TRANS. REVERSION	TRANS.					21st CENTURY FUND	TOTAL
	BUDGET	REAUTHOR-	STATE GUAR-	& REPRO-	STRIPPER	TRUST FUND	TRANS.	GENERAL			
	UNIT	DFMS NO.	IZATION	ANTEEO BONDS	GRAMMING	WELL	REAUTH.	TRUST FUNDS	FUNDS		
TWENTY-FIRST CENTURY FUND											
Open Space (Land/Water Cons. Trust Fund Project Acct.)	25-01-01	96050WCL	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$7,000,000	\$7,000,000
Farmland Preservation	25-01-01	96051WCL	0	0	0	0	0	0	0	7,000,000	7,000,000
Parks Endowment	25-01-01	96052WCO	0	0	0	0	0	0	0	1,000,000	1,000,000
Neighborhood Housing Revitalization	25-01-01	96053WCR	0	0	0	0	0	0	0	5,000,000	5,000,000
Water and Wastewater Fund	25-01-01	96054WCC	0	0	0	0	0	0	0	250,000	250,000
Educational Technology	25-01-01	96056WCE	0	0	0	0	0	0	0	4,000,000	4,000,000
Community Redevelopment Fund	25-01-01	96055WCC	0	0	0	0	0	0	0	6,000,000	6,000,000
Resource, Conservation and Development Projects	25-01-01	96059WCC	0	0	0	0	0	0	3,000,000	2,000,000	5,000,000
Advanced Technology Centers	25-01-01	96057WCD	0	0	0	0	0	0	0	2,000,000	2,000,000
Subtotal:			\$0	\$0	\$0	\$0	\$0	\$0	\$3,000,000	\$34,250,000	\$37,250,000
Aid to Local Government	25-01-01	98031WGD	\$0	\$0	\$0	\$0	\$0	\$0	\$12,000,000	\$0	\$12,000,000
GRAND TOTAL:			\$93,186,000	\$1,018,000	\$2,145,400	\$250,000	\$1,500,000	\$123,741,000	\$98,287,100	\$34,250,000	\$364,376,500

*10-Year Bonds

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(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 Eighty-Four Million Three Hundred Eighty-nine Thousand Dollars (\$84,389,000) and in the amount of Seven Million Three Hundred Sixty-Five Thousand Seven Hundred Dollars (\$7,365,700) 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>
Office of the Budget	\$ 4,633,000
Department of Administrative Services	41,366,700
University of Delaware	7,000,000
Delaware State University	7,000,000
Delaware Technical and Community College	6,000,000
State Board of Education	<u>18,289,300</u>

<u>Purpose</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Total Cost</u>	
Christina, Renovate Stubbs Elem. (60/40)	\$2,968,600	\$1,979,100	\$4,947,700	
Christina, Renovate Bayard Elem. (60/40)	2,534,700	1,689,800	4,224,500	
Christina, Renovate Pyle Elem. (60/40)	1,201,000	800,600	2,001,600	
Caesar Rodney, Replace Existing Jr. H.S. - Middle (80/20)	5,792,500	1,448,100	7,240,600	
Caesar Rodney, Construct Middle School at Frear (80/20)	<u>5,792,500</u>	<u>1,448,100</u>	<u>7,240,600</u>	
Subtotals	<u>\$ 18,289,300</u>	<u>\$ 7,365,700</u>	<u>\$25,655,000</u>	
Total				<u>\$84,389,000</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 Nine Million Eight Hundred Fourteen Thousand Dollars (\$9,814,000). 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 Administrative Services	\$ 7,564,000
Department of Natural Resources and Environmental Control	1,250,000
Delaware Technical and Community College	<u>1,000,000</u>
Total	<u>\$9,814,000</u>

Section 5. Transfers to the State Treasurer's Bond

Reversion Account.

<u>Project</u>	<u>Authorized Vol & Ch Laws of DE</u>	<u>Project Appropriation Code</u>	<u>Amount</u>
Selbyville Drainage	69/77	10-03-03-6412	\$812.28
Minor Capital Improvements and Equipment	67/285	30-05-10-6113	22.20
Women's Prison	67/285	30-05-10-6102	2,035.70
Sinks, Etc.	67/285	30-05-10-6115	67,065.93
Minor Capital Improvements and Equipment	68/156	30-05-10-6213	586.04
New Castle Country Detention Center	68/156	30-05-10-6216	1,062.04
Minor Capitol Improvements and Equipment	68/156	30-05-10-6231	657.00
Architectural Barrier	68/405	30-05-10-6301	17,269.51
Fire Training Center	68/405	30-05-10-6303	.03
Laurel Parking	69/77	30-05-10-6417	300.00
Georgetown Service Center	69/77	35-01-20-6412	50.00
Technology/Composites Park	69/77	30-05-10-6418	3,289.99
Division Youth Services Plan	69/77	30-05-10-6424	1,090.00
Gander Hill	68/405	38-04-06-6312	957.50
DNERRS Lab	68/156	40-01-01-6213	31.52
Minor Capital Improvements and Equipment	68/405	40-01-01-6312	31.95
Henlopen Pier	69/77	40-06-02-6416	276.42
Conservation and Development Program	69/77	40-07-02-6413	<u>4.91</u>
Total			<u>\$95,543.02</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 Seventy-Nine Thousand Six Hundred Dollars (\$79,600) 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.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Administrative Services (Prison Construction Program)	<u>\$79,600</u>
Total	<u>\$79,600</u>

Section 7. Transfers from the State Treasurer's School

Bond Reversion Account. Notwithstanding the provisions of other state law, the State Treasurer shall transfer, as funds become available, the sum of One Hundred Twenty-Three Thousand Nine Hundred Dollars (\$123,900) from the State Treasurer's School Bond Reversion Account (94-12-05-03-8102) to the following departments in the following amounts for the purposes set forth in the Section 1 Addendum of this Act.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Administrative Services	\$123,900
(Prison Construction Program)	
Total	<u>\$123,900</u>

Section 8. Appropriation of General Funds. (a) It is the intent of the General Assembly that Eighty-Three Million Two Hundred Eighty-Seven Thousand One Hundred Dollars (\$83,287,100) be appropriated to the following departments, agencies and instrumentalities of the state and in the following amounts for the purposes set forth in the Section 1 Addendum of this Act. Any funds remaining unexpended or unencumbered by June 30, 2000, shall revert to the General Fund of the State of Delaware.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Office of the Budget	\$ 1,515,300
Delaware Economic Development Office	12,100,000
Department of State	2,525,600
Department of Administrative Services	36,810,200
Department of Health and Social Services	1,000,000
Department of Natural Resources and Environmental Control	3,372,200
Department of Public Safety	460,000
Fire Prevention Commission	15,000
University of Delaware	2,000,000
Delaware State University	2,000,000
Delaware Technical and Community College	2,000,000

State Board of Education	<u>19,488,800</u>
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<u>Purpose</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Christina, Renovate Douglass Kindergarten (60/40)	\$ 720,900	\$ 480,700	\$1,201,600
Seaford, Renovate Seaford Middle (78/22)	996,300	281,000	1,277,300
Seaford, Renovate Central Elem (78/22)	709,000	200,000	909,000
Seaford, Renovate/Modernize Douglass Intermediate (78/22)	1,808,400	510,000	2,318,400
Seaford, Renovate/Modernize West Seaford Elem. (78/22)	538,600	152,000	690,600
Architectural Barrier Removal (60/40)	160,000	106,700	266,700
Brandywine, Districtwide Roofing (60/40)	810,000	540,000	1,350,000
Hanby Middle Talley Middle Lancashire Elem.			
Brandywine, Bush Roof (100%)	340,000	0	340,000
Public Education Enhanced Minor Capital Improvement Fund (100% State)	10,000,000	0	10,000,000

Brandywine, Planning			
Harlan Elem. (60/40)	69,000	46,000	115,000
Milford, Land Acquisition			
Morris (80/20)	25,600	6,400	32,000
Delmar, Construction			
Middle/High School (79/21)	1,800,000	478,500	2,278,500
New Castle County Vo-Tech			
Delaware Skills Center (100%)	100,000	0	100,000
State Consortium on Tech Prep			
Programs(100%)	250,000	0	250,000
New Castle County Vo-Tech Renovate/			
Expand Howard Gym (60/40)	<u>1,161,000</u>	<u>774,000</u>	<u>1,935,000</u>

Subtotal

\$19,488,800 \$3,575,300 \$23,064,100

Total

\$83,287,100

(b) It is the intent of the General Assembly that twenty-six million five hundred thousand dollars (\$26,500,000) be appropriated from the General Fund to the Transportation Trust Fund. This is a supplemental appropriation of and in addition to the monies appropriated by the Fiscal Year 1998 Appropriations Act and shall be paid by the State Treasurer from General Fund monies not otherwise appropriated.

(c) It is the intent of the General Assembly that three million dollars (\$3,000,000) be appropriated for the Resource Conservation and Development (Drainage) Program within the Twenty-First Century Fund. Allocation of these funds shall be determined by the Joint Legislative Committee on the Capital Improvement Program.

(d) It is the intent of the General Assembly that twelve million dollars (\$12,000,000) be appropriated to Department of Finance, Office of the Secretary (25-01-01) for local government infrastructure. Such funds shall be allocated as follows:

Fire Company Radios \$ 3,901,700

Police Radios 2,352,865

Aid to Local Government 5,745,435

(1) Specific distribution of funding for radios for local fire companies shall be as follows:

New Castle County \$1,000,000

Kent County 900,000

Sussex County 2,001,700

(2) Specific distribution of funding for radios for police shall be in accordance with Addendum C of this Act. If a local government has purchased police radios or has alternative funding to purchase police radios, the funds herein allocated for the purchase of police radios may be used in accordance with the provision of subsection 3 of this section. Such local government shall submit a signed waiver to the Budget Director and Controller General indicating that the local government does not and will not require State funding for police radios.

(3) Specific distribution of funding for One Time Aid to Local Government shall be in accordance with Addendum C of this Act. These funds shall be utilized for one time capital and equipment expenditures associated with public safety, public works, debt reduction, beach preservation, and water/waste water issues. No monies appropriated for One Time Aid to Local Government shall be utilized for general operating and/or administrative expenses. The Secretary of Finance shall not disburse any funds for One Time Aid to Local Government until such time as a plan of expenditures is submitted to and approved by the Budget Director and Controller General.

(e) The seven frequencies/licenses for the 800 MHz system assigned to the City of Wilmington shall be ceded to the State of Delaware, for purposes of incorporation into the overall 800 MHz communication system.

Section 9. Appropriation of First State Improvement Fund. The state hereby authorizes the appropriation of Forty Thousand Dollars (\$40,000) 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.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Administrative Services	
Prison Construction Program	\$40,000
Total	<u>\$40,000</u>

Section 10. Health Facilities Subsidy Fund. Notwithstanding the provisions of Chapter 90 of Title 16 of the Delaware Code, there is hereby appropriated the sum of Ninety-One Thousand Six Hundred Dollars (\$ 91,600) from the Health Facilities Subsidy Fund held by the State Treasurer (96-12-05-03-9400) 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, 2000, shall revert to the Health Facilities Subsidy Fund.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Administrative Services	
Prison Construction Program	\$91,600
Total	<u>\$91,600</u>

Section 11. Allocation of Stripper Well Funds. The state hereby authorizes the Department of Administrative Services to allocate Two Hundred Fifty Thousand Dollars (\$250,000) 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 12. Appropriation of Special Funds. There is hereby appropriated the sum of One Million Eight Hundred Ten Thousand Three Hundred Dollars (\$1,810,300) from the Bond Sale 176 account, held by the State Treasurer (96-12-05-03-8696), to the following department in the following amount for the purpose set forth in the Section 1 Addendum of this Act. Any project funds remaining unexpended or unencumbered by June 30, 2000, shall revert to the General Fund of the State of Delaware. Any remaining balance in the Bond Sale 176 account shall be used to reduce debt service.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Administrative Services (Prison Construction Program)	<u>\$1,810,300</u>
TOTAL	<u>\$1,810,300</u>

Section 13. Amendments. Amend Laws of Delaware, Volume 70, Chapter 473, Section 3, by adding the words "and Addition" after the words "New Castle County Vo-Tech Howard Renovations" and before "(60/40)" at the end of said section.

Section 14. Continuing Appropriations. For the fiscal year ending June 30, 1997, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 1998.

<u>Fiscal Year</u> <u>Appropriation</u>	<u>Account Codes</u>	<u>Remarks</u>
1992	10-03-03-0180	Dover Civic Center
1991	10-03-03-6112	Dover Civic Center
1994	10-03-03-6414	Felton Water
1995	10-03-03-0181	Revitalization
1996	10-03-03-8105	Strategic Fund
1990	10-03-03-9643	Dover Civic Center
1993	10-03-04-6312	FAF Reserve
1995	20-01-01-0181	Historical Society of Delaware
1995	20-01-01-0182	Millsboro Historical Society
1995	20-01-01-0183	Delaware Agricultural Museum
1995	20-01-01-0185	Madison Factory
1994	20-08-01-6419	Bear Library
1994	20-08-01-6421	Concord Library
1994	20-08-01-6423	Rehoboth Library
1993	20-08-01-0182	Concord Library
1995	20-08-01-0182	Wilmington Library
1995	20-08-01-6512	Bear Library
1995	20-08-01-6513	Northern Regional Library
1995	20-08-01-6514	Rehoboth Library Plan
1995	20-08-01-6515	Plan New Castle
1993	30-05-10-6304	N.G. MCI/Equipment
1995	30-05-10-6521	SCI Critical Enhancements
1996	30-05-10-8401	Stripper Well
1995	35-01-20-0181	Claymont Community Center
1995	35-01-20-0182	Market Street Project
1994	40-06-02-0181	Carpenter Park
1995	40-06-02-0184	Aquatic Center
1994	40-06-02-6413	Aquatic Center
1994	40-06-02-6417	Carpenter Park
1991	40-06-04-6212	Aquatic Center
1992	40-06-04-6212	Aquatic Center
1993	40-07-02-6313	Resource Conservation and Development
1993	40-08-01-0181	Water Fund
1991	40-08-01-6115	Little Mill
1992	40-08-01-6212	Little Mill
1994	40-08-01-6412	Wastewater Grants
1994	40-08-01-6413	Revolving Loan Program
1995	40-08-01-6513	Revolving Loan Program
1995	40-08-01-6514	Revolving Loan Program
1995	40-08-01-8500	Revolving Loan Program
1995	40-08-01-9652	Revolving Loan Program

1994	40-08-01-9668	Revolving Loan Program
1993	40-08-06-0182	Cockeysville
1992	76-01-01-6213	MCI/Equipment
1994	90-04-02-0183	Land-Owens Campus
1993	90-04-02-0187	Land-Owens Campus
1995	95-13-00-6512	North Elementary
1994	95-17-00-6430	Asbestos
1991	95-33-00-6113	Barrett Run
1995	95-34-00-6513	Castle Hills
1994	95-36-00-6413	Georgetown
1993	95-38-00-6312	Howard Center
1993	95-38-00-6313	Wilmington Skills Center
1993	95-38-00-6382	MCI

Section 15. Exxon Funds. It is the intent of the General Assembly that the monies appropriated in this Act and funds authorized for minor capital improvements in any annual appropriation act may be used to match Exxon funds for any purpose deemed appropriate by the State Energy Weatherization Committee and so long as the purpose does not contradict the purposes set forth in the Section 1 Addendum of this Act.

Section 16. Twenty-First Century Fund Appropriations.

(a) The General Assembly hereby authorizes the amount of \$34,250,000 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	\$ 7,000,000
Farmland Preservation	7,000,000
Parks Endowment	1,000,000
Neighborhood Housing Revitalization	5,000,000
Water and Wastewater Fund	250,000
Educational Technology	4,000,000
Advanced Technology Centers	2,000,000
Community Redevelopment Fund	6,000,000
Resource, Conservation and Development (Drainage)	<u>2,000,000</u>
Total	<u>\$34,250,000</u>

(b) Farmland Preservation: Of the \$7,000,000 of Twenty-First Century Funds appropriated to Farmland Preservation in (a) hereof, up to \$350,000 of the funds may be used to pay the cost of mapping, legal services and other related costs required to create agricultural district agreements, and shall be exempt from matching requirements.

(c) Amend Section 6102A(d)(2)(A), Title 29, Delaware Code by changing \$2 million in said paragraph to \$1 million to read as follows:

"(A) Funds of up to \$1 million shall be transferred in each fiscal year that monies are appropriated for Farmland Preservation 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."

(d) Open Space: Amend Section 6102(A)(c)(2), Title 29, Delaware Code by inserting the following after "year" and before "Matching":

"Interest earnings on funds transferred from the Twenty-First Century Fund to the project account of the Land and Water Trust Fund revert to the fund."

(e) Notwithstanding Subsection(i), Section 6102A, Title 29, Delaware Code, the following projects shall be appropriated from the Community Redevelopment Fund:

<u>PURPOSE</u>	<u>AMOUNT</u>
American Red Cross - Kent County	\$ 53,580
Because We Care	\$ 50,000
Boys and Girls Club of Delaware, Inc.	\$250,000
Camp Arrowhead	\$ 15,000
City of Delaware City - Dock Project	\$ 52,440
City of Milford - Downtown Revitalization	\$149,000
City of Rehoboth	\$ 50,000
City of Wilmington - North Market Street Initiative	\$ 50,000
City of Wilmington - Youth Center Project	\$100,000
Center for the Creative Arts, Inc.	\$300,000
Children's Home, Inc.	\$ 20,000
Community Service Building Corp.	\$600,000
Delaware Guidance Services for Children and Youth	\$ 50,000
Delaware Nursing Centers -Westside Health Services	\$100,000
Delaware Sports Museum and Hall of Fame	\$ 60,000
Delaware State Police Museum	\$125,000
Dover Art League	\$ 30,000
Downtown Dover Development Corporation	\$ 35,000
Dover, Main Street Corporation	\$ 35,000
Edgemoor Community Center, Inc.	\$100,000
First State Community Action Agency, Inc.- Community Hall	\$ 60,000
Goodwill Industries	\$290,000
Greenbank Mill Associates, Inc.	\$100,000
Harrington Senior Center	\$ 2,238
Hilltop Lutheran Neighborhood Center	\$ 50,000
Hockessin Community Center, Inc.	\$200,000
Home of the Brave Foundation	\$ 10,000
Howard Weston Community and Senior Center	\$ 19,000
Kent County SPCA	\$155,000
Kent County Tourism Corp. - Friends of Capitol Theater	\$ 82,175
Kent - Sussex Industries, Inc.	\$141,200
Kimberton Police Training	\$500,000
Kingswood Community Center	\$ 50,000
Kingswood Community Center - Project Stay Free	\$100,000
Kiwanis Foundation of Rehoboth	\$ 16,240
Laurel Historical Society	\$ 40,000
Milford Senior Center, Inc.	\$100,000
Ministry of Caring - AIDS Residential Program	\$ 35,000
Modern Maturity Center, Inc.	\$200,000
New Hope Recreation and Development Center	\$ 5,000
People's Place II, Inc.	\$ 20,000
Possum Point Players, Inc.	\$ 40,000
Rosehill Community Center	\$150,000
Seaford Historical Society - Ross Mansion	\$ 5,200
Seaford Historical Society - Carriage House	\$ 9,200
Second Street Players	\$ 10,000
Smyrna - Clayton Heritage Association	\$ 13,800
SODAT	\$ 47,641
Southern Delaware Horse Retirement	\$ 15,000
St. Patrick's Center, Inc.	\$ 25,000
Sussex County Senior Services, Inc. - CHEER	\$200,000
Town of Bethany - Municipal Building	\$ 75,000
Town of Dewey - Town Hall/Police Expansion	\$100,000
Town of Felton - Town Museum	\$ 5,782
Town of Henlopen Acres	\$ 13,000
Town of Laurel -Laureltown Center	\$360,000
Town of Middletown - Public Works Building	\$ 50,000

Town of Milton	\$ 45,000
Town of Newport - Police Department	\$ 34,504
YMCA of Delaware	\$400,000
TOTAL	<u>\$6,000,000</u>

Section 17. 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 18. Project Funds Transfer from FY 1996 and FY 1997 to FY 1998. Within the same county, any Twenty-First Century Funds or match remaining after all projects authorized as part of the Twenty-First Century Resource, Conservation and Development (RCD) project list, pursuant to the FY 1996 Bond Appropriation or the FY 1997 Bond Appropriation, have been completed may be utilized for RCD projects in the FY 1998 list of projects approved as part of the FY 1998 Bond Authorization.

Section 19. Amend Chapter 61, Section 6102A, Title 29, Delaware Code by deleting (g) (3) and substituting in lieu thereof the following:

"(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 "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 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 moneys and establish an appropriate review and approval process. Upon the request of the Secretary of Natural Resources and Environmental Control subsequent to approval of a wastewater 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 Fund for Wastewater Infrastructure from the Management Account.

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.

(4) A special fund is created in the Department of Health and Social Services, Division of Public Health to be known as the "Drinking Water 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 financing. The Cabinet Committee on State Planning Issues shall set affordability standards for water projects for the use of these moneys and establish an appropriate review and approval process. The Department of Health and Social Services shall make recommendations for the approval of projects. The Cabinet Committee on State Planning Issues shall only approve water projects for funding where private sector alternatives have been explored and is both economical and in the public interest to do so. Upon the request of the Secretary of Health and Social Services subsequent to approval of a water 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 Health and Social Services is authorized to expend funds appropriated from the state revolving fund for water infrastructure from the Management Account.

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 the Secretary of Health and Social Services 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 Health and Social Services of an amount sufficient to serve as the required state match for the federal/state program. Upon such federal approval, the Department of Health and Social Services shall have the authority to administer the state revolving loan fund so as to comply with the requirements of the Federal Safe Drinking Water Act, 42 U.S.C. Section 300f et seq. as amended."

Section 20. Local governments using 21st Century Fund Community Redevelopment Funds are not required to provide a match for the purchase of capital equipment used to fluoridate their water supplies.

Section 21. The Twenty-First Century Fund anticipates a total appropriation of \$30,000,000 for Educational Technology to complete a capital program of creating an Educational Technology wiring network encompassing every public school in the State. Without approval of the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program, the Secretary of Finance, and the Budget Director, no expenditures other than for the foregoing purpose shall be made by the Delaware Center for Educational Technology from the Educational Technology Account or from any other sources of funding including, but not limited to, governmental or private grant funds, until the Strategic Plan required under the provisions of Chapter 6102A(j)(4) of Title 29, Delaware Code shall have been approved by the Joint Legislative Committee on the Capital Improvement Program, provided, however, that nothing contained herein shall preclude the expenditure of grant funds specifically targeted or restricted by the granting agency for the purposes of providing hardware or software in the classroom, distance learning programs, staff development programs related to technology implementation, or school to home networking connections.

Section 22. The Delaware Center for Educational Technology is prohibited from establishing or maintaining State supported e-mail addresses for public school students.

OFFICE OF THE BUDGET

Section 23. Notwithstanding Chapters 63 and 69, Title 29, Delaware Code or any other statutory provision to the contrary, the Office of Information Services is hereby granted exclusive authority to enter into agreements with private telecommunications companies to lease or license space for communication facilities on telecommunications towers and other facilities constructed for the 800 MHz Digital Trunked Radio System. The revenues received by the Office of Information Services under these agreements shall be deposited in a special fund and used for maintenance of 800 MHz Digital Trunked Radio System.

DELAWARE ECONOMIC DEVELOPMENT OFFICE

Section 24. Delaware Strategic Fund. Of the funds appropriated to the Delaware Strategic Fund 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 aspect to any portion thereof, which the owner of the site has reasonable cause to believe may, 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 25. Composites Research. The Delaware Economic Development Office is authorized to provide a match of up to \$100,000 to the University of Delaware Center for Composite Materials for federal research grants received that support the development and application of composite manufacturing technology for the benefit of Delaware companies. Such match shall be disbursed from the Strategic Fund upon documentation of the receipt of federal funds allocated to the Center during the fiscal year for these purposes and upon documentation of the relevance of these research projects to Delaware industries' needs and their participation within said projects.

Section 26. Brandywine-Christina River Improvement Project.

(a) Funds authorized in the Section 1 Addendum of Volume 70, Chapter 210 of the Laws of Delaware and those funds so listed in Section 42 of Volume 70, Chapter 210 of the Laws of Delaware shall be disbursed to a special fund to be known as the "Brandywine-Christina Rivers Improvement Fund" hereinafter referred to as the "Fund".

(b) The Fund shall be invested by the State Treasurer in securities consistent with the policies established by the Cash Management Policy Board. All monies generated by the Fund shall be deposited in the Fund.

(c) The Fund shall be utilized for expenses necessary to implement the purposes so stated in Section 41 and 42 of Volume 70, Chapter 210, Laws of Delaware.

(d) The Riverfront Development Corporation Board of Directors ("Board") shall be permitted to adjust the dollar limits of the priority projects so specified in Section 41 of Volume 70, Chapter 210, Laws of Delaware when approved by at least eight members of the Board. Any adjustment to the priority project entitled "General Planning and Project Consulting" which contemplates an increase of \$50,000 or more shall require approval of the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program.

(e) Not more than \$200,000 of interest income shall be used for general operating expenses for the fiscal year ending June 30, 1998.

Section 27. 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 28. Veterans Cemetery - Sussex County. It is the intent of the General Assembly to construct a veterans cemetery in Sussex County, to be located on approximately 60 acres of land presently owned by the state at the Stockley Center in Georgetown. The cemetery will provide pre-installed burial vaults, in-ground crematory vaults, above-ground columbarium, maintenance base, and an interment receiving/administration building. Total cost of the facility will be \$3 million with 50 percent of the funding provided by the federal government.

Section 29. Port of Wilmington. Amend Section 8743(a) of Title 29, Delaware Code by inserting, after the phrase "same group medical risk pool", the phrase", worker's compensation insurance fund".

Section 30. Port of Wilmington. Notwithstanding the provisions of any other State law to the contrary, the Diamond State Port Corporation ("Corporation") may borrow on an interest-free basis, up to three million dollars (\$3,000,000) as deemed necessary, from construction funds authorized in Section 23 of Volume 70, Chapter 210 of the Laws of Delaware to ensure coverage of short-term operating cash flow deficits which may be encountered by the Corporation.

Section 31. North Wilmington Library. Funds authorized in the Section 1 Addendum of Volume 70, Chapter 473, Laws of Delaware 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 32. 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.

Section 33. Amend the Fiscal Year 1998 Appropriations Act, being House Bill No. 375, Section 116 by inserting after the sentence ending "July 1, 1997," the following:

"Said incumbent shall retain all of the power and investigatory authority that was possessed heretofore as a Consumer Affairs Investigator in the Office of the Attorney General."

DEPARTMENT OF ADMINISTRATIVE SERVICES

Section 34. 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 "Department of Administrative Services" in the Section 1 Addendum of this Act. 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, 1997. 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). The Controller General shall notify the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program of any decisions of the Appeals Board.

(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.

(e) No project's budget should be increased beyond what is appropriated in any Bond and Capital Improvement Act, either with special funds or private funds, unless the use of those funds is approved by the appropriate cabinet secretary, the Budget Director, the Controller General and Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program

- (b) **Section 35. Wilmington Courthouse.** (a) It is the intent of the General Assembly that Five Hundred Thousand Dollars (\$500,000) be appropriated to initiate programming necessary to facilitate design of a new Wilmington Courthouse ("Courthouse") to be located in the City of Wilmington. Any funds remaining shall be used for any other construction-related cost as deemed appropriate by the Executive Committee as described in Subsection (c) below.
- (c) The Department of Administrative Services is also authorized to negotiate acquisition of land for this Courthouse, with preference given to land bounded by 4th and Walnut Streets and 6th and King Streets in the City of Wilmington, provided it can be acquired at a nominal cost to the State. Such acquisition shall be subject to the approval of the Executive Committee.
- (d) It is further the intent of the General Assembly that a nine member Executive Committee be created to include the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program and the respective Chairs of the House and Senate Judiciary Committees; two members of the Judiciary as appointed by the Chief Justice; and three members of the Executive Department to include the Secretary of Administrative Services or his designee who shall serve as Chair, the Director of the Division of Facilities Management or his designee, and the State Budget Director or his designee. The Executive Committee shall work in conformance with existing construction oversight guidelines as written in Section 34 of this Act and is hereby empowered to:
1. select appropriate professionals necessary to program, site, design, construct, furnish and equip the Courthouse;
 2. provide such oversight to ensure that the Courthouse provides optimal security and incorporates maximum operational efficiencies both within the Judiciary and in conjunction with other criminal justice agencies;

3. ensure that the Courthouse is timely completed; and
 4. ensure that the cost of the Courthouse does not exceed the authorized budget.
- (d) Notwithstanding Title 29, Chapter 94 of the Delaware Code relating to surplus property, the Department of Administrative Services may negotiate the sale of the existing Wilmington Courthouse with the sole proceeds to be applied to the construction of the new Wilmington Courthouse subject to the approval of the Executive Committee as per this section.

Section 36. Dayett Mills. Funds appropriated in Volume 70, Chapter 473 of the Laws of Delaware for Dayett Mills-Stabilization, Race/Dam; Warehouse Roof may also be used for any rehabilitation or professional services to study rehabilitation and restoration needs of the Dayett Mills building complex and associated grounds.

Section 37. Dagsboro Readiness Center. With the exception of architectural design fees, none of the funds appropriated for the Dagsboro Readiness Center may be expended until the appropriate Federal match has been authorized.

Section 38. Minor Capital Improvements and Equipment Supplemental - State.

- (a) Of the funds appropriated in the Section 1 Addendum of this Act, the following projects shall be completed:

Fenwick Island Lighthouse	\$ 75,000
Women in Military Service Memorial	10,000
Delaware Monument at Gettysburg, PA	30,000
State Library Renovations	25,000

(b) The \$30,000 herein appropriated in Subsection (a), in addition to the \$20,000 appropriated in the Section 1 Addendum of Volume 70, Chapter 473, Laws of Delaware, shall be used in support of a Delaware Monument at Gettysburg and a commemorative painting.

Section 39. Minor Capital Improvements and Equipment Supplement - Department of Administrative Services. Notwithstanding the provisions of any other State law to the contrary, not more than \$200,000 may be expended to enter into contractual agreements for project representatives and associated administrative support to ensure adequate oversight of State construction projects. The Secretary of Administrative Services is directed to provide an itemized budget for this amount to the Controller General by August 1, 1997, and expenditure reports to the Controller General by December 1, 1997 and June 1, 1998.

Section 40. Minor Capital Improvements and Equipment Supplement - Department of Corrections. Of the funds authorized in the Section 1 Addendum of this Act, the appropriate amount may be used to construct a new maintenance facility at the Sussex Correctional Institute (SCI) necessitated by relocation of fencing for security purposes requiring the old maintenance facility to be demolished.

It is further the intent that \$36,000 be used to acquire a new tractor for SCI plus \$5,900 for a rolling harrow attachment.

Section 41. Minor Capital Improvements and Equipment Supplement - Department of Public Safety. Of the funds appropriated in the Section 1 Addendum of this Act, \$100,000 may be used to acquire equipment or may be used as a Federal Fund match for the Delaware State Police Bomb Team.

Section 42. Section 1 of this Act appropriates completion funding for a new Justice of the Peace Courts 7/16 in Dover. It is the intent of the General Assembly that, upon relocation of the Justice of the Peace Courts to their new facility, the Department of Administrative Services shall refurbish the former court building for full use as a State office building.

DEPARTMENT OF CORRECTION

Section 43. Correctional Facilities. (a) The Section 1 Addendum of this Act provides third 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 the 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. None of the funds authorized herein or in prior fiscal years are intended to supplant federal funds.

(b) It is the intent of the General Assembly that the Delaware Correctional Center Central Tower Project be considered a part of the prison construction program. Additional funds have been appropriated to ensure completion of the Delaware Correctional Center Central Tower

(c) 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 management of the construction to ensure proper use and timely completion of all such construction projects authorized herein.

(d) If the Department of Administrative Services and Department of Correction show justification to exceed the dollar limits established for a specific facility and reductions of equal value can be shown within one or more facility, 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 44. Beach Preservation. The General Assembly hereby authorizes One Million Dollars (\$1,000,000) to the Department of Natural Resources and Environmental Control 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 45. Conservation Cost-Sharing Program. It is the intent of the General Assembly that Eight Hundred Thousand Dollars (\$800,000) 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. The Department shall spend one-third of such funds for use in each County.

Section 46. 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 the Capital Improvement Program provided, however, that the department is not prohibited from conducting studies, surveys or other contractual arrangements that would normally precede land acquisition procedures.

Section 47. Indian River Lifesaving Station Project. The Section 1 Addendum to this Act appropriates Six Hundred Thousand Dollars (\$600,000) for the Indian River Lifesaving Station Project ("Lifesaving Project"). It is the intent of the General Assembly that this appropriation along with appropriations contained in previous Bond and Capital Improvement Acts represents

continued State funding for this project including any future General Fund or Appropriated Special Fund operating costs.

To ensure timely cost effective completion and issues relating to the Lifesaving Project's ongoing operations, the Department of Natural Resources and Environmental Control (DNREC) will partnership and/or contract with the Delaware Seashore Preservation Foundation (DSPF). The partnership and/or contract is outlined in the Indian River Lifesaving Station Project Memorandum of Understanding. The Memorandum of Understanding ("MOU") outlines the goals, objectives and guidelines for a general working relationship between DSPF and DNREC.

Notwithstanding any other provisions of the Delaware Code to the contrary, DNREC may enter into long-term contractual arrangements with respect to the restoration, construction and operation of the Lifesaving Project. The contractual agreement will include a lease of said Lifesaving Project property and will be based upon five year renewable terms for \$1 per year. The agreement will include an annual review board consisting of four legislative representatives to be appointed by the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program, three DNREC representatives and three DSPF representatives. Based upon Review Board decision, if the goals, objectives and guidelines outlined by the MOU are not met, any remaining appropriations which are unencumbered shall be subject to reversion and any contractual agreement with DSPF will become null and void. Additionally, if construction of the Lifesaving project has not been initiated by July 1, 1999, any remaining appropriations which are unencumbered shall be subject to reversion.

All unencumbered funds appropriated to the Indian River Lifesaving Station Project shall be disbursed to the Delaware Seashore Preservation Foundation upon signing of the Memorandum of Understanding to ensure completion of said project.

Section 48. Schaen Cider Mill. The Department of Natural Resources and Environmental Control is hereby directed to research and make recommendation to the Budget Director and Controller General by December 1, 1997 as to Federal, State and Local government implications associated with reconstruction of the Mill at its current location within a 100 year floodplain, prior to appropriation of any funds to complete said project.

Section 49. Open Space Program (Morris Farm/Smith Estate). It is the intent of the General assembly that the following expenditures occur:

- (a) One Hundred Thousand Dollars (\$100,000) to assist in the acquisition of the property currently owned by the University of Delaware and known as the "Morris Farm".
- (b) Fifteen Thousand Dollars (\$15,000) to appraise Parcel 08012.00 041 having approximately 17 acres with frontage on the south side of Valley Road and frontage on the west side of Evanson Road, known as the Smith Estate property in Hockessin.

It is further the intent of the General Assembly to encourage the Open Space Council to review and make a recommendation on the merits of the potential acquisition of the Smith Estate. The General Assembly finds that the purchase of the Morris Farm property by the Open Space Council is in the State's best interest.

Section 50. Indian River Inlet Marina. Notwithstanding the provisions of any other State law to the contrary, Department of Natural Resources and Environmental Control may enter into long-term contractual arrangements with respect to development, construction and/or operation of the facilities and grounds associated with the Indian River Inlet Marina at Delaware Seashore State Park. Before entering into said contractual arrangements, the Secretary of Department of Natural Resources and Environmental Control shall submit a proposal, together with associated State funds required, if any, to be approved by the Budget Director, the Controller General and the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program.

Section 51. Of the interest monies generated on the principal deposited in the Land and Water Conservation Trust Fund before 1995, no more than \$30,000 may be spent for the combined administrative costs of the Open Space Council and the Council on Greenways and Trails.

Section 52. The Department of Natural Resources and Environmental Control, Division of Parks and Recreation shall expend from the Earnings Account of the Land and Water Conservation Trust Fund an amount not to exceed \$45,000 for the development of the Cape Henlopen Bikeway.

Section 53. It is the intent of the General Assembly that a Shellpot Creek Abatement Committee ("Committee") be established to develop and implement a plan to correct flooding in the Shellpot Creek area in New Castle County. The Committee shall be composed of the following members: two members of the State Senate, to be appointed by the President Pro Tem, two members of the House of Representatives, to be appointed by the Speaker of the House, the Secretary of the Department of Natural Resources and Environmental Control or his designee, the Secretary of Transportation or his designee, the New Castle County Executive or his designee, a representative of the New Castle County Soil and Water Conservation District and three persons to be appointed by the Governor. The President Pro Tem shall name the Co-Chair of the Committee from the Senate and the Speaker of the House shall name the Co-Chair of the Committee from the House.

Section 54. The Section 1 Addendum to this Act appropriates \$150,000 to the Department of Natural Resources and Environmental Control to acquire a saltwater/ fresh water aquatic weed harvester.

Section 55. The Federal Environmental Protection Agency has been sued by certain environmental organizations for its failure to implement the Federal Clean Water Act in Delaware. The resolution of that litigation may have a substantial impact on the State of Delaware. The Department of Natural Resources and Environmental Control and the EPA may need to redirect available staff and grant resources to implement any resolution to this litigation, within the confines allowed by law. The General Assembly urges the EPA to provide additional funding and also exercise flexibility within the confines allowed by law in EPA's oversight of DNREC grant related activities to accommodate necessary shifts in work priorities to accomplish the tasks necessary to resolve the litigation. In particular, in order for Delaware to establish total maximum daily loads (TMDLs) according to the schedule under discussion in the litigation Delaware will require significant additional funds. Given the Clean Water Act is a Federal mandate, EPA is urged to use its best efforts to provide Delaware with additional funds to meet the resource needs of establishing TMDLs according to the schedule. EPA recognizes that Delaware may not be able to establish TMDLs according to the schedule without provision of additional funds. If, because of insufficient resources, Delaware is unable to establish TMDLs according to the schedule set forth in Attachment B of the Agreement, then EPA may have to establish those TMDLs itself.

Section 56. It is the intent of the General Assembly that a Combined Sewer Overflow Task Force be established to provide investigation of the sewer overflows in the City of Wilmington and propose a permanent solution. The Task Force shall be composed of the following members: two DNREC appointees who shall be appointed by the Secretary of the Department of Natural Resources and Environmental Control, two members of the Delaware State Senate who shall be appointed by the President Pro Tempore, two members of the Delaware House of Representatives who shall be appointed by the Delaware Speaker of the House of Representatives, two members of the Wilmington City Council who shall be appointed by the Wilmington City Council President, two appointees of the Mayor of the City of Wilmington, two appointees of the New Castle County Executive, two members of the New Castle County Council who shall be appointed by the New Castle County President, six private citizens, one of whom shall be appointed by the Delaware Speaker of the House of Representatives, one of whom shall be appointed by the Delaware President Pro Tempore, two of whom shall be appointed by the New Castle County Executive and two of whom shall be appointed by the Mayor of the City of Wilmington.

Section 57. Amend Section 42 of the Fiscal Year 1998 Appropriations Act (House Bill No. 375 of the 139th General Assembly) by striking lines 28 through and including line 30 on page 97 of said bill and inserting in lieu thereof the following:

"This Act provides \$524,000 in General Funds from various prior year appropriations for costs associated with the maintenance of the following parks effective May 1, 1998."

DEPARTMENT OF TRANSPORTATION

Section 58. Transportation Trust Fund Authorizations. (a) There is hereby appropriated One Hundred Twenty-Five Million and Two Hundred Forty-One Thousand Dollars (\$125,241,000) 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 (a) above, the Delaware Transportation Authority is hereby authorized to issue bonds in an amount not to exceed Twenty-One Million Five Hundred Thousand Dollars (\$21,500,000) pursuant to the provisions of Chapter 14, Title 2, Delaware Code, as amended, of which Nineteen Million Seven Hundred Thousand Dollars (\$19,700,000) shall be used for purposes set forth in the Section 1 Addendum to this Act with the remainder of One Million Eight Hundred Thousand Dollars (\$1,800,000) 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 act, 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)

Section 59. Department of Transportation Accounts. (a) Any funds appropriated from any source to the Department of Transportation 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 resurfacings and rehabilitations are carried out in an expeditious manner based on the department's priority and management systems.

(c) It is the intent of the General Assembly that the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program 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: (a) the department has completed or determined that it has sufficient funds on hand to complete projects in the 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 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. A copy of the changes shall be forwarded to the Budget Director and Controller General.

(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 state-wide, 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.

(e) 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 60. Authorized but unspent funds exist in the Department of Transportation's Engineering and Contingency Program Account (55-05-00-57-00), and the System Management Program Account (55-05-00-76-00) derived from the Section 1 Addendum to Volume 69, Laws of Delaware, Chapter 77, and Section 1 of the Addendum to Volume 69, Laws of Delaware, Chapter 386 (respectively) previously directed for expenditure in Section 63 and Section 56, (respectively), thereof for the Small Retail Gasoline Station Assistance Program. It is the intent of the General Assembly that from these sources One Million Five Hundred Thousand Dollars (\$1,416,765 in 57-00 and \$83,235 in 76-00) shall be reprogrammed to the System Management Program Account (55-05-00-76-00) for the uses outlined in the Section 1 Addendum attached hereto.

Section 61. 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 62. Amend § 4301, Title 30, Delaware Code, by adding to said section new subsections (7) and (8) to read as follows:

"(7) 'Motor vehicle lessee' shall mean a lessee as defined in this chapter of a motor vehicle as defined in § 101 of Title 21.

(8) 'Motor vehicle lessor' shall mean a lessor as defined in this chapter of a motor vehicle as defined in § 101 of Title 21."

This section shall be effective July 1, 1997.

Section 63. Amend § 4302(a), Title 30, Delaware Code, by designating such subsection as paragraph (1) of said subsection and by adding after the phrase "other than" as it appears therein the phrase "motor vehicles,".

Further amend § 4302(a), Title 30, Delaware Code, by adding to said subsection a new paragraph (2) to read as follows:

"(2) There is imposed by this section on every motor vehicle lessee a use tax, for use within this State under a lease of a motor vehicle, equal to 1.92% of the rent under such lease." This section shall be effective for gross receipts and rents received after December 31, 1997.

Section 64. Amend § 4307(a), Title 30, Delaware Code, by designating said subsection as paragraph (1) of said subsection and by adding to said subsection a new paragraph (2) to read as follows:

"(2) Notwithstanding subsection (c) of § 4305, every motor vehicle lessor or other person required to collect the tax under this chapter from motor vehicle lessees shall be required to set forth separately from other amounts reported under this chapter the tax imposed under § 4302(a)(2) with regard to motor vehicle lessees."

This section shall be effective with regards to gross receipts and rents received after December 31, 1997.

Section 65. Amend § 4305(a), Title 30, Delaware Code, by designating said subsection as paragraph (1) of said subsection and by striking the phrase "personal property" as it appears therein and substitute in lieu thereof the phrase "personal property other than motor vehicles".

This section shall be effective with regard to license periods commencing after December 31, 1997

Section 66. Amend § 4305(a), Title 30, Delaware Code, by adding to said subsection a new paragraph (2) to read as follows:

"(2) Every person engaged in or desiring to engage in business in this State as a motor vehicle lessor shall obtain a license by making application to the Division of Revenue and: (A) paying a fee of \$75, plus \$25 for each additional place of business or business location within this State; or (B) supplying proof of having obtained with respect to each such location a valid business license under paragraph (1) of this subsection."

This section shall be effective with regard to license periods commencing after December 31, 1997.

Section 67. Amend § 4305(b), Title 30, Delaware Code, by striking said subsection in its entirety and substitute in lieu thereof a new subsection (b) to read as follows:

"(b) In addition to the license fee required by subsection (a) of this section, every such lessor shall pay an annual license tax in quarterly installments at the rate of .288% (applying said rate separately to leases of motor vehicles as provided in this subsection) of the lease rental payments received, except lease rental payments on manufacturing equipment under leveraged leases on which rental payments are guaranteed in whole or in part by the Economic Development Administration of the United States Department of Commerce pursuant to Public Law 89-136 [42 U.S.C. § 312 et seq.], as amended. In computing the fee due on such aggregate gross receipts under this subsection for each quarter, there shall be allowed a deduction of \$39,000, to be applied first to receipts from leases of tangible property other than motor vehicles and any remainder applied to receipts from leases of motor vehicles. For purposes of this subsection all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only one quarterly deduction from the aggregate gross receipts of the entire enterprise. Returns shall be filed quarterly by each lessor on the dates specified in subsection (b) of § 4307."

This section shall be effective with regard to gross receipts and rents received after December 31, 1997.

Section 68. Amend § 4307, Title 30, Delaware Code, by adding to said section a new subsection (e) to read as follows:

"(e) The Department of Finance shall, no later than 30 days after the close of the month in which such taxes are collected, transfer all taxes collected under § 4305(a)(2), § 4305(b), and § 4302(a)(2) with regard to leases on motor vehicles to the Transportation Trust Fund as defined in Chapter 14 of Title 2. The Department of Finance shall be entitled to charge the Transportation Trust Fund a fee not to exceed 0.5% of actual amounts transferred for collection of amounts transferred under this chapter. Such charge, when received, shall be treated as an expenditure reducing item, to be applied, in the sound discretion of the Department of Finance, in reasonable proportion to the costs incurred in such collection."

This section shall be effective for amounts received by the Department of Finance after December 31, 1997 with regard to such of the provisions as shall be effective at such time.

Section 69. Amend § 3004, Title 30, Delaware Code, by adding to said section a new subsection (c) to read as follows:

"(c) The Department of Finance shall deposit all payments under this section in the Transportation Trust Fund as described in Chapter 14 of Title 2."

This section shall be effective for amounts received after by the Department of Finance after June 30, 1997.

Section 70. Amend § 3005, Title 30, Delaware Code, by designating said section as subsection (a) of said section and adding to said section a new subsection (b) to read as follows.

"(b) The Department of Finance shall deposit all payments under this section in the Transportation Trust Fund as described in Chapter 14 of Title 2."

This section shall be effective for amounts received by the Department of Finance after June 30, 1997.

Section 71. Amend Chapter 473 of Volume 70 of the Laws of Delaware by deleting Section 85 in its entirety to ensure that the referenced One Million Dollars (\$1,000,000) is available for Kent County aviation facilities.

Section 72. 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.

Section 73. Municipal Street Aid. Amend Section 5162(a), Title 30, Delaware Code, by deleting the number "1989" appearing therein, inserting in lieu thereof the number "1998", and further amending said subsection by deleting the phrase "not in excess of \$3,000,000" appearing therein and inserting in lieu thereof the phrase "in the amount as appropriated in the annual Bond and Capital Improvement Act."

Section 74. Amend Section 508(a)(1), Title 17, Delaware Code, by inserting the following between the first and second sentences of said subsection:

"At a minimum, the initial installation of street name signs must include the placement of such signs at each intersection of the new street with any other street, capable of being read from each direction on any street at each intersection."

Section 75. Clear the Road Policy for Churchman's Road/SR 7 Project. Notwithstanding the provisions of Section 4206 of Title 21 of the Delaware Code, parked or disabled vehicles may be removed from travel lanes impacted by the Churchman's Crossing Capacity Improvements Projects (State Project No. 91-101-04, Fed. Proj. No. STP-N339(1), and State Project No. 96-074-02, Fed. Proj. No. IM-NO56(8)), under the following conditions:

- (1) This section shall apply only to travel lanes within the limits of the construction area as illustrated on the Department-approved Maintenance of Traffic plans for these projects, and extending one (1) mile in all directions from those limits of construction.
- (2) Prior to implementing this section on a road meeting the requirements of subsection (1) above, the Department of Transportation shall place signs along the road advising motorists of the Clear the Road Policy, and instructing motorists to move disabled vehicles which can be moved under their own power from the travel lanes to an adjacent area.
- (3) If the parked or disabled vehicle cannot be moved under their own power to a location off the travel lanes, the Department of Transportation shall have the authority to cause the vehicle to be moved to an adjacent area, either with its own force or pursuant to a contract for this purpose. The State and its agents and employees shall not be liable for any damages alleged to have been caused by the act of moving the disabled vehicle from the travel lanes pursuant to this section, except as permitted in cases of gross negligence or willful misconduct.
- (4) If the vehicle is parked or disabled and there is (a) a fatality, or (b) personal injury, or (c) in cases involving hazardous material loads, whether authorized or unauthorized, and movement would cause environmental risk, the vehicle shall not be moved until directed by the police authority with jurisdiction over the scene.

Section 76. Amend Section 76, Chapter 210, Volume 70 of the Laws of Delaware by deleting the year "1997" appearing therein and inserting in lieu thereof the year "1998".

Section 77. The Department of Transportation is requested to vacate that portion of the right-of-way owned by the State of Delaware between the western-most point of Gender Road and the eastern-most point of Dawson Drive. The Department shall report to the Joint Legislative Committee on Capital Improvement Program on the results of said vacation by April 30, 1998.

Section 78. Amend Section 2003(e)(3), Title 2, Delaware Code by inserting the phrase "the Co-Chairs of" between the word "the" and the phrase "Joint Bond Bill Committee" in the first sentence thereof, and further by deleting the second and third sentences of said subsection in their entirety, and inserting in lieu thereof the following:

"After the Co-Chairs's receipt of such notice, the Co-Chairs shall meet and either approve or reject the project. Upon their approval of the project, it shall be deemed as an amendment to the Capital Improvements Program for the fiscal year in which the approval is granted."

Section 79. It is the intent of the General Assembly that of the funds authorized in Section 76, Chapter 210, Volume 70, Laws of Delaware for use in the Public Private Initiatives Program, an amount not to exceed \$1,000,000 may be re-programmed for a joint project involving economic development and transportation, under an agreement between the Delaware River and Bay Authority, the Delaware Economic Development Office, and the Department of Transportation. The terms of the project agreement shall be subject to the approval of the Co-Chairs of the Joint Bond Bill Committee, but shall otherwise be exempt from the provisions of Chapter 69 of Title 29, Delaware Code and Chapter 20, Title 2, Delaware Code.

Section 80. Amend Section 2004, Title 2, Delaware Code by inserting a subsection (a) before the text of the existing section, and inserting between the phrase "at all times and "." at the end of the second sentence thereof the following:

" , except as provided in subsection (b) of this section "

Section 81. Amend Section 2004, Chapter 20, Title 2, Delaware Code by creating a new subsection (b) to read as follows:

"(b) If State ownership or control of railroad rights-of-way used in a demonstration project is not feasible, for example, but not by way of limitation, due to Federal ownership of said rights-of-way, an agreement for a demonstration project may nonetheless be approved, subject to the following limitations:

- (1) State ownership or control of any other real property utilized in the demonstration project, as well as compliance with all other provisions of subsection (a) of this section, shall nonetheless be required;
- (2) The negotiations on the rate of return to the contracting party during the term of the agreement shall take this reduced ownership/control factor into account; and
- (3) All expenses relating to indemnification of the owner of any railroad rights-of-way must be borne by the contracting party, notwithstanding the provisions of Section 2008 of this Chapter."

Section 82. Amend Section 131, Title 17, Delaware Code, by creating a new subsection (i), to read as follows:

"(i) In connection with the Department's review of subdivision proposals affecting the transportation system, it is authorized to collect fees for the costs of administering the subdivision approval process. The fees for such purposes shall be as follows:

Initial Stage Fee:

1. Plan Review, Residential Property: \$400 plus \$10 per lot;
2. Plan Review, Non-Residential Property: \$500 plus \$20 per lot, or \$20 per 1,000 square feet of gross floor area, whichever is greater.

Construction Stage Fee:

1. Residential Property: 125% of initial stage fee;
2. Non-Residential Property: 150% of initial stage fee.

All fees collected shall be deposited to the credit of the Transportation Trust Fund, established in Title 2 of the Delaware Code."

Section 83. The Department of Transportation is authorized and directed to make, publish and enforce regulations for the proper control and restriction of outdoor advertising signs, displays and devices as may be necessary or advisable to ensure traffic safety and implement the policy and accomplish the purposes of Sub-chapter II of Chapter 11, of Title 17 of the Delaware Code. No permit shall be issued for the erection or maintenance of any outdoor advertising signs, displays and devices in controlled areas along the rights-of-way of the Delaware Memorial Bridges beginning at the centerline of the New Castle Avenue interchange until such regulations have been enacted.

Section 84. Capital projects for new bulkheading which are to be used for greenways and walkways shall be considered an eligible use of Suburban Street funds.

Section 85. Per Chapter 73, Volume 70, Laws of Delaware, the working group appointed to assess the Department of Transportation's proposed use of its lands at Routes 40 and 896 has met and discussed the options available for this site. The Department will implement the following recommendations:

1. The property shall be used in a manner which will enhance the quality of life of local residents, such as recreation, public safety, transportation and public education.
2. Commitments for portions of the property have been made to the following organizations: Christina School District and YMCA of Delaware.
3. An immediate set aside of property for a potential future crossover at the Routes 40 and 896 intersection as per Section 66(e) of Chapter 73, Volume 70, Laws of Delaware.
4. Consideration of the apportionment of property to the Department of Public Safety for a motor vehicle inspection facility and/or a State Police troop, the New Castle County Department of Parks and Recreation, New Castle County Libraries, the Delaware Army National Guard, Christiana Fire Company, the Department of Transportation (park-n-ride lots, transportation center, and/or a maintenance facility), and/or the Delaware Judiciary for the purpose of locating facilities at the site.
5. No sale or commitment of the property shall be made during F.Y. 1998 without the concurrence of the two Chairs of the Joint Legislative Committee on the Capital Improvement Program.
6. The Committee referenced above as currently constituted shall continue and report back to the Joint Legislative Committee on the Capital Improvement Program by June 1, 1998, including infrastructure needs.

Section 86. Amend Section 5805, Title 29, Delaware Code, by creating a new subsection "i" thereof, to read as follows:

- "(i) Notwithstanding the provisions of this chapter to the contrary, employees who retire from employment with the Department of Transportation may contract with the Department to provide personal services, as an independent contractor or as an employee of a private enterprise contracting with the Department. The personal services to be provided hereunder pertain to engineering services associated with design for the Department's Dirt Road Program, professional services involving negotiations or right of way acquisition, dispositions and relocation and appraisal reviews, and obtaining project authorization for the use of federal and state funds."

Section 87. Notwithstanding any provision of the Delaware Code to the contrary, including for example and not by way of limitation Chapter 69 of Title 29, it is the intent of the General Assembly that Suburban Street funds authorized in prior Bond and Capital Improvement Acts and set aside for paving a parking lot at the Mount Pleasant Elementary School, on public property a portion of which is under long-term lease to the Edgemoor Community Center, may be used to reimburse the Center for the cost of such repaving. The Department of Transportation is authorized to make such reimbursement from said accounts.

STATE FIRE COMMISSION

Section 88. State Fire School/Hydraulic Rescue Tools Replacement: 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: Robbins Hose Fire Company (Dover) and Rehoboth Beach Fire Company. Upon submitting the receipts of sale, each company will be reimbursed up to \$7,500 by the State Fire Commission - State Fire School (75-02-01).

DELAWARE STATE UNIVERSITY

Section 89. Minor Capital Improvements and Equipment: It is the intent of the General Assembly that funds may be used to upgrade the water distribution system connected to public water supply.

Section 90. Amend Volume 70, Chapter 473, Laws of Delaware by deleting Section 87 in its entirety.

DEPARTMENT OF PUBLIC INSTRUCTION

Section 91. 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 percent) 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 40 percent 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 92. Christina Land Acquisition. Funds remaining in the "New Elementary" appropriation (91-95-33-00-6113) shall only be utilized to acquire land north of Newark for a future elementary school.

Section 93. School Construction. Purchase orders and change orders for school construction projects which are coded to a different school construction project line within the applicable school district will be approved upon review and determination by the Department of Public Instruction and State Budget Office that full compliance of Section 2.4.3B(1) and (2) of the State of Delaware School Construction Manual has been met. All such purchase orders or change orders must reference the appropriate projects, lines of authorization and appropriate section of the School Construction Manual.

Section 94. Brandywine Harlan Elementary. Funds authorized in the Section 1 Addendum of this Act and in Section 4 of Volume 70 Chapter 473 of the Laws of Delaware may be used for planning of the Harlan Elementary project.

Section 95. Public Education Enhanced Minor Capital Improvement Fund. (a) It is the intent of the General Assembly that the sum of Ten Million Dollars (\$10,000,000) as appropriated in the Section 1 Addendum of this Act to the Department of Public Instruction be used for minor capital improvements to school buildings. This amount shall be paid by the Department of Public Instruction to local districts in the following amounts:

<u>School District/Charter School</u>	<u>FY 1998</u>
Appoquinimink	\$ 349,468
Brandywine	1,035,622
Special	2,739
Christina	1,813,982
Special	28,483
Colonial	937,300
Special	9,129
New Castle County Vo-Tech	305,008
Red Clay	1,403,440
Special	13,146
Caesar Rodney	496,084
Special	13,968
Capital	577,151
Special	5,478
Lake Forest	328,379
Milford	350,016
POLYTECH	97,135
Smyrna	298,892
Cape Henlopen	365,900
Special	12,142
Delmar	65,548
Indian River	642,791
Special	15,246
Laurel	190,162
Seaford	351,385
Sussex Vo-Tech	106,538
Woodbridge	157,114
Wilmington Charter	22,184
Positive Outcomes	<u>5,570</u>
Total	<u>\$10,000,000</u>

(b) A portion of funds appropriated to Brandywine School District may be used to ensure completion of the Hanby Roof Project.

(c) A pro rata amount of funds shall be expended by each member-district served to ensure roof replacement of the Data Service Center located on Mt. Lebanon Road in Wilmington.

(d) The funds allocated pursuant to this Section are intended to supplement the existing level of State and local expenditures in support of maintaining public school buildings in a condition which is both safe and appropriate for classroom learning. For the purposes of this Section, minor capital improvements shall mean, but shall not be limited to, capital expenditures for rebuilding or major repairs of roofs, floors, heating systems or facilities, painting, electrical systems or facilities and plumbing or water systems and facilities, asbestos abatement, the removal of architectural barriers to the handicapped and stand-alone storage facilities. These funds may also be applied to the preparation and securing of a public school district building that is being vacated but preserved for an unspecified period of time or for the return of such a building from a closed condition to use by a public school district. In order to qualify for these funds, each reorganized school district and charter school must agree to maintain their current level of spending on minor capital improvements during FY 1998. Districts and charter schools shall satisfy this requirement by demonstrating to the Secretary of Education that their combined expenditures on minor capital improvements are at least equal to 97 percent of the average annual expenditure made by the district or charter school during fiscal years 1995, 1996 and 1997. The Secretary of Education 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 Budget Director and Controller General promptly.

(e) Funds appropriated in this Section shall be subject to all existing rules for the definition of minor capital improvements with the exception that projects involving the rebuilding or major repairs of school building roofs shall not be subject to any maximum expenditure as may be

defined by the rules. These funds may be used to supplement existing or proposed major capital projects involving the rebuilding or major repair of school building roofs.

(f) The provisions of Section 7528(b) and (f), Title 29, Delaware Code to the contrary notwithstanding, the expenditure of funds appropriated under this Section shall not require a local contribution.

(g) Funds appropriated in this Section shall not be subject to reversion until June 30, 2000. In addition, no FY 1997 or prior year expenditure for minor capital improvements may be recoded to this appropriation.

Section 96. North POLYTECH Adult Education Facility. POLYTECH School District shall provide appropriate access to allow Delaware Technical and Community College ("DTCC") to begin renovation to said facility. DTCC shall ensure minimal disruption to any educational classes in progress during such renovation.

Section 97. Channin Elementary Planning. Pursuant to the provisions of Chapter 6 of Title 14, Delaware Code or of Chapter 63 of Title 29, Delaware Code and any other provision of the law applicable it is the intent of the General Assembly that \$275,000 be appropriated from the Capital Investment Fund held in the State Treasurer's Office (12-05-03 - FY 1997, Appropriation 8700) for an advanced planning loan to Brandywine School District, hereinafter known as the "receiving district" in order to plan the renovations of Channin Elementary building to provide an appropriation in-state facility for alternative placements.

Upon completion of such renovations, the receiving district shall charge each sending district an amount necessary to ensure repayment of all loans or debt service incurred due to borrowed funds through the issuance of general obligation bonds of the State.

Section 98. During the fiscal year ending June 30, 1998, the Department of Public Instruction will continue and broaden implementation of the computerized routing system for school bus transportation. During this implementation, the Department is directed to continue to provide bus transportation services to any residential area which has received transportation services since October 1, 1977.

Section 99. Amend Section 348 of the Fiscal Year 1998 Appropriations Act (House Bill No. 375 of the 139th General Assembly) by inserting the new subsections (26), (27) and (28) after existing subsection (25) on page 222, line 12 as follows:

"(26) Students attending Eisenberg Elementary School who reside in the Castle Hills residential area.

(27) Students attending Castle Hill Elementary School who reside in the Swanwyck area.

(28) Lombardy Elementary School students who must cross Foulk Road."

Section 100. House Substitute No. 1 to House Bill No. 81 of the 139th General Assembly establishes a Department of Education replacing the Department of Public Instruction and defines the responsibilities of a Department of Education and the State Board of Education. The provisions of this Act and House Bill No. 375 of the 139th General Assembly shall not be considered in conflict with the intent of House Substitute No. 1 to House Bill 81. The Budget Director and Controller General are authorized to resolve any implementation problems associated with the passage of this legislation.

Section 101. 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 102. 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 103. Severability. If any section, part, phrase, or provision of this Act or the application thereof be held invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Act or the application thereof.

Section 104. Effective Date. This Act shall take effect in accordance with the provisions of state law.

SUPPLEMENTAL INFORMATION FOR TRANSPORTATION PROJECTS (\$ X 1000)

TITLE	ACTIVITY	FUND	ALL FUNDS	TTF
PROGRAM DEVELOPMENT			\$5,112	\$ 0
TTF Authorization Needed			0	
FHWA Authorization			1,856	
FTA Authorization			256	
FRA Authorization			0	
FAA			0	
Other \$			0	
SYSTEM PRESERVATION				
Bridge Preservation Program	PE, Construction	FHWA/State	3,827	
BR 12B, SR 9, Leipsic	Construction	FHWA	900	
BR 43 on N215, Weldin Rd	Construction	State	556	
BR 69 on Rockland Rd. over Wilson Run	Construction	FHWA	480	
BR 76 on Montchanin over Small Creek	Construction	FHWA	480	
BR211A, Still Rd over Choptank River	Construction	FHWA	1,017	
BR229 on Old Possum Park Rd	Construction	FHWA	700	
BR238 on S 46, over Gravelly Fork, Seaford	Construction	FHWA	486	
BR255 & BR647 on SR273 near Amtrak	R/W, Construction	FHWA/State	395	
BR258 on High St. over Conrail	Construction	FHWA	482	
BR272 on Tweeds Mill Rd over White Clay	R/W	State	11	
BR322E & BR322W on Elkton Rd.	Construction	FHWA	480	
BR351 on N387A over Muddy Run	Construction	FHWA	200	
BR364B on K364 over Beaver Gut Ditch	Construction	FHWA	480	
BR424, Wiggins Mill Pond	Construction	FHWA	710	
BR445, S 54 over Vines Creek (Dagsboro)	Construction	FHWA	258	
BR578, Northeast Blvd. Over Shellpot Creek	Construction	FHWA	694	
BR933, N, SR 1 over Cedar Creek	Construction	FHWA	955	
Dirt Roads	Construction	State	2,500	
Environmental Improvements	Construction	State	550	
Equipment Replacement	Procurement	State	4,500	
Grubb Rd. Naaman's Rd. to Sconset Rd.	R/W	State	210	
I-95, Wilmington Viaduct to Pa Line	PE	FHWA	1,500	
Materials & Minor Contracts	Construction	State	1,200	
Operations Facilities Improvements	Pro/Construction	State	5,569	
Other Projects to be Identified	PE, Construction	FHWA/State	1,662	
Pavement Rehabilitations	Construction	State	10,000	
Rail Preservation	Construction	State	345	
Resurfacings	Construction	State	22,000	
SR 82, Old Public, Yorklyn Rd, Slope Stab	Construction	FHWA	1,750	
SR141, SR 2 to Christina River	Construction	FHWA	9,707	
Transit Maintenance Equipment	Procurement	State	94	
Transit Vehicle Replace & Refurb	Procurement	FTA/State	5,885	
Upper Pike Creek, Slope Stabilization	Construction	FHWA	1,500	
TTF Authorization Needed			\$57,277	\$57,277
FHWA Authorization			21,834	
FTA Authorization			2,724	
FAA Authorization			0	
Other \$			0	

TITLE	ACTIVITY	FUND	ALL FUNDS	TTF
SYSTEM MANAGEMENT				
Adaptive Signal Controls	Construction	FHWA	800	
BR681 on SR 9, New Castle	Construction	FHWA	1,260	
Casho Mill Road Underpass Improvement	Construction	State	125	
Churchman's Crossing Corr Improvements	PE	FHWA	4,200	
Corridor Preservation	R/W	FHWA/State	6,100	
Dover City Improvements	PE, R/W	State	375	
Electronic Tolling Capability	Procurement	State	11,000	
Elkton Rd, New London Rd, Main St., Newark	R/W	State	250	
Henderson Road and Pike Creek Intersection	Construction	FHWA	1,070	
I- 95 Toll Plaza HVAC Rehabilitation	Construction	FHWA	1,250	
Kennett Pike, N of Buck to S of Brook Valley	Construction	FHWA	1,863	
Kirkwood Hwy, SR141 to SR100, Elsmere	Construction	FHWA	2,364	
Millcreek Rd., McKennans Ch. to SR41	R/W, Construction	State	420	
Newark Signal System	Construction	FHWA	400	
Non-Motorized Transportation Projects	PE, Construction	FHWA	1,100	
Old Wilmington Rd	Construction	State	193	
Other Projects to be Identified	PE, Construction	State	2,569	
Park & Ride Lots	R/W, Construction	FHWA	1,900	
Passenger Facilities	Construction	State	300	
Porter Rd, SR896 to SR 72	Construction	FHWA	4,967	
S246 and S244 Intersection Improvement	PE	State	8	
S312 & S311 Realignment	Construction	FHWA	142	
Safety, Int. Imp., & Transp. Enhance	PE,R/W, Construction	FHWA/State	5,425	
Salem Church Rd, Reybold Rd. Old Balt Pike	PE, R/W	State	200	
Southwood Rd, Valley Rd to PA Line	Construction	State	1,910	
SR 1, Corridor Preservation Improvements	PE	State	10	
SR 26, Assawoman Canal to SR 1	R/W	FHWA	100	
SR 54, S 58C to SR 1	Environment,R/W	FHWA/State	1,575	
Sussex County Aviation	Construction	FAA/State/Cty	50	
Transit-Bus Equipment	Procurement	FTA/State	738	
Transit-Emergency Equip/Energy Mgt	Procurement	State	150	
Transit-Technology Equipment	Procurement	FTA/State	1,220	
Transit-Security Equipment	Procurement	State	80	
US 40, Maryland Line to US 13, Corr. Imp.	PE	FHWA	1,700	
US 40/SR 7 Intersection	PE, R/W, Const	State/Other	520	
US 40/SR 72 Intersection Improvement	Construction	FHWA	1,145	
SYSTEM MANAGEMENT				
Variable Message Signs	Construction	FHWA	1,000	
Wilmington Riverfront	PE,R/W, Construction	State	7,400	
Wilm. Traffic Calming & Pedestrian Impr.	PE, Construction	FHWA/Other	3,086	
Wilmington Transit Center	PE	State	430	
TTF Authorization Needed			\$ 34,102	
Reprogramming (Small Stations)			(1,500)	
Net TTF Authorization Needed After Reprogramming			\$ 32,602	\$32,602
FHWA Authorization			30,146	
FTA Authorization			60	
FAA Authorization			45	
Other \$			2,088	

TITLE	ACTIVITY	FUND	ALL FUNDS	TTF
SYSTEM EXPANSION				
Churchman's Crossing Capacity Imp.	PE	State	360	
Lancaster Pike, Centre Rd to Hercules Road	R/W	State	1,740	
Naaman's Rd, E of US202 to US 13	Construction	State	226	
Other Projects to be Identified	PE, R/W, Construction	State	970	
Scarborough Rd, Dover	Construction	FHWA	16,500	
SR 1, Corr. Pres. Impr. @ SR 30	PE	State	240	
SR 1, S of Dover to C & D Canal	PE, R/W, Env, Const.	FHWA/State	21,340	
SR141, Kennett Pike to US202	R/W	FHWA	4,000	
SR273, Marrows Road to Amtrak	Construction	FHWA	5,226	
SR896, US 40 to I- 95	Construction	FHWA	600	
Sussex Corr. Impr. Bridgeville SR404A	Construction	FHWA	3,200	
Transit Facilities Expansion-Statewide	PE,R/W	FTA	3,200	
Transit Facilities-Intermodal Rail	Construction	State	9,469	
Transit Vehicle Expansion	Procurement	FTA	1,080	
TTF Authorization Needed			\$10,362	\$10,362
FHWA Authorization			35,201	
FTA Authorization			1,368	
FAA Authorization			0	
Federal State Infrastructure Bank			8,400	
Other \$			0	
ENGINEERING AND CONTINGENCIES			\$1,000	\$1,000
SUBURBAN ST., DRAINAGE & MISC.			\$16,700	\$16,700
MUNICIPAL ST. AID			\$4,000	\$4,000
TOTAL NEW PROGRAM AUTHORIZATION NEEDED			\$121,941	\$121,941
RESERVE ACCOUNT			\$1,800	\$1,800
REFPROGRAMMING			\$1,500	\$1,500
TOTAL(NET)CAPITAL(TTF)AUTHORIZATION NEEDED			<u>\$125,241</u>	<u>\$125,241</u>

Approved July 9, 1997

APPENDIX B
FY 1998 PAVING PROGRAM

COUNTY	ROAD	ROADNAME	FROM_OESCR	THRU_OESCR	REMEDY
STATEWIDE PAVEMENT REHABILITATION					
K	7	BAY RD (SB)	RD 23 NB LOCKERMAN ST	RD 3 GOVERNORS AVE	2 IN ROTOMILL; 2 IN HIM OVERLAY
K	33	CANTERBURY RD	RD 34 OE 12	200'N OF RD 371	4" WIDENING; 3 IN HIM OVERLAY
S	248	OEL ROUTE 30	ROUTE 16 (ROAD 16)	U.S. 9 (ROAD 18)	WIDEN 8' EACH SIDE AND 4" HOT MIX OVERLA
K	8	OUPONT BLVD (NB) & (SB)	NORTH END OF RD 10	U.S. 113 AND OEL 1 SPLIT	CONCRETE PATCH FY-98 BALANCE FY-99
K	148	HORSEPOUND ROAD	LAFFERTY LANE (ROAD 347)	SOUTH LITTLE CREEK RD (RD 67)	3" HOT MIX OVERLAY 1 TO 2 FT WIDEN
K	148	HORSEPOUND ROAD	END	LAFFERTY LANE (ROAD 347)	3" OVERLAY-PATCH WIDEN 1 TO 2 FT WERE PO
NC	31	LIMESTONE ROAD	NORTH OF VALLEY ROAD	PA LINE	PATCH CONCRETE AND SHOULDER RECONST.
TOTAL STATEWIDE PAVEMENT REHABILITATION					\$10,000,000
COUNTY	ROAD	ROADNAME	FROM_OESCR	THRU_OESCR	REMEDY
NEW CASTLE COUNTY HOT MIX PROGRAM					
NORTH DISTRICT					
NC	6	BASIN RD (EB & WB)	500' WEST OF U.S. 13	1/95 NB	CONCRETE PATCHING & CLEAN RESEAL JOINTS
NC	44	BAYNARD BLVD	WASHINGTON STREET	W. 22ND ST	3" MILL 3" HIM OVERLAY (BUS LANES)
NC	364	CHESTNUT HILL RD	SUMMIT VIEW	ROUTE 896 (RD 387)	2" HIM OVERLAY; 10% PATCHING
NC	34	OUPONT PKWY (NB) & (SB)	NEW CONST. SOUTH OE 1 (RAMP)	U.S. 40 STATE ROADS	3 IN MILL AND 3 IN HIM OVERLAY PATCH
NC	328	EBENEZER & POLLY DRUMMOND	NEW LINDEN HILL ROAD	SMITH MILL ROAD	3" OVERLAY
NC	354	GENDER RD	END	ST RT 4 / RD 366 CHESTNUT HIL	3" HIM OVERLAY
NC	237	LANCASTER PIKE	500' EAST OF OEL 141	RAILROAD CROSSING	MILL AND 3" OVERLAY
NC	11	LINCOLN STREET	RD 497 DE 9 W. 4TH ST	PENN AVE ROAD 9	3 IN ROTOMILLING; 3 IN HIM OVERLAY
NC	360A	OLD BARKSOALE RD	RD 11 WB ELKTON RD	END	3" HIM OVERLAY; 5% PATCHING
NC	20	OLD CAPITOL TRAIL	KIRKWOOD HWY. (RD 2)	KIRKWOOD HWY. (RD 2)	2" HOT MIX OVERLAY (EACH END OF ROAD)
NC	66A & B	OLD CHESTNUT HILL RD	GLYN RD	RD 366-A	3" HIM OVERLAY
NC	397	OTTS CHAPEL RD	RD 26 OLD BALTIMORE PIKE	300' N OF 195 RD 56 EB	4" HIM OVERLAY (MAY MILL)
NC	9	PENNSYLVANIA AVE (EB)	RD 49 SB 1-95	TATNALL STREET	3 IN ROTOMILLING; 3 IN HIM OVERLAY
NC	9	PENNSYLVANIA AVE (WB)	JEFFERSON STREET	1-95 NB	3 IN ROTOMILLING; 3 IN HIM OVERLAY
NC	322	PIKE CREEK RD	RD 11 KIRKWOOD WB HWY	RD 321, NEW LINDEN HILL RD	3" HOT MIX OVERLAY
NC	28	SOUTH HILL ST	NEW CASTLE AVE (RD 19)	CHRISTIANA AVE / RD 50 / RD 28	3" MILL AND 3" OVERLAY
NC	337	ST JAMES CHURCH ROAD	OLD CAPITOL TRAIL (RD 20)	KIRKWOOD HWY (RD 2 EB)	3" HOT MIX OVERLAY 5% PATCHING
NC	387	SUMMIT BRIDGE RD	600' SOUTH OF 1-95	600' NORTH OF 1-95	2" MILL AND 2" OVERLAY
NC	336	WILMINGTON-CHRISTIANA PIKE (EB AND WB)	RD 31 NB LIMESTONE RD, OE 7	GLENSIDE AVENUE	CONCRETE PATCHING CLEAN & RESEAL JOINTS
TOTAL NORTH DISTRICT NEW CASTLE COUNTY HOT MIX					\$6,747,798

COUNTY	ROAD	ROADNAME	FROM_OESCR	THRU_OESCR	REMEDY
NEW CASTLE COUNTY NORTH DISTRICT - PATCHING					
NC	11	ELKTON ROAD	OTTS CHAPEL ROAD	DELAWARE AVE	CONCRETE PATCHING (323 SQ/YD)
NC	203	FOULK ROAD	1/4 SOUTH OF HARVEY ROAD	PENNSYLVANIA STATE LINE	PATCH (288 SQ/YD)
NC	209	GRUBB ROAD	MARKER DRIVE	FOULK ROAD	PATCH (1792 SQ/YD)
NC	213	CARR ROAD	CLEARVIEW AVENUE	HILLSIDE AVENUE	PATCH (343 SQ/YD)
NC	216	ROCKWOOD ROAD	MILLER ROAD	WELDING ROAD	PATCH (510 SQ/YD)
NC	24	PHILADELPHIA PIKE	100' SOUTH OF I-495	100' NORTH OF I-495	PATCH (262 SQ/YD)
NC	24	MARKET STREET & CONCORD AVE	INTERSECTION		PATCH (128 SQ/YD)
NC	259	BARLEY MILL ROAD	1/4 MILE W OF ROLLING MILL RD	OVERBROOK ROAD	PATCH (635 SQ/YD)
NC	268	ALAPOCAS DRIVE	EDGEWOOD ROAD	OLD NEW BRIDGE ROAD	PATCH (1322 SQ/YD)
NC	270	FAULKLAND ROAD	ROTHWELL ROAD	OAK HILL DRIVE	PATCH (240 SQ/YD)
NC	28	SOUTH HEALO STREET	ROGERS ROAD	GARASCHES LANE	PATCH (302 SQ/YD)
NC	280	MILLTOWN ROAD	LIMESTONE ROAD	NEWPORT GAP PIKE	PATCH (232 SQ/YD)
NC	31	LIMESTONE ROAD	LAURA DRIVE	HENRY AVENUE	PATCH (48 SQ/YD)
NC	318	MILLTOWN ROAD	KIRKWOOD HIGHWAY	LIMESTONE ROAD	PATCH (168 SQ/YD)
NC	32	U.S. 40 (WESTBOUND)	500' WEST OF BRIDGE #96	3000' WEST OF BRIDGE #96	PATCHING (1667 SQ/YD)
NC	33	DUPONT HIGHWAY	HEALO STREET	ROGERS ROAD	PATCH (64 SQ/YD)
NC	337	ST JAMES CHURCH ROAD	TELEGRAPH ROAD	OLD CAPITOL TRAIL	PATCH (120 SQ/YD)
NC	34E	MAIN STREET	CANAL	DUPONT HIGHWAY (SB)	PATCH (48 SQ/YD)
NC	34F	CHURCH STREET	MAIN STREET	BROAD STREET	PATCH (16 SQ/YD)
NC	356	LIBRARY AVENUE	1000' N OF RT. 4	WYOMING ROAD	PATCHING (104 SQ/YD)
NC	359	TERMINAL AVENUE	WILMINGTON AVENUE	PIGEON POINT ROAD	PATCH (344 SQ/YD)
NC	366	CHRISTIANA PARKWAY	ELKTON ROAD	SOUTH COLLEGE AVE.	PATCH (300 SQ/YD)
NC	373	LANDERS LANE	MOORE AVENUE	NEW CASTLE AVE	PATCH (309 SQ/YD)
NC	397	OTTS CHAPEL ROAD	ELKTON ROAD	180 FT. S OF CHESTNUT HILL RD	PATCH (208 SQ/YD)
NC	402	WOODS ROAD	HOWELL SCHOOL ROAD	PORTER ROAD	PATCH (651 SQ/YD)
NC	369	ROGERS ROAD	I-495 OVERPASS	DUPONT HIGHWAY	PATCH (168 SQ/YD)
TOTAL NORTH DISTRICT PATCHING					\$955,744

COUNTY	ROAD	ROADNAME	FROM_OESCR	THRU_OESCR	REMEDY
CENTRAL DISTRICT - NEW CASTLE COUNTY HOT MIX					
NC	433	BETHEL CHURCH RD	MD LINE	RD 16 NB OE 71 - RD 16 SB	3" OVERLAY + 4" WIDEN
NC	1	DUPONT HWY (NS)	APPOQUINIMINK RIVER	SOUTH OF DESSA LIMITS	1" ROTOMILL, 2" OVERLAY + SHOULDER
NC	1	DUPONT PKWY (NB)	500' SOUTH OF RD 25	1/2 MILE NORTH OF NOXONTOWN RD	1" ROTOMILL, 2" IN OVERLAY + SHOULDER
NC	1	DUPONT PKWY (SB)	RD 452 / RD 38	RD 471	1" ROTOMILL, 2" IN OVERLAY + SHOULDER
NC	34AAC	IN SAINT GEORGES	RD 34 SB US 13	RD 34B	2" HOT OVERLAY, 10% PATCHING
NC	440	THOMAS LANDING RD	RD 449	RD 439	2" OVERLAY + 4" WIDEN EACH SIDE
TOTAL CENTRAL DISTRICT NEW CASTLE COUNTY HOT MIX					\$1,319,340
COUNTY	ROAD	ROADNAME	FROM_OESCR	THRU_OESCR	REMEDY
CENTRAL DISTRICT - KENT COUNTY HOT MIX					
K	133	ALLEY MILL RD	RD 39 OE 6	KENT COUNTY LINE	2" OVERLAY
K	107	BARKERS LANDING RD	RD 364	RD 7-A	3" HOT OVERLAY, 5% PATCHING, 4" WIDENING
K	44	BLACKISTON RD	RD 39 OE 6	RD 41 OE 300 MAIN ST	3" OVERLAY + 2" WIDEN EACH SIDE
K	24	DUPONT HWY (NB)	RD 53 OE 15	RD 30 OE 10-A	1" IN ROTOMILL, 2" IN HOT MIX OVERLAY + SH
K	98	FORDS CORNER RD	RD 48 OE 44	RD 46 DE 11	2" HOT OVERLAY, 5% PATCHING
K	344	FOX RD	RD 67 SOUTH LITTLE CREEK RD	RD 16 OE 8 NORTH LITTLE CREEK	3" OVERLAY + 4" WIDEN
K	454	GLENWOOD AVE	SNYRNA CLAYTON BLVD (RD 39)	UNION STREET	MILL AND OVERLAY 3"
K	104	KENTON RD	RD 100	RD 158	2" HOT OVERLAY + WIDEN 3' EACH SIDE
K	2	NORTH DUPONT HWY (NB)	RD 330/ RD 100	RD 14 / RD 43 / OE 42	1" IN ROTOMILL, 2" IN HOT OVERLAY + SHOULDER
K	16	NORTH LITTLE CREEK RD	RD 15 OE 9	RD 89 PORT MAHON RD	2" HOT OVERLAY
K	40	SCHOOL LA	RD 41 OE 300	RD 39 DE 6 MAIN ST	3" OVERLAY INCLUDING SHOULDER
K	41	SHOULDERSVILLE RD	COMMERCE ST / RD 45 OE 42	TOWN LIMITS	2" MILL AND 2" OVERLAY
K	30	WALNUT SHADE RD	RD 24 S.D. U.S. 13	RD 368	3" HOT OVERLAY + WIDEN 3 TO 4' EACH SIDE
K	9	WOODLAND BEACH ROAD	1 MILE WEST OF BRIDGE	CHECKING STATION	3" HOT OVERLAY PULL AND SET GRADE GUARD

COUNTY	OAD #	ROADNAME CENTRAL DISTRICT - KENT COUNTY SURFACE TREATMENT	FROM_DESCR	THRU_DESCR	REMEDY
K	00111	BROWNSVILLE RD	MO LINE	RD 455	FW/ST
K	00112	BURRISVILLE RD	RD 61 OF 16	MD 1 INF	FW/ST
K	00112A	WILHELM RD	MO LINE	RD 112	FW/ST
K	00113	CATTAIL BRANCH RD	RD 63 OF 16	RD 60 OE 14	FW/ST
K	00114	HOG RANGE RD	RD 113	OEAO ENO	FW/ST
K	00122	BENNETTS PIER RD	RD 19 RD 121	RD 18A	FW/ST
K	00124	BIG STONE BEACH RD	RD 425	OEAO ENO	FW/ST
K	00271	SUGAR STICK RD	RD 59	RD 174 RD 275	FW/ST
K	00274	SPIDER WEB ROAD	RD 57	RD 271	FW/ST
K	00293	REO BIRD LA	RD 111	RD 59	FW/ST
K	00298	ORAPERS CORNERS RD	RD 60 OE 14	RD 111	FW/ST
K	00312	FLATIRON RD	RD 311 RD 313	RD 60	FW/ST
K	00312A	TRIANGLE RD	RD 312	RD 60 OE 14	FW/ST
K	00411	GREENHOUSE RD	RD 124	RD 123	FW/ST
K	00422	PRITCHETT RD	RD 421	RD 120	FW/ST
K	00439	BEEBE RD	RD 117	R 437	FW/ST
K	00455	FOX HUNTERS RD	RD 60 OE 14	ROAD 59	FW/ST
K	00004	OLO CAMOEN RD	RD 24 SB US 13	SOUTH ST. CAMOEN	FW/ST - SHOULDER ONLY
K	00018	BOWERS BEACH RD	RD 7 / RD 8 US 113 NB	RD 18B	FW/ST - SHOULDER ONLY
K	00027	SOUTH STATE ST	RD 356 WB OE 10	RD 354	FW/ST - SHOULDER ONLY
K	00029	RISING SUN RD	RD 356 EB OE 10	RD 27 US 113A	FW/ST - SHOULDER ONLY
K	00053	WILLOW GROVE RD	0 13 WEST OF 228A (#1)	0 12 EAST OF 228A (#2)	FW/ST - SHOULDER ONLY
K	00073	HAZLETTVILLE RD	RD 101	RD 106	FW/ST - SHOULDER ONLY
K	00191	HOLLY ISLAND RD	RD 230	RD 319	FW/ST
K	00300	YOOPER DR	RD 201	RD 198	FW/ST
K	00312	PONY TRACK RD	RD 53 OE 10	RD 207	FW/ST
K	00214	COW MARSH CREEK RD	RD 53 OE 10	RD 207	FW/ST
K	00215	OAK POINT SCHOOL RD	RD 222	RD 52	FW/ST
K	00219	BRYANTS CORNER RD	RD 220	RD 103	FW/ST
K	00220	TUXWARD RD	RD 222	RD 50 OE 8	FW/ST
K	00222	SANDY BEND RD	RD 215	RD 50 OEL-8	FW/ST
K	00227	JEBB RD	RD 215	RD 232	FW/ST
K	00357	OLO LEBANON RD	GATE TO OLO OLO LEBANON RD	CENTER RD - WEST HAWTHORNE DR	FW/ST
K	00371	PLYMOUTH RD	RD 5 NB US 13	RD 33	FW/ST
K	00372	SKEETER NECK RD	RD 8 NB US 113	RD 8 NB US 113	FW/ST
K	00377	SOPHIES ROW	RD 31	RD 27 US 113-A	FW/ST
K	00381	FOX CHASE RD	RD 380	RD 31	FW/ST
K	00382	INDIAN POINT RD	RD 33 OE 15	RD 380	FW/ST
K	00383	ROBBINS RD	RD 34 OE 12	RD 380	FW/ST
K	00386	SCRAP TAVERN RD	RD 34 OE 12	HM 0 05 WEST OF RD 33 OE 15	FW/ST
K	00014	FAST LANDING RD OE 42	RD 2 ND US 13	RD 15 OE 9	FW/ST - SHOULDER ONLY
K	00041	SUOLERSVILLE RD	RD 44 / RD 45 / DE 42	RD 40	FW/ST - SHOULDER ONLY
K	00079	FLORIO RD	RD 320 OE 9	OEAO ENO	FW/ST
K	00082	LIGHTHOUSE RD	RD 317	RD 318 / RD 319	FW/ST
K	00141	WILDLIFE RD	RD 140	RD 94	FW/ST
K	00143	LION HOPE RD	RD 41 OE 300	RD 95	FW/ST
K	00159	WINDING CREEK RD	RD 51 DE 8	RD 162	FW/ST
K	00162	SHARON HILL RD	RD 159	RD 100	FW/ST
K	00163	VICTORY CHAPEL RD	RD 51 DE 8	RD 100	FW/ST
K	00170	JUDITH RD	RD 97	RD 49 DE 44	FW/ST
K	00173	SEAN LA	RD 97	RD 46 DE 11	FW/ST
K	00179	BUTTERPAT RD	RD 176	MD LINE	FW/ST
K	00182	SLAUGHTER STATION RD	RD 10 DT: 8	RD 103	FW/ST

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APPENDIX B
FY 1998 PAVING PROGRAM

COUNTY	OAD #	ROADNAME CENTRAL DISTRICT - KENT COUNTY SURFACE TREATMENT	FROM_DESCR	THRU_DESCR	REMEDY
K	00189	CRYSTAL RD	RD 50 OE 8	RD 49 OE 44	FW/ST
K	00317	SHORTS LANDING RD	RD 82	RD 320	RENEOV
K	00318	DEW DROP RD	RD 82 RD 319	RD 317	FW/ST
K	00319	GRAVESEND RD	RD 9 OE 6	RD 82 RD 318	FW/ST
K	00328	RAYMOND NECK RD	RD 11 OE 9	DEAD ENO	FW/ST
K	00329	PARSON POINT LANE	RD 85	RD 328	FW/ST
K	00333	SQUANISM RD	RD 15 DE 9 RD 334	RD 86	FW/ST
K	00448	DIG WOODS RD	RD 84	HOT-MIX @ SR 1	FW/ST
COUNTY	ROAD	ROADNAME CENTRAL DISTRICT - NEW CASTLE COUNTY SURFACE TREATMENT	FROM_DESCR	THRU_DESCR	REMEDY
NC	00412	LOREWOOD RD	NEW HOT MIX AT CRYSTAL RUN	RD 412A	FW/ST
NC	00412A	LOREWOOD RD	RD 413	RD 412	FW/ST
NC	00413	HOGFARM RD	RD 15	NEW HOT MIX AT SCOTT RUN	FW/ST
NC	00414	RATLEDGE RD	RD 15	RD 412	FW/ST
NC	00431	OLO SCHOOLHOUSE RD	RD 435	RD 39	FW/ST
NC	00445	STRAWBERRY LA	RD 62	MD LINE	FW/ST
NC	00447	ST ANNE'S CHURCH RD	RD 10	RD 446	FW/ST
NC	00453	DERRICKSONS RD	RD 449 OE 9	ENO	FW/ST
NC	00456	NEW DISCOVERY RD	RD 14	RD 1 SB	FW/ST
NC	00458	GREEN GIANT RD	RD 461	RD 459	FW/ST
NC	00461	MO-DE LINE RD	RD 25	RD 10	FW/ST
NC	00473	FLOYD GUESSFORD RD	RD 47	RD 463	FW/ST
NC	00474	VANDYKE-MD LINE RD	MD LINE	RD 47	FW/ST
NC	00477	GEORGETOWN FOREST RD	RD 7	RD 476	FW/ST
NC	00479	OAK HILL SCHOOL RD	RD 481	RD 471	FW/ST
NC	00480	SALTER RD	KENT COUNTY LINE	RD 479	FW/ST
TOTAL CENTRAL DISTRICT SURFACE TREATMENT					\$1,000,000

COUNTY	ROAD	ROADNAME	FROM_DESCR	THRU_DESCR	REMEDY
		SOUTH DISTRICT HOT MIX PROGRAM			
S	26	ATLANTIC AVENUE	POWELL FARM ROAD (ROAD 365)	BRIDGE	2" HOT MIX OVERLAY
S	583	CHURCH STREET	MAIN STREET (ROAD 5)	BRIDGEVILLE TOWM LIMITS	2" HOT MIX OVERLAY
S	363	DOUBLE BRIDGES ROAD	OLD CHURCH CEMETERY (ROAD 367)	CENTRAL AVENUE (ROAD 84)	3" HOT MIX OVERLAY
S	519	ENNIS ROAD	DUPONT BLVD. (ROAD 113)	VAUGHN ROAD (ROAD 520)	3" HOT MIX OVERLAY
S	313	GULL POINT WAY	JOHN J WILLIAMS HWY (ROAD 24)	RIVER ROAD (ROAD 312)	3" HOT MIX OVERLAY
S	24	LAUREL ROAD	SUSSEX HIGHWAY (U.S. 13)	SHILOH CHURCH ROAD (ROAD 74)	3" HOT MIX OVERLAY PATCH + SHOULDER 8"
S	298	LEGION ROAD	LONG NECK ROAD (ROAD 22)	BAY FARM ROAD (ROAD 299)	3" HOT MIX OVERLAY
S	58	LIGHTHOUSE ROAD	BRIDGE	KEENWICK ROAD (ROAD 58C)	2" HOT MIX OVERLAY
S	361	MUDDY NECK ROAD	GARFIELD PKWY (ROAD 26)	GARFIELD PKWY. (ROAD 26)	3" HOT MIX OVERLAY WITH 4' BIKE PATH
S	46	OLD FURNACE ROAD	COUNTY SEAT HWY. (ROAD 28)	FLEETWOOD POND ROAD (ROAD 484)	3" HOT MIX OVERLAY
S	52	ROXANA ROAD	POLLY BRANCH ROAD (ROAD 386)	PYLE CENTER ROAD (ROAD 382)	3" HOT MIX OVERLAY + SHOULDERS
S	319	SANO HILL ROAD	SAVANNAH RD. (ROAD 18)	E REDDEN ROAD (ROAD 565)	3" HOT MIX OVERLAY + PART OF SHOULDERS
S	246	SAVANNAH ROAD	ALBURY AVE (GEORGETOWN)	WILSON ROAD (ROAD 244)	3" HOT MIX OVERLAY
S	18	SEASIDE HIGHWAY	GRAVEL HILL ROAD (ROAD 248)	HARBESON ROAD (ROAD 22)	MILL 3" OVERLAY TRAVEL WAY AND SHOULDER
S	21	STEIN HIGHWAY	FRONT STREET (ROAD 13)	SUSSEX AVENUE (ROAD 539)	MILL 1.5" OVERLAY WITH 1.5" C POLYMER MO
S	NB4SB	SUSSEX HIGHWAY	CONCORD ROAD (ROAD 20)	BRIDGEVILLE HWY. (ROAD 13)	1.5" MILL AND 1.5" OVERLAY (SMA)
S	48	ZOAR ROAD	ROAD 248	ROAD 297	3" HOT MIX OVERLAY
		TOTAL SOUTH DISTRICT HOT MIX			\$6,455,216

COUNTY	ROAD	ROADNAME	FROM_DESCR	THRU_DESCR	REMEDY
		SOUTH DISTRICT SURFACE TREATMENT PROGRAM			
S	72		70	462	FWST
S	427		428	64	FWST
S	432		433	20	FWST
S	436		24	434A	FWST
S	437A		24	62	FWST
S	448		62	434	FWST
S	453		454B	64	FWST
S	455		66	64	FWST
S	455A		66	455	FWST
S	455B		455	64	FWST
S	462		1	70	FWST
S	465		466	74	FWST
S	474		475	28	FWST
S	475		476A	446	FWST
S	476A		475	28	FWST
S	479A		479	474	FWST
S	481		488	20	FWST
S	491		493	78	FWST
S	493A		493	END	FWST
S	497		509	24	FWST
S	499		13	24	FWST
S	79		537	540	FWST
S	213		40	113	FWST
S	524		516	46	FWST

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COUNTY	ROAD	ROADNAME	FROM_DESCR	THRU_DESCR	REMEDY
		SOUTH DISTRICT SURFACE TREATMENT PROGRAM			
S	535		516	18	FWST
S	527		579	522	FWST
S	532		3	4	FWST
S	533		531	18	FWST
S	560A		18	560	FWST
S	566		30	562	FWST
S	571		577	63	FWST
S	575A		573	574	FWST
S	579		593	113	FWST
S	580		578	569	FWST
S	586		14B	KTLN	FWST
S	42		594	207	FWST
S	199		38	END	FWST
S	203		36	END	FWST
S	204		224	204A	FWST
S	209		206	36	FWST
S	210		209	208	FWST
S	213		625	207	FWST
S	219		220	38	FWST
S	220		14	221	FWST
S	224		42	113	FWST
S	224		30	14	FWST
S	231		16	226	FWST
S	234C		16	END	FWST
S	236		16	END	FWST
S	263		18	END	FWST
S	319		248	22	FWST
S	579		113	238	FWST
S	615		36	END	FWST
S	616		KTLN	617	FWST
S	618		634	619	FWST
S	49		24	END	FWST
S	82		402	DEVLP	FWST
S	271		14	END	FWST
S	278		277	END	FWST
S	279		END	277	FWST
S	283		277	DEVLP	FWST
S	295		47	248	FWST
S	302		48	22	FWST
S	305		297	302	FWST
S	314		248	297	FWST
S	321		48	318	FWST
S	335		331	332	FWST
S	340		382	26	FWST
S	341		26	342	FWST
S	345		26	END	FWST
S	349		347	26	FWST
S	352		84	26	FWST
S	365		52	373	FWST
S	366		84	353	FWST

APPENDIX B
F: 1998 PAVING PROGRAM

COUNTY	ROAD	ROAD NAME	SOUTH DISTRICT SURFACE TREATMENT PROGRAM	PROV. DESCR	THRL. DESCR	REVENUE
S	367			64	363	FWST
S	369			370	54	FWST
S	371			52	370	FWST
S	375			376	382	FWST
S	381			58	364A	FWST
S	389			390	382A	FWST
S	396			396A	58	FWST
S	400			380	113	FWST
S	405			82	405	FWST
S	407			113	334	FWST
S	435			443	62	FWST
S	484			483	18	FWST
S	521			END	18	FWST
S	521			END	324	FWST
S	629			KTLS	3	FWST
S	283A			END	281	FWST
S	339A			339	END	FWST
S	346B			364A	END	FWST
S	346B			381	364B	FWST
S	370B			381A	370	FWST
S	619A			36	619	FWST
TOTAL SOUTH DISTRICT SURFACE TREATMENT						\$1,000,000
TOTAL STATEWIDE PAVEMENT REHABILITATION				\$10,000,000		
TOTAL STATEWIDE PAVING PROGRAM				18,336,654		
TOTAL STATEWIDE SURFACE TREATMENT PROGRAM				2,000,000		
TOTAL NORTH DISTRICT PATCHING PROGRAM				955,744		
QUICK RESPONSE/EARLY ACTION*				800,000		
TOTALS				\$32,092,398		

*INCLUDES LITHIUM TREATMENT FOR DELAY OF ASR.
1" OVERLAY FOR PAV. SHALLOW DEPTH PATCHING.
MICROSURFACING ON MAJOR ROADWAYS, AND
EXPERIMENTAL TECHNIQUES

APPENDIX C

DISTRIBUTION OF FUNDING FOR POLICE RADIOS AND ONE TIME AID TO LOCAL GOVERNMENTS

	Allocated for Police Radios	Allocation Per Capita	Total Allocation
NEW CASTLE COUNTY			
Arden		\$4,036	\$4,036
Ardencroft		\$2,656	\$2,656
Ardentown		\$2,656	\$2,656
Bellefonte		\$1,120	\$1,120
Delaware City		\$14,507	\$14,507
Elsmere		\$4,187	\$4,187
Middletown		\$23,057	\$23,057
New Castle City		\$41,111	\$41,111
Newark		\$216,460	\$216,460
Newport		\$10,606	\$10,606
Odessa		\$2,682	\$2,682
Townsend		\$2,932	\$2,932
Wilmington	\$612,179	\$616,909	\$1,229,088
New Castle County	\$745,493	\$2,801,383	\$3,546,876
Total NCC	\$1,357,672	\$3,811,609	\$5,169,281

KENT COUNTY			
Bowers		\$1,708	\$1,708
Camden	\$27,048	\$16,378	\$43,426
Cheswold		\$2,768	\$2,768
Clayton	\$9,331	\$10,030	\$19,361
Dover	\$209,821	\$257,427	\$467,248
Farmington		\$940	\$940
Felton	\$11,008	\$6,218	\$17,226
Frederica	\$9,142	\$6,727	\$15,869
Harrington	\$41,222	\$19,019	\$60,241
Hartly		\$1,018	\$1,018
Houston		\$4,183	\$4,183
Kenton		\$1,915	\$1,915
Leipsic		\$2,079	\$2,079
Little Creek		\$1,449	\$1,449
Magnolia		\$1,673	\$1,673
Milford (part)	\$49,798	\$21,924	\$71,722
Smyrna (part)	\$48,875	\$45,115	\$93,990
Viola		\$1,363	\$1,363
Woodside		\$1,138	\$1,138
Wyoming		\$8,426	\$8,426
Unincorporated		\$564,843	\$564,843
Total - Kent	\$406,245	\$957,271	\$1,363,516

APPENDIX C

DISTRIBUTION OF FUNDING FOR POLICE RADIOS AND ONE TIME AID TO LOCAL GOVERNMENTS

	Allocated for Police Radios	Allocation Per Capita	Total Allocation
SUSSEX COUNTY			
Bethany Beach	\$36,190	\$2,872	\$39,061
Bethel	\$5,787	\$1,380	\$7,167
Blades	\$14,740	\$7,141	\$21,881
Bridgeville	\$25,182	\$10,341	\$35,523
Dagsboro	\$7,465	\$3,502	\$10,966
Delmar	\$32,835	\$7,572	\$40,407
Dewey Beach	\$72,021	\$1,587	\$73,607
Ellendale	\$11,008	\$2,829	\$13,837
Fenwick Island	\$19,773	\$1,570	\$21,342
Frankford	\$9,519	\$5,028	\$14,547
Georgetown	\$27,048	\$32,187	\$59,235
Greenwood	\$27,048	\$5,080	\$32,128
Henlopen Acres		\$1,337	\$1,337
Laurel	\$44,200	\$27,978	\$72,178
Lewes	\$27,237	\$20,777	\$48,013
Milford (part)		\$30,755	\$30,755
Millsboro	\$27,048	\$14,170	\$41,218
Millville		\$1,984	\$1,984
Milton	\$20,150	\$12,221	\$32,371
Ocean View	\$9,331	\$4,968	\$14,298
Rehoboth Beach	\$65,480	\$10,401	\$75,881
Seaford	\$59,694	\$49,117	\$108,811
Selbyville	\$18,095	\$11,514	\$29,609
Slaughter Beach		\$837	\$837
South Bethany	\$29,103	\$1,302	\$30,405
Unincorporated		\$708,106	\$708,106
Total - Sussex	\$588,949	\$976,555	\$1,565,504
Total	\$2,352,865	\$5,745,435	\$8,098,300

Office of Secretary of Finance
Debt Limit Statement Dated June 30, 1997

This Debt Limit Statement to be attached to H B 400
as required by Section 7422, Title 29, Delaware Code

(1) Estimated Net General Fund revenue for the fiscal year ending June 30, 1998 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	\$ 1,863,700.000
(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, 1998	\$ 93,185,000
(4) Less Aggregate principal amount of previously authorized tax-supported obligations subject to debt limit	\$ 0
(5) AVAILABLE DEBT LIMIT prior to appended legislation (3-4)	\$ 93,185,000
(6) Less Aggregate principal amount of new tax-supported obligations subject to debt limit to be authorized pursuant to appended legislation	\$ 93,185,000
(7) REMAINING DEBT LIMIT (5-6)	\$ 0

John C. Chenev
Secretary of Finance

6/30/97
Date

APPENDIX D Suburban Street Program

Addicks Estates - Marion Avenue at circle	98-467	4,625
Addicks Estates - Marion Avenue at house #38	98-468	1,375
Addicks Estates - Marion Lane from Church Street to Myrtle	98-522	17,500
Beaver Brook Apts. - Saienni Blvd. from Mendell Place to Route 13	97-665	46,375
Birchwood Park - Birchwood Dr. from end to end	97-469	83,875
Birchwood Park - Flintlock Rd. from Birchwood Dr. to Gerald Dr.	97-474	27,000
Birchwood Park - Holloway Circle from Gerald Drive to end	98-871	7,625
Birchwood Park - Kingswood Rd. from Gerald Dr. to Birchwood Dr.	97-466	31,370
Birchwood Park - Linda Circle from Gerald Drive to end	98-870	7,750
Birchwood Park - Nathaniel Rd. from Gerald Rd. to Birchwood Rd.	97-467	25,120
Black Water Village - Pony Drive from Hlawatha Blvd. to Shawnee	98-505	15,780
Brandywood - Brandywood Drive, Majestic Dr., Pennington Dr.	98-481	1,915
Brookside Park - Mackay Lane from Martindale Dr. to Merry Road	98-797	30,125
Brookside Park - Martindale from Brookside Blvd to Matthews	98-514	89,375
Brookside Park - Millbrook Road from Old Newark Road to Martell	98-798	48,250
Buckley - Brandon Drive from Buckley Blvd. to Channing Dr.	98-494	20,000
Buckley - Calburn Court from Buckley Boulevard to end	98-493	20,375
Camden - Cedar Lane from Willow Avenue to end of street	98-660	9,625
Camden - Southern Boulevard north side of street, west of tower	98-663	4,125
Camden - Thornley Drive from Old North Road to end of street	98-661	11,375
Chalfont - Eaton Road from Kingman Road to Longwood Road	98-782	44,750
Chalfont - Eaton Road from Longwood Road to Kingman Road	98-783	46,750
Chalfonte - Jester Drive from Bodine Drive to end	98-101	3,500
Channin - Channin Drive in front of house #2510	96-025	3,400
Chapelcroft - Austin Circle from Austin Road to end	96-073	2,900
Chapelcroft - Austin Road from Austin Circle to Burnett Road	96-069	5,800
Chapelcroft - Austin Road in front of house #5	96-067	2,600
Chapelcroft - Austing Road in front of house #15 and #17	96-068	3,200
Chapelcroft - Burnett Dr. from House #5-7 & House #8-10	96-071	5,200
Chapelcroft - Creighton Drive in front of house #3	96-074	3,000
Chapelcroft - Intersection of Burnett Drive and Austin Road	96-072	3,900
Devon - S. Rockfield Dr. from Shipley Rd. to Malvern Court	95-268	28,600
Edgemoor Terrace - E. Salisbury from Stuyvesant to #22 Edgemoor	96-433	35,000
Edgemoor Terrace - N. Stuyvesant from E. Salisbury to Denny	96-240	65,000
Edinridge (Tavistock) - Chilton Rd. from Kilburn Rd. to Westcliff	97-428	27,250
Foulkwood - Deepwood Drive and Dogwood Lane Intersection	98-792	250
Glasgow Pines - Hedgewick Dr. from Scotland Dr. to end	97-261	34,500
Holiday Hills - Westminster Dr. from Arosa Dr. Intersection	95-230	5,900
Knollwood - Denham Ave. from Alcott Ave. to Balfour Ave.	98-238	42,125
Knollwood - Denham Ave. from Alcott Ave. to Balfour Ave.	98-237	2,500
Limestone Hills - Citation Court from house #4 to house #5	98-781	1,875
Llangollen Estates - Gordy Place from Schaffer Blvd. to Park Ave.	98-799	74,625
Milford - Columbia Street from 2nd Street to 4th Street	98-541	44,240
Milford - S. Washington Street from ball park alley to McCoy	98-543	40,000
Newark - South Chapel Street from Delaware Avenue to Wyoming	95-473	109,200
Newark - White Chapel - Witherspoon Lane from Farnsworth to	97-340	24,400
Newark - Whitechapel - Whitechapel from Marrows to Farnsworth	98-565	20,875
North Graylyn Crest - Matwood Rd. from Longome Dr. to end	96-152	98,800
Old Mill Road from SR 10 to Road K29 and Pleasant Drive	98-662	12,750
Ottis Chapel Road (N397) and West Chestnut Rd. Intersection	98-294	2,375
Pigeon Run - Doris court from Pigeon Run Drive to end	97-398	10,000
Pigeon Run - Jannsen Court from Pigeon Run Drive to end	97-394	11,250
Pigeon Run - Meadow Knoll Court from Pigeon Run Drive to end	97-395	11,600
Porter Square - Biggin Hill Rd. from Middle Wallop to Dover Court	98-175	4,750
Porter Square - Hawkins Rd. from Middle Wallop to end	98-174	8,375

APPENDIX D - Suburban Street Program

Porter Square - Jayson Dr. from Porter Rd. to Worthy Down Dr.	98-178	17,125
Porter Square - Roberta Court from Nilsen Road to end	98-179	10,500
Salem Woods - Jaymar Blvd. from Arlene Court to Megan Court	98-532	15,750
Shipley Farms - Quail Court from Pheasant Run Dr. to end	97-147	10,625
Shipley Ridge - Ascending Ave. from Shipley Rd. to Bezel Rd.	98-255	14,250
Shipley Ridge - Bezel Rd. from Ascending Ave. to Hummok Court	98-252	18,750
Shipley Ridge - Bezel Road from Hummock Road to cul-de-sac	98-253	19,875
Shipley Ridge - Hummock Court from Bezel Road to cul-de-sac	98-254	7,250
Tarleton - North Lori Lane at culvert	98-497	5,200
Taylorstowne - Keats Court from Taylor Drive to Topaz Drive	97-542	13,750
Taylorstowne - Stevenson Way from Taylor Drive to end	97-538	32,250
Taylorstowne - Topaz Drive to Poe Way to Emerson Place	97-539	19,750
Williamsburg Court - Williamsburg Court from Grubb to cul-de-sac	97-458	14,500
Wilmington Manor Gardens - University Ave. from West Pt Ave. to	98-659	23,525

APPENDIX D - Suburban Street Program

Bella Vista - Dantes Drive from Raphael Road to end	97-602	12,000
Bella Vista - Davinci Court from Dantes Drive to end	97-603	12,200
Bon Ayre - Partridge Drive from Clover Road to end	98-894	7,000
Brookfield - Brookfield Drive from new hot mix to end	97-403	17,500
Brookfield - Drew Court from Brookfield Drive to end	97-405	7,000
Buckley - Channing Drive from Brandon Drive to Brandon Drive	98-491	19,850
Burnt Mill Road from SR 52 to Oberod Community Center	96-369	18,750
Camden - Stevens Street from Wesley Street to end	97-482	2,875
Center Mill Road (N426) from Old Kennett Pike to Pa. Line	98-448	14,062
Chapel Hill - Decker Drive	98-877	23,000
Chapel Hill - Decker Drive speed humps	98-773	1,750
Chatham - Donlon Rd. from house #2410 to Graylyn Rd.	98-087	9,850
Christina Parkway (SR 4) landscaping	98-456	22,960
Coach Hill - Coach Hill Court from Old Coach Road to end	98-872	19,125
Concord Manor - Brookfield Ave. from Prospect Ave. to	97-315	4,400
Drummond Hill - Embury Court from Dewalt Road to Hammer	98-873	11,000
Dunlinden Acres - Evelyn Drive from Duncan Road to St. Johns	98-523	6,250
Edenridge - Sudbury Rd. from Black Gate Rd. to Conison Rd.	97-285	11,000
Fairfax - Potomac Road from Thomas to Fairfax Bldv.	98-169	22,550
Foxmeadow Farm - Kent Dr. from Wesley Dr. to end	96-278	25,000
Greenbridge (Kimberton) - Furman Court from Greenbridge to	98-520	3,300
Gwinhurst - Odessa Avenue from end to end	97-507	24,850
Gwynhurst - Clayton Avenue at house #2006	98-750	750
Gwynhurst - Holly Oak Road from Philadelphia Pike to Harrison	98-753	15,000
Gwynhurst - Lincoln Avenue from North Park Drive to Smyrna	98-751	14,550
Gwynhurst - Smyrna Ave. from 300 block to 400 block	98-752	8,600
Hickory Hills - Cabot Dr. from Faraday Road to Erickson Drive	98-882	25,565
Hickory Hills - Gibben Drive from Cabot Dr. to end	98-881	3,440
Kimberton - Clarion Court from Durham Court to end	98-526	21,313
Limestone Hills - Belmont Drive from Citation Court to Belmont	98-883	3,875
Limestone Hills - Charleston Dr. from house #307 to house	98-884	7,750
Limestone Hills - Church Hill Lane from Keystone Court to hse.	98-885	7,000
Limestone Hills - E. Longspur Drive from Middleton Dr. to	98-890	18,625
Little Creek - Main St. (K17) from Deford property to catchbasin	98-344	13,000
McDaniel Heights - Nichols Avenue from SR 202 to Shellpot Dr.	98-382	41,063
Mendenhall Village - Forest Creek from Stonebrook to	98-892	6,075
Mendenhall Village - Old Forge Circle from Village Drive to end	98-888	3,875
Mendenhall Village - Quail Hollow Rd. from Fox to Ironside	98-889	9,125
Mendenhall Village - Village Drive at entrance from Mendenhall	98-887	1,375
Mendenhall Village - Village Drive from Limestone Rd. to Quail	98-886	13,675
Mermaid Stoney Batter south of Skyline Drive	98-779	687
North Star - Venus Drive speed humps	98-399	1,387
Penn Acres - Booth Drive from Finney Dr. to Finney Dr.	97-515	18,000
Porter Square - Jayson Dr. from Worthy Down to E. Weald	98-177	14,650
Possum Park Road bypass lane at Holy Angels Church	98-074	13,187
Road K10 in front of Kent-Sussex Industries	97-406	7,560
Road K137 (Carter Rd.) from West Commerce Street to #16	98-833	7,825
Road K137 (Carter Rd.) from W. Commerce St. to W. Mount	98-834	9,750
Road K331 and Road K330 intersection drainage	98-830	7,075
Road K355 (Old Mill Road) drainage at intersection of Road K29	97-150	7,500
Road N488 (Brick Store Landing Road) from Road N485 to	97-047	46,350

APPENDIX D - Suburban Street Program

Skyline Drive at Linden Hill Elementary School	98-780	1,937
Townsend - Gray Street from Faulkland Street to South Street	98-696	128,000
Webster Farms - Stoneleigh Road and Webster Road	98-339	2,550
Webster Farms - Stoneleigh Road from Wilson Road to	98-338	3,700
Wilmington Manor - Franklin Ave. from Jefferson Ave. to Route	95-183	71,500
Wilmington Manor - Franklin Ave. from Jefferson to Pa. Ave.	95-182	57,200
Wilmington Manor - Vanburen Avenue from Jefferson Ave. to	95-181	53,300
Woodbrook - Rothbury Rd. from Kerfoot Farm Rd. to Kerfoot	97-215	30,120

APPENDIX D - Suburban Street Program

01st Representative District	98-701	250,000
01st Senatorial District	98-801	200,000
02nd Representative District	98-702	250,000
02nd Senatorial District	98-802	250,000
03rd Representative District	98-703	250,000
03rd Senatorial District	98-803	250,000
04th Representative District	98-704	28,600
04th Senatorial District	98-804	41,970
05th Representative District	98-705	250,000
05th Senatorial District	98-805	63,855
06th Representative District	98-706	152,633
06th Senatorial District	98-806	10,393
07th Representative District	98-707	27,887
07th Senatorial District	98-807	250,000
08th Representative District	98-708	250,000
08th Senatorial District	98-808	195,490
09th Representative District	98-709	122,000
09th Senatorial District	98-809	250,000
10th Representative District	98-710	105,710
10th Senatorial District	98-810	74,840
11th Representative District	98-711	219,355
11th Senatorial District	98-811	96,645
12th Representative District	98-712	229,391
12th Senatorial District	98-812	23,597
13th Representative District	98-713	250,000
13th Senatorial District	98-813	250,000
14th Representative District	98-714	250,000
14th Senatorial District	98-814	238,000
15th Representative District	98-715	5,925
15th Senatorial District	98-815	250,000
16th Representative District	98-716	250,000
16th Senatorial District	98-816	250,000
17th Representative District	98-717	131,124
17th Senatorial District	98-817	250,000
18th Representative District	98-718	234,625
18th Senatorial District	98-818	117,510
19th Representative District	98-719	250,000
19th Senatorial District	98-819	249,100
20th Representative District	98-720	73,857
20th Senatorial District	98-820	16,947
21st Representative District	98-721	230,368
21st Senatorial District	98-821	250,000
22nd Representative District	98-722	208,125
23rd Representative District	98-723	240,000
24th Representative District	98-724	218,395
25th Representative District	98-725	141,112
26th Representative District	98-726	16,635
27th Representative District	98-727	201,174
28th Representative District	98-728	106,500
29th Representative District	98-729	195,625
30th Representative District	98-730	235,000

APPENDIX D - Suburban Street Program

31st Representative District	98-731	243,542
32nd Representative District	98-732	243,750
33rd Representative District	98-733	236,041
34th Representative District	98-734	169,690
35th Representative District	98-735	250,000
36th Representative District	98-736	250,000
37th Representative District	98-737	200,000
38th Representative District	98-738	250,000
39th Representative District	98-739	250,000
40th Representative District	98-740	250,000
41st Representative District	98-741	250,000
Arden	98-1326	6,000
Ardencroft	98-1328	4,000
Ardentown	98-1327	4,000
Christiana Fire Company - install 14 opticoms	98-1302	28,710
Christiana Fire Company - install 14 opticoms	98-1302	14,355
City of Dewey Beach	98-1307	25,000
City of Lewes	98-1308	25,000
City of New Castle	98-1301	30,000
City of Wilmington - Goodstay Walkways Project	98-1337	10,000
City of Wilmington - Public Works Dept. - Westover Hills	98-1338	21,000
City of Wilmington - Public Works Dept. - Cool Springs Project	98-1340	15,000
City of Wilmington - Public Works Dept. - DE Ave. streetscape	98-1341	20,000
City of Wilmington - Public Works Dept. - Gibraltar	98-1335	50,000
City of Wilmington - Public Works Dept. - Little Italy Project	98-1339	25,000
City of Wilmington - Public Works Dept. - Rodney Square	98-1336	35,000
City of Wilmington - Public Works Dept. - Sports Hall of Fame	98-1334	10,000
City of Wilmington - Public Works Dept. - Wawaset Streetscape	98-1342	25,000
Dayette Mill	98-1322	19,000
Delcastle paving project	98-1300	20,000
Georgetown Airport	98-1319	3,273
Greenway - Hockessin	98-1329	30,000
Greenway - Mt Lebanon Road	98-1331	10,000
Historical marker rehabilitation project	98-1304	6,000
I-95 - fence for sound barrier	98-1325	55,900
KCCD - Alley corner Road/Jones	98-1471	3,125
KCCD - Artis Drive/Bell	98-1479	6,250
KCCD - Blackiston Rd/Blow	98-1478	3,125
KCCD - Bowers Beach/Kaercher	98-1453	1,875
KCCD - Carlisle Village/Jones	98-1483	2,500
KCCD - DelDot Magnolia yard	98-1454	1,875
KCCD - Dupont Manor	98-1468	3,125
KCCD - Fork Branch Road/Thomas	98-1469	1,666
KCCD - Gun and Rod Club Road	98-1430	6,250
KCCD - Harrington/Short Street drainage	98-1431	6,250
KCCD - Hatchery Road/Gatson	98-1470	2,500
KCCD - Hillyard Road/O'Neill, Chadwick	98-1476	3,125
KCCD - Hollets Corner Road/Neal	98-1472	1,875
KCCD - Lockwood Chapel Road/Krupka	98-1484	6,875
KCCD - Milford Meadows/Wingrove	98-1450	3,125
KCCD - Millington/Eberhard	98-1477	6,250

APPENDIX D - Suburban Street Program

KCCD - Pheasant Point	98-1473	3,125
KCCD - Seeneytown Road/Tribbells, Samons	98-1474	625
KCCD - South Little Creek Road	98-1467	2,083
KCCD - Turkeypointe Road/Wooleyhand	98-1429	2,500
KCCD - Voshells Cove	98-1475	3,125
KCCD - West Dennys Road/Opdyke	98-1481	3,125
KCCD - Wheatley's Pond	98-1482	6,250
KCCD - Woodside/Burke	98-1451	4,167
KCCD - Woodside/Whitt	98-1452	2,917
KCCD - Wyoming Mill Rd/Luff	98-1466	8,334
NCCCD - Arden	98-1408	2,225
NCCCD - Army Creek	98-1463	6,250
NCCCD - Army Creek - Route 40 Phase II	98-1464	6,250
NCCCD - Ashbourne Hills - Wentworth Drive	98-1413	2,000
NCCCD - Beech Hill - Cotswald Hills phase II	98-1432	9,375
NCCCD - Blue Rock Manor	98-1426	8,750
NCCCD - Bookmeade II - Turnstone Drive	98-1440	3,125
NCCCD - Brandywine Creek	98-1446	3,124
NCCCD - Buttonwood drainage study	98-1401	10,000
NCCCD - Caravel Drive preliminary engineering	98-1403	7,500
NCCCD - Caravel Farms - Congress Dr./E. Savannah Dr.	98-1404	7,000
NCCCD - Caravel Farms - Savannah Drive West	98-1405	3,500
NCCCD - Chatham - Larkal Drive	98-1414	16,166
NCCCD - Christina Creek	98-1447	5,000
NCCCD - Corner Ketch Road	98-1433	8,750
NCCCD - Deerhurst - Pierce Road	98-1428	2,000
NCCCD - Drummond Ridge - Henderson Heights	98-1441	3,750
NCCCD - Eastburn Acres - Marta Drive	98-1443	1,094
NCCCD - Eastburn Acres - Marta Drive Phase II	98-1442	10,625
NCCCD - Governor Printz - Golden Acres	98-1419	10,000
NCCCD - Graylyn Crest North - Phase II	98-1409	62,500
NCCCD - Green Valley - Clover Court	98-1445	1,538
NCCCD - Grubb Landing East - Rivers End Drive	98-1427	3,875
NCCCD - Grubb Road	98-1410	3,750
NCCCD - Gwinhurst - Grant and Georgetown	98-1420	1,900
NCCCD - Hickory Hills North - Tammie Drive	98-1406	9,500
NCCCD - Hickory Hills South - Clifton Drive	98-1407	14,750
NCCCD - Hillcrest - Beverly Place	98-1457	4,950
NCCCD - Hillstream I - Welwyn Road	98-1434	13,625
NCCCD - Hyde Run phase II	98-1437	6,250
NCCCD - Lamatan - Lamatan Drive	98-1436	6,375
NCCCD - Londonderry - Crystal Court	98-1415	7,000
NCCCD - Lynfield - Homewood Road	98-1421	12,500
NCCCD - Madelyn Gardens - Madelyn Avenue	98-1422	3,534
NCCCD - Mill Creek - Hockessin to Delcastle	98-1459	12,500
NCCCD - Mill Creek - North Point to Delcastle	98-1482	12,500
NCCCD - Milltown Road west of Route 7	98-1444	2,625
NCCCD - Palm Springs - Phase II preliminary engineering	98-1448	5,000
NCCCD - Pembrey - West Pembrey Drive	98-1417	9,500
NCCCD - Penn Acres - Lesley Lane	98-1402	3,325
NCCCD - Ramblewood - Woodstream Drive	98-1411	8,000

APPENDIX D - Suburban Street Program

NCCCD - Red Clay Creek	98-1438	6,734
NCCCD - Red Lion Creek Phase II	98-1458	5,000
NCCCD - Shellpot Creek	98-1418	6,250
NCCCD - Shellpot Creek	98-1418	6,250
NCCCD - Shellpot Creek	98-1418	3,125
NCCCD - Sherwood Park - Bardell Drive walkway	98-1460	5,625
NCCCD - Stenning Woods - Latitia Drive	98-1461	6,000
NCCCD - Stockdale - Cathedral Avenue	98-1423	2,125
NCCCD - Stoney Creek Run	98-1412	1,500
NCCCD - Stoney Creek Run	98-1412	3,000
NCCCD - Thistleberry Farms - Fashion Circle	98-1435	3,750
NCCCD - Wawaset Park - McDonough Road	98-1456	2,550
NCCCD - Westhaven - North Dupont Road	98-1455	6,288
NCCCD - Westminster - Hyde Run Drive	98-1439	4,500
NCCCD - Whethersfield - Penny Lane	98-1465	2,875
Newark Senior Center	98-1330	5,000
Rehoboth Beach - Forgotten Mile	98-1314	25,000
Rehoboth Beach - opticoms	98-1318	6,000
Selbyville Volunteer Fire Company - opticom	98-1317	3,000
Slaughter Beach - S204 south from S224 to dead end	98-1320	48,250
Smyrna School District - fitness trail	98-1305	2,500
Talleyville Fire Company - preemptive traffic device	98-1324	20,000
Town of Bethany	98-1313	40,000
Town of Bridgeville - historic signs	98-1310	900
Town of Clayton - sidewalk project	98-1303	11,000
Town of Dagsboro	98-1315	30,000
Town of Frankford	98-1311	30,000
Town of Millsboro	98-1316	30,000
Town of Selbyville	98-1312	50,000
University of Delaware	98-1321	14,000
University of Delaware - Morris Library parking lot paving	98-1323	10,000
University of Delaware - Pencader Drive	98-1332	30,000
Veterans Cemetery road work	98-1309	12,000
Woodland Beach Causeway - engineering study	98-1306	40,000

CHAPTER 151

FORMERLY

HOUSE BILL NO. 363

AN ACT TO AMEND CHAPTER 171, VOLUME 58, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO CHANGE THE JURISDICTIONAL POWERS OF THE POLICE DEPARTMENT OF THE TOWN OF CHESWOLD".

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

Section 1. Amend Section 6, Chapter 171, Volume 58, Laws of Delaware, as amended, by inserting the following at the end of the second sentence:

"Cheswold policemen shall have jurisdiction within the town limits and within a one mile circle surrounding the town limits, however, not on United States routes and highways for traffic enforcement purposes."

Approved July 9, 1997

CHAPTER 152

FORMERLY

HOUSE BILL NO. 209

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE REGARDING THE DISPOSITION OF FINES AND COSTS.

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

Section 1. Amend Delaware Code, Title 21, Section 706 by inserting the following as subsection (b):

"(b) All fines and costs collected as a result of radar, or other speed timing devices, where the device is operated to determine speed beyond the corporate limits of an incorporated city or town but within the jurisdiction of the extended corporate limits provided by the applicable Municipal Charter, shall be paid to the State Treasurer for the General Fund."

Section 2. Amend Delaware Code, Title 21, Section 706 by relettering the existing Subsection (b) as Subsection (c).

Approved July 9, 1997

CHAPTER 153

FORMERLY

HOUSE BILL NO. 6

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE WITH RESPECT TO DEFENSES TO CRIMINAL LIABILITY AND EVIDENCE OF INTOXICATION.

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

Section 1. Amend Title 11 of the Delaware Code by striking § 422 thereof in its entirety, and by inserting in its place a new section to read:

"§ 422. Intoxication not mental illness.

Evidence of voluntary intoxication shall not be admissible for the purpose of proving the existence of mental illness, mental defect, or psychiatric disorder within the meaning of § 401 of this Title."

Approved July 9, 1997

CHAPTER 154

FORMERLY

SENATE BILL NO. 131

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SENTENCING IN CRIMINAL CASES.

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

Section 1. Amend Section 4204(k) of Title 11 of the Delaware Code by striking said subsection in its entirety, and by substituting in lieu thereof the following:

"(k)(1) Except as provided in this subsection, notwithstanding any statute, rule, regulation or guideline to the contrary, the Court may direct as a condition to a sentence of imprisonment to be served at Level V or otherwise that all or a specified portion of said sentence shall be served without benefit of any form of early release, good time, furlough, work release, supervised custody, or any other form of reduction or diminution of sentence.

(2) For the purposes of this subsection, statutes which authorize early release, good time, furlough, work release, supervised custody, reduction or diminution of sentence include but are not limited to 4205(h), 4205(i), 4206(g) and 4206(h), 4217, 4381, 6533, 6533A, 6537, 6538 and 6539 of this Title.

(3) The provisions of this subsection shall be applicable only to sentences of imprisonment at Level V for one year or less, or to sentences of imprisonment at Level V which are equal to the statutory maximum level V sentence available for the crime or offense."

Approved July 9, 1997

CHAPTER 155

FORMERLY

SENATE BILL NO. 191

AN ACT RELATING TO THE PURCHASE OF CERTAIN HORSESHOE CRAB COLLECTING PERMITS.

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

Section 1. Any person who purchased a horseshoe crab collecting permit prior to May 28, 1997, and pursuant to Chapter 27 of Title 7 for the period May 1, 1997 through April 30, 1998 shall be eligible for a refund of \$50. Applications for said refund shall not be accepted by the Department of Natural Resources and Environmental Control after September 12, 1997.

Section 2. Within 30 days of the date of enactment, the Department shall send a written notice to all persons at their last known address by the Department who, prior to May 28, 1997, had been issued horseshoe crab collecting permits for the period May 1, 1997 through April 30, 1998 to inform them of their eligibility for the refund.

Approved July 9, 1997

CHAPTER 156

FORMERLY

SENATE BILL NO. 200

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. Lisa Anne Rayner and Rand Marc Snyder are hereby exempted from the provisions of Del. C. §106(a) which designates who may solemnize marriages, and that the Honorable Arthur Irving Snyder, retired Circuit Court Judge, is hereby authorized to solemnize the marriage between Lisa Anne Rayner and Rand Marc Snyder on September 28, 1997 in the County of New Castle, State of Delaware. The Clerk of the Peace for the County of New Castle shall issue to Lisa Anne Rayner and Rand Marc Snyder one official marriage license pursuant to this Act, the provisions of the 13 Del. C. §106 to the contrary notwithstanding.

Approved July 9, 1997

CHAPTER 157

FORMERLY

SENATE BILL NO. 88
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 13, TITLE 25, DELAWARE CODE RELATING TO
FENCES AND BARBED WIRE.

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

Section 1. Amend §1301, Chapter 13, Title 25, Delaware Code by adding at the end of
said section a new sentence to read as follows:

"No fence of any kind which is composed in whole or in part of or to which there
is or has been added, barbed wire, razor wire, or any barbed wire type of fencing material shall
be permitted in any residential district without prior approval of the county or municipal zoning
board or its board of adjustment, unless the property being enclosed by such fence is being used
for farming or educational purposes."

Approved July 9, 1997

CHAPTER 158

FORMERLY

HOUSE BILL NO. 286

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO TAMPERING
WITH A JUROR.

BE IT 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, Section 1266, Delaware Code by striking the current section
and replacing it as follows:

"A person is guilty of tampering with a juror when:

(1) with intent to influence the outcome of an official proceeding, the person
communicates with a juror in the proceeding, except as permitted by the rules of evidence
governing the proceeding, or

(2) in relation to an official proceeding pending or about to be brought before the
juror, the person offers, negotiates, confers, or agrees to confer any payment or benefit to
the juror or to a third person in consideration for supplying any information depicting the
juror's service.

For purposes of this section, a juror shall be any person who has received notice
of summons to appear for jury service.

Tampering with a juror is a Class A misdemeanor."

Approved July 9, 1997

CHAPTER 159

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 356

AN ACT TO AMEND TITLE 12, DELAWARE CODE, RELATING TO QUALIFIED DISPOSITIONS IN TRUST.

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

Section 1. Amend Chapter 35, Title 12, by adding thereto a new subchapter, which subchapter shall read in its entirety as follows:

"Subchapter VI. Qualified Dispositions in Trust.

§ 3570. Definitions.

As used in this subchapter:

(1) 'Claim' means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured.

(2) 'Creditor' means, with respect to a transferor, a person who has a claim.

(3) 'Debt' means liability on a claim.

(4) 'Disposition' means a transfer, conveyance or assignment of property, or the exercise of a power so as to cause a transfer of property, to a trustee.

(5) 'Property' includes real property, personal property, and interests in real or personal property.

(6) 'Qualified Disposition' means a disposition by or from a transferor to a trustee, with or without consideration, by means of a trust instrument.

(7) 'Transferor' means a person who, as an owner of property or as a holder of a general power of appointment, directly or indirectly makes a disposition or causes a disposition to be made.

(8) 'Trustee' means a person who:

a. in the case of natural person, is a resident of this State or, in all other cases, is authorized by the law of this State to act as a trustee and whose activities are subject to supervision by the Bank Commissioner of the State, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, or the Office of Thrift Supervision or any successor thereto; and

b. maintains or arranges for custody in this State of some or all of the property transferred to the trustee, maintains records for the trust on an exclusive or nonexclusive basis, prepares or arranges for the preparation of fiduciary income tax returns for the trust, or otherwise materially participates in the administration of the trust.

(9) 'Trust instrument' means an instrument appointing a trustee for the property that is the subject of a disposition, which instrument:

a. expressly incorporates the law of this State to govern the validity, construction and administration of the trust;

b. is irrevocable, but a trust instrument shall not be deemed revocable on account of its inclusion of one or more of the following: a transferor's power to veto a distribution from a trust, a testamentary special power of appointment or similar power vested in the transferor, or the transferor's potential or actual receipt of a distribution of income, principal, or both, in the sole discretion of a trustee who is neither the transferor nor a related or subordinate party of the transferor within the meaning of 26 U.S.C. § 672(c); and

c. provides that the interest of a beneficiary in the trust property or the income therefrom may not be transferred or assigned, whether voluntarily or involuntarily, before the trustee distributes the property or income to the beneficiary.

§ 3571. No retained interest of transferor.

A qualified disposition that requires a trustee to distribute all or any part of the trust's income or principal, or both, to the transferor shall not be entitled to any rights or benefits arising under § 3572, but a qualified disposition shall remain subject to § 3572 notwithstanding that the trustee has the sole discretion, exercisable without regard to any ascertainable standard, to distribute trust income or principal, or both, to the transferor if such trustee is neither the transferor nor a related party or subordinate party of the transferor within the meaning of 26 U.S.C. § 672(c).

§ 3572. Avoidance of qualified dispositions.

(a) Notwithstanding any other provision of this Code, no action of any kind, including, without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, shall be brought at law or in equity for an attachment or other provisional remedy against property that is the subject of a qualified disposition or for avoidance of a qualified disposition unless such action shall be brought pursuant to the provisions of § 1304 or § 1305 of Title 6.

(b) Notwithstanding the provisions of § 1309 of Title 6, a creditor may not bring an action under subsection (a) hereof if:

(1) the creditor's claim against the transferor arose before the qualified disposition was made unless the action is brought within 4 years after the qualified disposition is made or, if later, within 1 year after the qualified disposition was or could reasonably have been discovered by the creditor; or

(2) the creditor's claim against the transferor arose subsequent to the qualified disposition unless the action is brought within 4 years after the qualified disposition is made.

§ 3573. Persons not subject to qualified dispositions.

Notwithstanding the provisions of § 3572, this subchapter shall not apply in any respect:

(a) to any person to whom the transferor is indebted on account of an agreement or order of court for the payment of support or alimony in favor of such transferor's spouse, former spouse or children, or for a division of distribution of property in favor of such transferor's spouse or former spouse, to the extent of such debt; or

(b) to any creditor who became a creditor of the transferor in reliance upon an express written statement of the transferor that any property that was the subject of the qualified disposition thereafter remained the property of the transferor and was available to satisfy any debt to such creditor incurred by the transferor; or

(c) to any person who suffers death, personal injury or property damage on or before the date of a qualified disposition by a transferor, which death, personal injury or property damage is at any time determined to have been caused in whole or in part by the act or omission of either such transferor or by another person for whom such transferor is or was vicariously liable.

§ 3574. Effect of avoidance of qualified dispositions.

(a) A qualified disposition shall be avoided only to the extent necessary to satisfy the transferor's debt to the creditor at whose instance the disposition had been avoided, together with such costs, including attorneys' fees, as the court may allow.

(b) In the event any qualified disposition shall be avoided as provided in subsection (a) hereof, then:

(1) If the court is satisfied that the trustee has not acted in bad faith in accepting or administering the property that is the subject of the qualified disposition,

a. the trustee shall have a first and paramount lien against the property that is the subject of the qualified disposition in an amount equal to the entire cost, including attorneys' fees, properly incurred by the trustee in the defense of the action or proceedings to avoid the qualified disposition; and

b. the qualified disposition shall be avoided subject to the proper fees, costs, preexisting rights, claims and interests of the trustee (and of any predecessor trustee that has not acted in bad faith); and

c. for purposes of this subparagraph (1), it shall be presumed that the trustee did not act in bad faith merely by accepting such property; and

(2) If the court is satisfied that a beneficiary of a trust has not acted in bad faith, the avoidance of the qualified disposition shall be subject to the right of such beneficiary to retain any distribution made upon the exercise of a trust power or discretion vested in the trustee of such trust, which power or discretion was properly exercised prior to the creditor's commencement of an action to avoid the qualified disposition.

§ 3575. Application of subchapter.

This subchapter shall apply to qualified dispositions made on or after July 1, 1997.

§ 3576. Short title.

This subchapter may be cited as the "Qualified Dispositions in Trust Act."

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

Approved July 9, 1997

CHAPTER 160
FORMERLY
SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 31

AN ACT TO AMEND CHAPTER 16, TITLE 24 OF THE DELAWARE CODE RELATING
TO ADULT ENTERTAINMENT ESTABLISHMENTS.

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

Section 1. Amend §1625, Chapter 16, Title 24 of the Delaware Code by striking the third sentence of subsection (b), and substituting in lieu thereof the following:

"This subsection shall not apply to any business, which, on or before January 1, 1997 was regulated under both this Chapter and Title 4, and which is not an adult book store, conversation parlor, or adult motion picture theater as the same are defined in this Chapter."

Approved July 9, 1997

CHAPTER 161

FORMERLY

SENATE BILL NO. 171

AN ACT TO AMEND TITLE 18, DELAWARE CODE RELATING TO THE CANCELLATION OF AGENCY CONTRACTS WITH INDEPENDENT INSURANCE AGENTS.

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

Section 1. Amend Title 18 Delaware Code by adding the following new subsection (e) to Section 529.

"(e)(1) This subsection shall not apply in an instance where such company:

- (i) Employs an agent directly; or
- (ii) has an exclusive business arrangement with an agent.

(2) Notwithstanding any other provision of this section, a company may not cancel the contract of an independent agent for property and casualty insurance solely because of adverse underwriting experience in the line of private passenger insurance to the extent losses incurred by the insurer were not the fault of the insured.

(3) This subsection does not apply to adverse underwriting experience on losses incurred by the company on:

- (i) bodily injury coverage;
- (ii) property damage coverage;
- (iii) collision coverage; or
- (iv) to the extent that the losses incurred by the insurer were the fault of the insured, personal injury protection coverage and comprehensive coverage."

Approved July 9, 1997

CHAPTER 162

FORMERLY

SENATE BILL NO. 181

AN ACT TO AMEND TITLE 6, OF THE DELAWARE CODE RELATING TO THE
REGULATION OF SECURITIES, BROKER-DEALERS, INVESTMENT
ADVISERS AND AGENTS.

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

Section 1. Amend Subsection (a), Section 7302, Chapter 73, Title 6 of the
Delaware Code by deleting paragraph (2) thereof in its entirety and inserting in lieu
thereof the following:

"(2) 'Agent' means any individual, other than a broker-dealer, who represents a
broker-dealer or issuer in effecting or attempting to effect purchases or sales of
securities. 'Agent' does not include an individual who represents (A) an issuer in (i)
effecting transactions in a security exempted by section 7309(a)(1), (2), (3), (10), or (11)
of this title, (ii) effecting transactions exempted by section 7309(b) of this title, (iii)
effecting transactions in a covered security as described in section 18(b)(3) and
18(b)(4)(D) of the Securities Act of 1933, or (iv) effecting transactions with existing
employees, partners or directors of the issuer if no commission or other remuneration is
paid or given directly or indirectly for soliciting any person in this state; (B) a broker-
dealer in effecting transactions in this state limited to those transactions described in
section 15(h)(2) of the Securities Exchange Act of 1934; or (C) an issuer or a member
of a bona fide agricultural cooperative whose securities are exempt from registration
under section 7309(a)(12) of this title. A partner, officer, or director of a broker-dealer
or issuer, or a person occupying a similar status or performing similar functions, is an
agent only if he otherwise comes within this definition."

Section 2. Amend Subsection (a), Section 7302, Chapter 73, Title 6 of the
Delaware Code by deleting paragraph (6) thereof in its entirety and inserting in lieu
thereof the following:

"(6) 'Investment Adviser' means any person who, for compensation, engages in
the business of advising others, either directly or through publications or writings, as to
the value of securities or as to the advisability of investing in, purchasing, or selling
securities, or who, for compensation and as a part of a regular business, issues or
promulgates analyses or reports concerning securities. 'Investment Adviser' also
includes financial planners and other persons who, as an integral component of other
financially related services, provide the foregoing investment advisory services to others
for compensation and as part of a business or who hold themselves out as providing
the foregoing investment advisory services to others for compensation. 'Investment
Adviser' does not include (A) an investment adviser representative; (B) a bank, savings
institution, or trust company; (C) a lawyer, accountant, engineer, or teacher whose
performance of these services is solely incidental to the practice of his profession; (D) a
broker-dealer or its agent whose performance of these services is solely incidental to
the conduct of its business as a broker-dealer and who receives no special
compensation for them; (E) a publisher of any bona fide newspaper, news column,
newsletter, news magazine, or business or financial publication or service, whether
communicated in hard copy form, or by electronic means, or otherwise, that does not
consist of the rendering of advice on the basis of the specific investment situation of
each client; (F) any person who is a federal covered adviser; or (G) such other persons
not within the intent of this subsection as the Commissioner may by rule or order
designate."

Section 3. Amend Subsection (a), Section 7302, Chapter 73, Title 6 of the Delaware Code by inserting after paragraph (6) thereof the following new paragraph:

"(6A) 'Investment adviser representative' means any partner, officer, director (or a person occupying a similar status or performing similar functions) or other individual, except clerical or ministerial personnel, who is employed by or associated with an investment adviser that is registered or required to be registered under this chapter, or who has a place of business located in this state and is employed by or associated with a federal covered adviser; and who does any of following: (A) makes any recommendations or otherwise renders advice regarding securities, (B) manages accounts or portfolios of clients, (C) determines which recommendation or advice regarding securities should be given, (D) solicits, offers or negotiates for the sale of or sells investment advisory services, or (E) supervises employees who perform any of the foregoing."

Section 4. Amend Subsection (a), Section 7302, Chapter 73, Title 6 of the Delaware Code by adding the following new paragraph:

"(16) 'Federal covered adviser' means a person who is registered under section 203 of the Investment Advisers Act of 1940."

Section 5. Amend Subsection (a), Section 7302, Chapter 73, Title 6 of the Delaware Code by inserting after paragraph (16) thereof the following new paragraph:

"(17) 'Federal covered security' means any security that is a covered security under section 18(b) of the Securities Act of 1933 or rules or regulations promulgated thereunder."

Section 6: Amend Chapter 73, Title 6 of the Delaware Code by deleting section 7304 in its entirety and inserting in lieu thereof the following:

"Section 7304. Registration of and Notice Filing for Securities.

It is unlawful for any person to offer or sell any security in this state unless (1) it is registered under this chapter; (2) the security or transaction is exempted under section 7309 of this title; or (3) it is a federal covered security for which a notice filing has been made pursuant to the provisions of section 7309A of this title."

Section 7. Amend Section 7308, Chapter 73, Title 6 of the Delaware Code by deleting the word "The" at the beginning of subsection (a) and inserting in lieu thereof the following:

"Subject to section 7309A(e) of this chapter, the"

Section 8. Amend Subsection (a), Section 7309, Chapter 73, Title 6 of the Delaware Code by deleting from the beginning of that subsection the clause "The following securities are exempted from section 7304 and section 7312 of this title" and inserting in lieu thereof the following clause:

"The following securities are exempted from section 7304, section 7309A, and section 7312 of this title"

Section 9. Amend Subsection (b), Section 7309, Chapter 73, Title 6 of the Delaware Code by deleting from the beginning of that subsection the clause "The following transactions are exempted from section 7304 and section 7312 of this title" and inserting in lieu thereof the following:

"The following transactions are exempted from section 7304, section 7309A, and section 7312 of this title"

Section 10. Amend Subsection (b), Section 7309, Chapter 73, Title 6 of the Delaware Code by deleting paragraph (2) in its entirety and inserting in lieu thereof the following:

"(2) any nonissuer transaction by a registered agent of a registered broker-dealer, and any resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of the public for at least 90 days, provided, at the time of the transaction:

(A) The issuer of the security is actually engaged in business and not in the organization stage or in bankruptcy or receivership and is not a blank check, blind pool or shell company whose primary plan of business is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person or persons;

(B) The security is sold at a price reasonably related to the current market price of the security;

(C) The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security;

(D) A nationally recognized securities manual designated by rule or order of the commissioner or a document filed with the Securities and Exchange Commission that is publicly available through the SEC's Electronic Data Gathering and Retrieval System (EDGAR) and contains:

(i) A description of the business and operations of the issuer;

(ii) The names of the issuer's officers and directors, if any, or, in the case of an issuer not domiciled in the United States, the corporate equivalents of such persons in the issuer's country of domicile;

(iii) An audited balance sheet of the issuer as of a date within eighteen (18) months or, in the case of a reorganization or merger where parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet; and

(iv) An audited income statement for each of the issuer's immediately preceding two fiscal years, or for the period of existence of the issuer, if in existence for less than two years or, in the case of a reorganization or merger where the parties to the reorganization or merger had such audited income statement, a pro forma income statement; and

(E) The issuer of the security has a class of equity securities listed on a national securities exchange registered under the Securities Exchange Act of 1934, or designated for trading on the National Association of Securities Dealers Automated Quotation System (NASDAQ), unless:

(i) The issuer of the security is a unit investment trust registered under the Investment Company Act of 1940, or

(ii) The issuer of the security has been engaged in continuous business (including predecessors) for at least three years, or

(iii) The issuer of the security has total assets of at least two million dollars (\$2,000,000) based on an audited balance sheet as of a date within eighteen (18) months or, in the case of a reorganization or merger where parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet."

Section 11. Amend Chapter 73, Title 6 of the Delaware Code by adding the following new section:

"Section 7309A. Federal Covered Securities.

(a) The Commissioner, by rule or order, may require the filing of any or all of the following documents with respect to a covered security under Section 18(b)(2) of the Securities Act of 1933:

(1) Prior to the initial offer of such federal covered security in this state, all documents that are part of a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933 (or, in lieu of filing such registration statement, a notice as prescribed by the Commissioner by rule or order), together with a consent to service of process signed by the issuer and with a filing fee as provided by rule or regulation, but in no case shall the fee be less than \$200 or more than \$1,000. In addition, the Commissioner may require reasonable fees for miscellaneous costs absorbed by the Securities Division for printing, copying, filing or transcription of other documents.

(2) After the initial offer of such federal covered security in this state, all documents that are part of an amendment to a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, which shall be filed concurrently with the Commissioner.

(3) A report of the value of such covered securities offered or sold in this state, together with a filing fee as provided by rule or regulation, but in no case shall the fee be less than \$200 or more than \$1,000; provided, however, that if the filing fee paid is equal to \$1,000, no report of the value of such covered securities offered or sold in this state need be filed.

(b) With respect to any security that is a covered security under Section 18(b)(4)(D) of the Securities Act of 1933, the Commissioner, by rule or order, may require the issuer to file a notice on S.E.C. Form D and a consent to service of process signed by the issuer no later than 15 days after the first sale of such covered security in this state, together with a filing fee as provided by rule or regulation, but in no case shall the fee be less than \$200 or more than \$1,000.

(c) The Commissioner, by rule or otherwise, may require the filing of any document filed with the Securities and Exchange Commission under the Securities Act of 1933, with respect to a covered security under Section 18(b)(3) or (4) of the Securities Act of 1933, together with a filing fee as provided by rule or regulation, but in no case shall the fee be less than \$200 or more than \$1,000.

(d) The Commissioner may require that filings made and fees paid pursuant to subsections (a), (b), and (c) of this section be renewed annually. Where the Commissioner finds that an additional security from the same issuer has different characteristics from the security as to which the first filing was made, such as being a separate portfolio or series of an investment company or mutual fund, the Commissioner may require separate filing, fee payment, and renewal for the additional security.

(e) The Commissioner may issue a stop order suspending the offer and sale of a covered security, except a covered security under Section 18(b)(1) of the Securities Act of 1933, if it finds that (1) the order is in the public interest and (2) there is a failure to comply with any condition established under this section.

(f) The Commissioner, by rule or order, may waive any and all provisions of this section.

(g) Notwithstanding the provisions of this section, until October 10, 1999, the Commissioner may require the registration of any federal covered security for which the fees required by this section have not been paid promptly following written notification from the Commissioner regarding any nonpayment or underpayment of such fees. An issuer shall be considered to have promptly paid such fees if they are remitted to the

Commissioner within 15 days following such person's receipt of written notification from the Commissioner."

Section 12. Amend Section 7311, Chapter 73, Title 6 of the Delaware Code by deleting the section headnote in its entirety and inserting in lieu thereof the following new section headnote:

"Section 7311. Unlawful representations concerning registration, notice filing or exemption."

Section 13. Amend Subsection (a), Section 7311, Chapter 73, Title 6 of the Delaware Code by deleting the first sentence of that subsection and inserting in lieu thereof the following:

"Neither the fact that a notice filing under this chapter, an application for registration under this chapter, or a registration statement under this chapter, has been filed, nor the fact that a person or security is effectively registered, constitutes a finding by the Commissioner that any document filed under this chapter is true, complete and not misleading."

Section 14. Amend Chapter 73, Title 6 of the Delaware Code by striking section 7312 in its entirety and inserting in lieu thereof the following:

"Section 7312. Filing of Sales and Advertising Literature.

The Commissioner may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser unless the security or transaction is exempted by section 7309 of this title or is a federal covered security."

Section 15. Amend Chapter 73, Title 6 of the Delaware Code by deleting section 7313 in its entirety and inserting in lieu thereof the following:

"Section 7313. Registration and Notice Filing Requirements for Broker-Dealers, Agents, Investment Advisers, Federal Covered Advisers and Investment Adviser Representatives.

(a) It is unlawful for any person to transact business in this state as a broker-dealer or agent unless he is registered under this chapter.

(b) It is unlawful for any broker-dealer or issuer to employ an agent unless the agent is registered. When an agent begins or terminates a connection with a broker-dealer or issuer, or begins or terminates those activities which make him an agent, the agent as well as the broker-dealer or issuer shall promptly notify the Commissioner. Every registration of an agent expires when the agent terminates his connection with a broker-dealer or issuer, though the person may still be subject to disciplinary action by the Commissioner under subsection 7316(e). When such an agent begins a connection with another broker-dealer or another issuer, he shall file an application for initial registration as provided in subsection 7314(a) of this title and shall pay a filing fee prescribed by subsection 7314(c) of this title. Unless the Commissioner takes action under section 7316 or section 7315 of this title, the said agent registration shall become effective 30 days after receipt of a complete application by the Commissioner (or by his designee) and shall continue in effect until it expires under the provisions of subsection (f) hereof, or under the provisions of this subsection, whichever would earlier occur. The Commissioner shall be empowered to waive the 30 day period at his discretion.

(c) It is unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless:

(1) he is registered under this chapter; or

(2) he has no place of business in this state; and

(A) his only clients in this state are investment companies as defined in the Investment Company Act of 1940, other investment advisers, federal covered advisers, broker-dealers, banks, trust companies, savings and loan associations, insurance companies, employee benefit plans with assets of not less than one million dollars (\$1,000,000), and governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or other institutional investors as are designated by rule or order of the Commissioner; or

(B) during the preceding twelve-month period has had not more than 5 clients, other than those specified in subparagraphs (A), who are residents of this state.

(d) It is unlawful for any person required to be registered as an investment adviser under this chapter to employ an investment adviser representative unless the investment adviser representative is registered under this chapter. When an investment adviser representative begins or terminates employment with an investment adviser, the investment adviser representative as well as the investment adviser shall promptly notify the Commissioner. Every registration of an investment adviser representative expires when the investment adviser representative terminates his connection with an investment adviser, though the person may still be subject to disciplinary action by the Commissioner under subsection 7316(e). When such an investment adviser representative begins a connection with another investment adviser or federal covered adviser, he shall, unless he is exempt from registration, file an application for initial registration as provided in subsection 7314(a) of this title and shall pay a filing fee prescribed by subsection 7314(c) of this title. Unless the Commissioner takes action under section 7316 or section 7315 of this title, the said investment adviser representative registration shall become effective 30 days after receipt of a complete application by the Commissioner (or by his designee) and shall continue in effect until it expires under the provisions of subsection (f) hereof, or under the provisions of this subsection, whichever would earlier occur. The Commissioner shall be empowered to waive the 30 day period at his discretion.

(e) It is unlawful for any federal covered adviser to employ, supervise, or associate with an investment adviser representative having a place of business located in this state, unless such investment adviser representative is registered under this chapter, or is exempt from registration. When such an investment adviser representative begins or terminates employment with a federal covered adviser, the investment adviser representative shall promptly notify the Commissioner. Every registration of such an investment adviser representative expires when the investment adviser representative terminates his connection with the federal covered adviser, though the person may still be subject to disciplinary action by the Commissioner under subsection 7316(e). When such an investment adviser representative begins a connection with another federal covered adviser or investment adviser, he shall, unless he is exempt from registration, file an application for initial registration as provided in subsection 7314(a) of this title and shall pay a filing fee prescribed by subsection 7314(c) of this title. Unless the Commissioner takes action under section 7316 or section 7315 of this title, the said investment adviser representative registration shall become effective 30 days after receipt of a complete application by the Commissioner (or by his designee) and shall continue in effect until it expires under the provisions of subsection (f) hereof, or under the provisions of this subsection, whichever would earlier occur. The Commissioner shall be empowered to waive the 30 day period at his discretion.

(f) Every registration or notice filing under this section or under section 7314 of this title expires December 31st unless renewed.

(g) Except with respect to advisers whose only clients are those described in subsection (c)(2) of this section, it is unlawful for any federal covered adviser to conduct advisory business in this state unless such person complies with the provisions of section 7314(b) of this chapter. Notwithstanding the provisions of this subsection, until

October 10, 1999, the Commissioner may require the registration of any federal covered adviser for which fees required by section 7314 have not been paid promptly following written notification from the Commissioner regarding the nonpayment or underpayment of any such fee. A federal covered adviser shall be considered to have promptly paid such fees if they are remitted to the Commissioner within 15 days following such person's receipt of written notification from the Commissioner."

Section 16. Amend Chapter 73, Title 6 of the Delaware Code by deleting section 7314 in its entirety and inserting in lieu thereof the following:

"Section 7314. Registration and Notice Filing Procedure for Broker-Dealers, Agents, Investment Advisers, Federal Covered Advisers, and Investment Adviser Representatives.

(a)(1) A broker-dealer, agent, investment adviser, or investment adviser representative may obtain an initial registration by filing with the Commissioner or his designee an application together with a consent to service of process pursuant to section 7327. The application shall contain whatever information the Commissioner by rule requires concerning such matters as: (A) the applicant's form and place of organization; (B) the applicant's proposed method of doing business; (C) the qualifications and business history of the applicant; in the case of the broker-dealer or investment adviser, the qualifications and business history of any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser; (D) any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; (E) subject to the limitations of section 15 of the Securities Exchange Act of 1934 and section 222 of the Investment Advisers Act of 1940, the applicant's financial condition and history and (F) any information to be furnished or disseminated to any client or prospective client, if the applicant is an investment adviser. The Commissioner may by rule or order require an applicant for initial registration to publish an announcement of the application in one or more specified newspapers published in this state. If no denial order is in effect and no proceeding is pending under section 7316, registration becomes effective at noon of the 30th day after a complete application is filed. The Commissioner may by rule or order specify an earlier effective date, and he may by order defer the effective date until noon of the 30th day after the filing of any amendment. Registration of a broker-dealer automatically constitutes registration of any agent who is a partner, officer, or director, or a person occupying a similar status or performing similar functions. Registration of an investment adviser automatically constitutes registration of any investment adviser representative who is a partner, officer, or director, or a person occupying a similar status or performing similar functions.

(2) A broker-dealer or investment adviser may obtain a renewal registration by filing with the Commissioner an application containing whatever information the Commissioner by rule requires to keep current the information contained in the application for initial registration. A broker-dealer, investment adviser or issuer may obtain a renewal registration for the agents or investment adviser representatives associated with it by filing with the Commissioner an application containing the names of the agents or investment adviser representatives associated with it and a certification that, to the best knowledge, information and belief of such broker-dealer, investment adviser, or issuer, there has been no change in the information contained in such agent's or investment adviser representative's application for registration then currently in effect, or if there has been any change, specifying the same. Every application for renewal registration shall become effective on the date it is received by the Commissioner or upon the expiration of the previous registration, whichever date is later.

(b)(1) Except with respect to federal covered advisers whose only clients are those described in section 7313(c)(2) of this chapter, a federal covered adviser shall file with the Commissioner, prior to acting as a federal covered adviser in this state, such

documents as have been filed with the Securities and Exchange Commission as the Commissioner, by rule or order, may require.

(2) A notice filing under this section expires on December 31st (unless renewed) and may be renewed by filing prior to its expiration such documents as have been filed with the Securities and Exchange Commission as required by the Commissioner, along with a renewal fee.

(3) A federal covered adviser may terminate a notice filing by providing the Commissioner notice of such termination, which shall be effective upon receipt by the Commissioner.

(4) The Commissioner, by rule or order, may waive any or all of the provisions of this section.

(5) The Commissioner may suspend the investment advisory activities in this state of any federal covered adviser that fails to comply with the requirements of this section.

(c) Fees.

(1) Broker-dealers and agents. Every applicant for initial or renewal registration as a broker-dealer shall pay a filing fee of \$250 and every applicant for initial, transfer, or renewal registration as an agent shall pay a registration fee of \$50.

(2) Investment advisers and investment adviser representatives. Every applicant for initial or renewal registration as an investment adviser who is subject to registration under this chapter shall pay a filing fee of \$250 and every applicant for initial, transfer, or renewal registration as an investment adviser representative who is subject to registration under this chapter shall pay a registration fee of \$50.

(3) Federal covered advisers. Every person acting as a federal covered adviser in this state shall pay an initial and renewal notice filing fee of \$250.

(d) A registered broker-dealer or investment adviser may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year. There shall be no filing fee.

(e) The Commissioner may, by rule or order, require a minimum capital for registered broker-dealers, subject to the limitations of section 15 of the Securities Exchange Act of 1934, and establish minimum financial requirements for investment advisers, subject to the limitations of section 222 of the Investment Advisers Act of 1940, which may include different requirements for those investment advisers who maintain custody of clients' funds or securities or who have discretionary authority over same and those investment advisers who do not.

(f) The Commissioner may, by rule or order, require registered broker-dealers, agents, and investment advisers who have custody of or discretionary authority over client funds or securities, to post bonds in amounts as the Commissioner may prescribe, subject to the limitations of section 15 of the Securities Exchange Act of 1934 (for broker-dealers) and section 222 of the Investment Advisers Act of 1940 (for investment advisers), and may determine their conditions. Any appropriate deposit of cash or securities shall be accepted in lieu of any bond so required. No bond may be required of any registrant whose net capital, or, in the case of an investment adviser, whose minimum financial requirements, which may be defined by rule, exceeds the amounts required by the Commissioner. Every bond shall provide for suit thereon by any person who has a cause of action under section 7323 and, if the Commissioner by rule or order requires, by any person who has a cause of action not arising under this chapter. Every bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within the time limitations of section 7323(e)."

Section 17. Amend Chapter 73, Title 6 of the Delaware Code by deleting section 7315 in its entirety and inserting in lieu thereof the following:

"Section 7315. Post-registration provisions for Broker-Dealers, Investment Advisers, and Federal Covered Advisers.

(a) Every registered broker-dealer and investment adviser shall make and keep such accounts, correspondence, memoranda, papers, books, and other records as the Commissioner prescribes by rule or order, except as provided by section 15 of the Securities Exchange Act 1934 (in the case of a broker-dealer) and section 222 of the Investment Advisers Act of 1940 (in the case of an investment adviser). All records so required, with respect to an investment adviser, shall be preserved for such period as the Commissioner prescribes by rule or order.

(b) With respect to investment advisers, the Commissioner may require that certain information be furnished or disseminated as necessary or appropriate in the public interest or for the protection of investors and advisory clients. To the extent determined by the Commissioner in his discretion, information furnished to clients or prospective clients of an investment adviser that would be in compliance with the Investment Advisers Act of 1940 and the rules thereunder may be used in whole or partial satisfaction of this requirement.

(c) Every registered broker-dealer and every registered investment adviser shall file such financial reports as the Commissioner may prescribe by rule or order, except as provided by section 15 of the Securities Exchange Act of 1934 (in the case of a broker-dealer) and section 222 of the Investment Advisers Act of 1940 (in the case of an investment adviser).

(d) If the information contained in any document filed with the Commissioner is or becomes inaccurate or incomplete in any material respect, the registrant or federal covered adviser shall file a correcting amendment promptly if the document is filed with respect to a registrant, or when such amendment is required to be filed with the Securities and Exchange Commission if the document is filed with respect to a federal covered adviser, unless notification of the correction has been given under section 7313(b), (d) or (e).

(e) All the records referred to in subsection (a) are subject at any time or from time to time to such reasonable periodic, special, or other examinations by representatives of the Commissioner, within or without this state, as the Commissioner deems necessary or appropriate in the public interest or for the protection of investors. For the purpose of avoiding unnecessary duplication of examinations, the Commissioner, insofar as he deems it practicable in administering this subsection, may cooperate with the securities administrators of other states, the Securities and Exchange Commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934."

Section 18. Amend Section 7316, Chapter 73, Title 6 of the Delaware Code by deleting the section headnote in its entirety and inserting in lieu thereof the following new section headnote:

"Section 7316. Denial, revocation, suspension, cancellation and withdrawal of registration of broker-dealers, agents, investment advisers, and investment adviser representatives."

Section 19. Amend Subsection (a), Section 7316, Chapter 73, Title 6 of the Delaware Code by deleting paragraph (5) in its entirety and inserting in lieu thereof the following:

"(5) Is the subject of a cease and desist order of the Commissioner or of an order of the Commissioner denying, suspending, or revoking registration as a broker-dealer, agent, investment adviser, or investment adviser representative; or"

Section 20. Amend Paragraph (6), Subsection (a), Section 7316, Chapter 73, Title 6 of the Delaware Code by deleting the clause "broker-dealer, investment adviser or agent, or the substantial equivalent of those terms as defined in this chapter" in that paragraph and inserting in lieu thereof the following:

"broker-dealer, agent, investment adviser, or investment adviser representative, or the substantial equivalent of those terms as defined in this chapter"

Section 21. Amend Subsection (a), Section 7316, Chapter 73, Title 6 of the Delaware Code by deleting paragraph (10) in its entirety and inserting in lieu thereof the following:

"(10) Has failed reasonably to supervise (A) his agents or employees if he is a broker-dealer or broker-dealer agent with supervisory responsibilities, or (B) his adviser representatives or employees if he is an investment adviser or investment adviser representative with supervisory responsibilities, and the Commissioner may infer such failure from an agent's, investment adviser representative's, or employee's violations; or"

Section 22. Amend Section 7316, Chapter 73, Title 6 of the Delaware Code by deleting subsections (b) through (g) in their entirety and inserting in lieu thereof the following:

"(b) The following provisions govern the application of subdivision (9) of subsection (a) of this section:

(1) The Commissioner may not enter an order against a broker-dealer or investment adviser on the basis of the lack of qualification of any person other than (A) the broker-dealer or investment adviser himself (if he is an individual); (B) an agent of the broker-dealer; or (C) an investment adviser representative.

(2) The Commissioner may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training in or knowledge of securities, or both.

(3) The Commissioner shall consider that an agent who will work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer and that an investment adviser representative who will work under the supervision of a registered investment adviser or federal covered adviser need not have the same qualifications as an investment adviser or federal covered adviser.

(4) The Commissioner may by rule provide for an examination, which may be written or oral or both, to be taken by any class of or all applicants.

(c) The Commissioner may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of an order, the Commissioner shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent or investment adviser representative, that it has been entered and of the reasons therefore and that within 15 days after the receipt of a written request the matter will be set down for a hearing. If no hearing is requested and none is ordered by the Commissioner, the order will remain in effect until it is modified or vacated by the Commissioner. If a hearing is requested or ordered, the Commissioner, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(d) If the Commissioner finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, agent, investment adviser or investment adviser representative, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator or guardian, or cannot be located after reasonable search, the Commissioner may by order cancel the registration or application.

(e) Withdrawal from registration as a broker-dealer, agent, investment adviser or investment adviser representative becomes effective 90 days after receipt of an application to withdraw or within such shorter period of time as the Commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or impose conditions upon the withdrawal is instituted within 90 days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the Commissioner by order determines. If no proceeding is pending or instituted a withdrawal automatically becomes effective, but the Commissioner may nevertheless institute a revocation or suspension proceeding, and impose fines, costs and restitution, within two years after withdrawal becomes effective and enter a revocation or suspension as of the last date on which registration was effective.

(f) No order may be entered under any part of this section except the first sentence of subsection (c), without (1) appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is an agent or investment adviser representative), (2) opportunity for a hearing, and (3) written findings of fact and conclusions of law. The Commissioner or his designee shall control the procedures and the conduct of the parties at the hearing.

(g) The Commissioner shall upon notice and hearing as further defined by subsection (c) of this section, have the right to fine any broker-dealer, agent, investment adviser or investment adviser representative in an amount not to exceed \$10,000 for each and every violation of this chapter, plus the costs of investigation and prosecution."

Section 23. Amend Chapter 73, Title 6 of the Delaware Code by deleting section 7317 in its entirety and inserting in lieu thereof the following:

"Section 7317. Advisory Activities.

(a)(1) It is unlawful for an investment adviser, federal covered adviser, or investment adviser representative, all as defined in this chapter, to employ any device, scheme or artifice to defraud another person, or to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon another person.

(2) It is unlawful for an investment adviser, federal covered adviser, or investment adviser representative, all as defined in this chapter, in connection with giving investment advice or otherwise acting as an investment adviser, federal covered adviser, or investment adviser representative to make any untrue statement of fact that a reasonable client or prospective client would deem material or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

(b) It is unlawful for any investment adviser or investment adviser representative to enter into, extend, or renew any investment advisory contract unless it provides in writing:

(1) That the investment adviser or investment adviser representative shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

(2) That no assignment of a contract may be made by the investment adviser or investment adviser representative without the consent of the other party to the contract; and

(3) that the investment adviser or investment adviser representative, if a partnership, shall notify the other party to the contract of any change in the membership or the partnership within a reasonable time after the change.

Subsection (b)(1) does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date. 'Assignment', as used in subsection (b)(2), includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but if the investment adviser is a partnership, no assignment of an investment contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

(c) It is unlawful for any investment adviser or investment adviser representative to take or have custody of any securities or funds of a client if:

(1) the Commissioner by rule prohibits custody; or

(2) in the absence of rule, the investment adviser or investment adviser representative fails to notify the Commissioner that he has or may have custody."

Section 24. Chapter 73, Title 6 of the Delaware Code is amended by deleting section 7318 in its entirety and inserting in lieu thereof the following:

"Section 7318. Trading Markets.

(a) It is unlawful for any broker-dealer, agent, investment adviser, or investment adviser representative to effect transactions in, trade, or quote any security unless such security is covered by regulations under the Securities and Exchange Act of 1934 or unless the filing provisions of this chapter have been complied with in regard to such security.

(b) Except as provided otherwise by the provisions of Section 7318 of the Securities Act of 1933, the Commissioner is empowered to suspend trading in any security for a period of 10 days in the public interest."

Section 25. Amend Subsection (a), Section 7323, Chapter 73, Title 6 of the Delaware Code by deleting paragraph (1) thereof in its entirety and inserting in lieu thereof the following:

"(1) Offers or sells a security in violation of section 7313, 7304, or 7311(b), or of any rule or order under section 7312 which requires the affirmative approval of sales literature before it is used, or of any condition imposed under section 7306(d)."

Section 26. Amend Section 7326, Chapter 73, Title 6 of the Delaware Code by deleting subsection (b) in its entirety and inserting in lieu thereof the following:

"(b) The information contained in or filed with any registration statement, application, report, or filing may be made available to the public under such rules as the Commissioner prescribes."

Section 27. Amend Chapter 73, Title 6 of the Delaware Code by deleting section 7327 in its entirety and inserting in lieu thereof the following:

"Section 7327. Service of Process.

Every applicant for registration under this chapter, every person making a notice filing pursuant to this chapter, and every issuer which proposes to offer a security in this state through any person acting on an agency basis in the common-law sense shall file with the Commissioner, in such form as he by rule prescribes, an irrevocable consent appointing the Commissioner or his successor in office to be his attorney to receive service of any lawful process in any non-criminal suit, action, or proceeding against him or his successor executor or administrator which arises under this chapter or any rule or

order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration or notice filing need not file another. Service may be made by leaving a copy of the process in the office of the Commissioner, but it is not effective unless the plaintiff, who may be the Commissioner in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last address on file with the Commissioner, and the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order hereunder, and he has not filed a consent to service of process under this section and personal jurisdiction over him cannot otherwise be obtained in this State, that conduct shall be considered equivalent to his appointment of the Commissioner or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against him or his successor, executor or administrator which grows out of that conduct and which is brought under this chapter or any rule or order hereunder, with the same force and validity as if served on him personally. Service may be made in the same manner as stated above."

Section 28. Prior law exclusively governs all suits, actions, prosecutions, or proceedings which are pending or may be initiated on the basis of facts or circumstances occurring before the effective date of this act, except that no civil suit or action may be maintained to enforce any liability under prior law unless brought within any period of limitation which applied when the cause of action accrued.

Section 29. 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 9, 1997

CHAPTER 163

FORMERLY

SENATE BILL NO. 183

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE ECONOMIC DEVELOPMENT TRAINING ACT.

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

Section 1. Amend Chapter 50, Title 29, of the Delaware Code by deleting Section 5070(g) and Section 5071 in their entirety.

Section 2. Amend Chapter 50, Title 29, Section 5072(a) of the Delaware Code by deleting ", at the direction of the Board,".

Approved July 9, 1997

CHAPTER 164

FORMERLY

SENATE BILL NO. 184

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE PUBLIC EMPLOYMENT RELATIONS ACT.

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

Section 1. Amend §1310, Title 19 of the Delaware Code by appending a new subsection thereto to read:

"(g)(1) Two or more certified exclusive representatives of the same public employer may file a joint petition to transfer certain positions between their units. Said joint petition shall be accompanied by the uncoerced signatures of at least 30% of the public employees in the positions sought to be transferred, indicating a desire to be represented by the proposed new representative for the purpose of collective bargaining.

(2) The Board shall make a determination as to the appropriateness of the bargaining unit into which the public employees are to be transferred. If the Board determines that the bargaining unit into which the employees are to be transferred is not appropriate, the joint petition shall be denied and the status quo anti shall remain. If the Board determines that the bargaining unit is appropriate the Board shall hold an election on such joint petition to transfer in which only the public employees in each position who would be transferred shall be entitle to vote. The election ballot shall contain two options; (A) continue to be represented by the present exclusive bargaining representative, or (B) transfer to the proposed exclusive bargaining representative who shall be named.

(3) The exclusive bargaining representative that receives the majority of the votes of those voting in the elections shall be declared the exclusive bargaining representative for those positions."

Approved July 9, 1997

CHAPTER 165

FORMERLY

SENATE BILL NO. 221

AN ACT TO AMEND CHAPTER 83, TITLE 11, AND CHAPTERS 55 AND 56, TITLE 29, DELAWARE CODE, TO PROVIDE POST-RETIREMENT INCREASES TO PENSIONERS.

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

Section 1. AMEND §5532, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (e) to read as follows:

"§532(e). Any monthly service or disability pension which became effective on or before July 1, 1996, and is payable on the effective date of this subsection and any survivor pension based on a former service or disability pension that was effective on or before July 1, 1996, and is payable on the effective date of this subsection shall be increased effective July 1, 1997, in accordance to the following schedule:

Year Pension	
<u>Became Effective</u>	<u>Percent Increase</u>
Prior to 1974	9%
1974	8%
1975	7%
1976	6%
1977	5%
1978	4%
After 1978	2%

These increases shall continue to be paid through June 30, 1998, and every fiscal year thereafter provided that funds are appropriated by the General Assembly in accordance with §5544 of this Chapter."

Section 2. The increases provided by this Act shall not apply to pensions awarded under §5527(d), Chapter 55, Title 29, Delaware Code.

Section 3. AMEND §5544, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (g) to read as follows:

"(g)(1) The State's obligation to the State Employees' Pension Trust Fund, the State Judiciary Retirement Fund, and the State Police Retirement Fund to implement the provisions of §5532(e) of this Chapter shall be the payment required to amortize the unfunded accrued liability over five years from July 1, 1997.

(2) The State's obligation to the Special Pension Fund authorized by Volume 61, Chapter 455, Laws of Delaware, to implement the provisions of §5532(c) of this Chapter in fiscal year 1998 shall be the lump sum actuarial liability of the benefits granted."

Section 4. AMEND §5543, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (c) to read as follows:

Chapter 169

Formerly

House Bill No. 380

AN ACT MAKING APPROPRIATIONS FOR CERTAIN GRANTS-IN-AID FOR THE FISCAL YEAR ENDING JUNE 30, 1998; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (THREE-FOURTHS OF ALL THE MEMBERS ELECTED TO EACH HOUSE THEREOF CONCURRING THEREIN):

Section 1. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
	<u>Dept. of Health & Social Services</u>	
(35-01-10)	Office of Secretary Adolescent Program	\$ 596,800
(35-05-30)	Emergency Medical Services Paramedic Program Operations	\$ 6,298,200
<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
(35-14-10)	<u>Division of Aging</u>	
	<u>Senior Center</u>	
	Absolom Jones Senior Center	\$ 139,643
	Brandywine Senior Center	110,896
	Bridgeville Senior Center	93,919
	Cape Henlopen Senior Center	153,354
	Chesapeake and Delaware Senior Center	68,598
	Clarence Fraim Senior Center of Delaware, Inc.	132,998
	Claymore Senior Center	
	(formerly St. Hedwig's Senior Center, Inc.)	182,082
	Cornerstone United Methodist Church Senior Center	42,987
	DeLaWarr Senior Center	114,896
	Frederica Adult Center, Inc.	91,796
	Georgetown CHEER Center	43,050
	Graham Senior Center, Inc.	
	(formerly St. Ann's Neighborhood Services, Inc.)	95,763
	Greenwood CHEER Senior Center	44,736
	Harrington Senior Center, Inc.	77,415
	Harvest Years Senior Center, Inc.	46,815
	Howard J. Weston Community & Senior Center, Inc.	267,976
	Huling Cove CHEER Center	73,935
	Indian River Senior Center, Inc.	102,449
	Jewish Community Center, Senior Center	82,659
	Jimmy Jenkins Senior Center	75,936
	Laurel Senior Center, Inc.	161,433
	Lewes Senior Citizens Center, Inc.	49,383
	Lillian Smith Senior Center	34,874
	Los Abuelos Center	29,506
	M.O.T. Senior Citizen Center, Inc.	101,417
	Mamie A. Warren Maturity Center, Inc.	83,967
	Mid-County Senior Center, Inc.	164,653
	Millford Senior Center, Inc.	94,975
	The Modern Maturity Center, Inc.	238,891

Nanticoke Indian Elder CHEER Center	36,968
Nanticoke Senior Center, Inc.	128,506
New Castle Senior Center	78,490
Newark Senior Center, Inc.	141,365
Northeast Senior Center, Inc.	73,358
Oak Grove Senior Center, Inc.	160,484
Oak Orchard CHEER Center	52,727
Ocean View Leisure Center	27,575
Peoples Settlement - Senior Citizens Program	63,580
Roxana CHEER Senior Center	44,736
St. Anthony's Senior Center	102,943
St. Patrick's Center, Inc.	123,803
St. Peter's Adult Center, Inc.	96,103
St. Thomas Senior Center, Inc.	111,149
The Salvation Army Senior Center (formerly Julia Tallman Golden Age Center)	70,206
Sellers Senior Center, Inc.	109,077
Slaughter Neck CHEER Center	44,736
South Wilmington Senior Adult Center	23,780
West Center City Adult Center, Inc.	82,406
Wilmington Senior Center, Inc.	157,954

Department of Public Safety

(45-01-01)	Office of Secretary - Administration	
	Local Police Coordination	\$ 57,350
	Aid to Local Law Enforcement	<u>550,000</u>
	TOTAL - Section 1	<u>\$ 12,233,298</u>

Section 2. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Category/Description</u>	<u>Amount</u>
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One-Time Items:

Department of Public Safety -	
Aid to Local Law Enforcement	\$ 1,400,000
Community Policing	150,000
Delaware Volunteer Firemen's Association	50,000
Volunteer Hose Co, Inc.	2,610

Arts/Historical/Cultural/Tourism

African Festival & Parade LTD	\$ 5,000
Afro-American Historical Society of Delaware, Inc.	19,000
Associated Community Talents, Inc.	19,500
City of New Castle - Separation Day	18,000
Delaware Academy of Science, Inc.-Iron Hill Museum	14,000
Delaware Agricultural Museum Assoc., Inc.	42,000
Delaware Center for Horticulture, Inc.	26,500
Delaware City Day Committee	24,000
Delaware Greenways, Inc.	
(formerly Northern Delaware Greenway Council, Inc.)	11,000
Delaware Humanities Council, Inc.	40,000
Delaware Humanities Council, Inc. - Everybody's Reading	2,000
Delaware Humanities Council, Inc. - Traveling Documentary	5,000
Delaware Nature Society, Inc.	30,000
Delaware State Fair, Inc.	200,000
Delaware State Police Museum, Inc.	17,000
Duck Creek Historical Society, Inc.	3,700
Fort Delaware Society	8,000
Friends Society of Brandywine Park	8,000
Georgetown Historical Society	15,000
Greater Harrington Historical Society	20,000
Historic Georgetown Association	2,000
Historic Red Clay Valley, Inc.	
Wilmington & Western Railroad	16,000
The Historical Society of Delaware	74,000

Chapter 169

Formerly

House Bill No. 380

AN ACT MAKING APPROPRIATIONS FOR CERTAIN GRANTS-IN-AID FOR THE FISCAL YEAR ENDING JUNE 30, 1998; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (THREE-FOURTHS OF ALL THE MEMBERS ELECTED TO EACH HOUSE THEREOF CONCURRING THEREIN):

Section 1. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
	<u>Dept. of Health & Social Services</u>	
(35-01-10)	Office of Secretary Adolescent Program	\$ 596,800
(35-05-30)	Emergency Medical Services Paramedic Program Operations	\$ 6,298,200
<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
(35-14-10)	<u>Division of Aging</u>	
	<u>Senior Center</u>	
	Absolom Jones Senior Center	\$ 139,643
	Brandywine Senior Center	110,896
	Bridgeville Senior Center	93,919
	Cape Henlopen Senior Center	153,354
	Chesapeake and Delaware Senior Center	68,598
	Clarence Fraim Senior Center of Delaware, Inc.	132,998
	Claymore Senior Center	
	(formerly St. Hedwig's Senior Center, Inc.)	182,082
	Cornerstone United Methodist Church Senior Center	42,987
	DeLaWarr Senior Center	114,896
	Frederica Adult Center, Inc.	91,796
	Georgetown CHEER Center	43,050
	Graham Senior Center, Inc.	
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	Greenwood CHEER Senior Center	44,736
	Harrington Senior Center, Inc.	77,415
	Harvest Years Senior Center, Inc.	46,815
	Howard J. Weston Community & Senior Center, Inc.	267,976
	Huling Cove CHEER Center	73,935
	Indian River Senior Center, Inc.	102,449
	Jewish Community Center, Senior Center	82,659
	Jimmy Jenkins Senior Center	75,936
	Laurel Senior Center, Inc.	161,433
	Lewes Senior Citizens Center, Inc.	49,383
	Lillian Smith Senior Center	34,874
	Los Abuelos Center	29,506
	M.O.T. Senior Citizen Center, Inc.	101,417
	Mamie A. Warren Maturity Center, Inc.	83,967
	Mid-County Senior Center, Inc.	164,653
	Milford Senior Center, Inc.	94,975
	The Modern Maturity Center, Inc.	238,891

Nanticoke Indian Elder CHEER Center	36,968
Nanticoke Senior Center, Inc.	128,506
New Castle Senior Center	78,490
Newark Senior Center, Inc.	141,365
Northeast Senior Center, Inc.	73,358
Oak Grove Senior Center, Inc.	160,484
Oak Orchard CHEER Center	52,727
Ocean View Leisure Center	27,575
Peoples Settlement - Senior Citizens Program	63,580
Roxana CHEER Senior Center	44,736
St. Anthony's Senior Center	102,943
St. Patrick's Center, Inc.	123,803
St. Peter's Adult Center, Inc.	96,103
St. Thomas Senior Center, Inc.	111,149
The Salvation Army Senior Center (formerly Julia Tallman Golden Age Center)	70,206
Sellers Senior Center, Inc.	109,077
Slaughter Neck CHEER Center	44,736
South Wilmington Senior Adult Center	23,780
West Center City Adult Center, Inc.	82,406
Wilmington Senior Center, Inc.	157,954

Department of Public Safety

(45-01-01)	Office of Secretary - Administration	
	Local Police Coordination	\$ 57,350
	Aid to Local Law Enforcement	<u>550,000</u>
	TOTAL - Section 1	<u>\$ 12,233,298</u>

Section 2. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Category/Description</u>	<u>Amount</u>
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One-Time Items:

Department of Public Safety -	
Aid to Local Law Enforcement	\$ 1,400,000
Community Policing	150,000
Delaware Volunteer Firemen's Association	50,000
Volunteer Hose Co, Inc.	2,610

Arts/Historical/Cultural/Tourism

African Festival & Parade LTD	\$ 5,000
Afro-American Historical Society of Delaware, Inc.	19,000
Associated Community Talents, Inc.	19,500
City of New Castle - Separation Day	18,000
Delaware Academy of Science, Inc.-Iron Hill Museum	14,000
Delaware Agricultural Museum Assoc., Inc.	42,000
Delaware Center for Horticulture, Inc.	26,500
Delaware City Day Committee	24,000
Delaware Greenways, Inc.	
(formerly Northern Delaware Greenway Council, Inc.)	11,000
Delaware Humanities Council, Inc.	40,000
Delaware Humanities Council, Inc. - Everybody's Reading	2,000
Delaware Humanities Council, Inc. - Traveling Documentary	5,000
Delaware Nature Society, Inc.	30,000
Delaware State Fair, Inc.	200,000
Delaware State Police Museum, Inc.	17,000
Duck Creek Historical Society, Inc.	3,700
Fort Delaware Society	8,000
Friends Society of Brandywine Park	8,000
Georgetown Historical Society	15,000
Greater Harrington Historical Society	20,000
Historic Georgetown Association	2,000
Historic Red Clay Valley, Inc.	
Wilmington & Western Railroad	16,000
The Historical Society of Delaware	74,000

Howard Bailey Life Enrichment Program	2,700
Kalmar Nyckel Foundation	7,000
Millsboro Historical Society	10,000
Miss Delaware Scholarship Pageant, Inc.	7,500
Naamans Kill Questers, Inc.	7,500
Nanticoke Indian Association, Inc.	12,000
New Castle Historical Society	9,000
Preservation Delaware	11,000
Sister Cities of Wilmington	4,000
Sussex County Return Day, Inc.	5,000
WHYY, Inc.	499,000

Aging - Other

Boys & Girls Clubs of Delaware, Inc.	\$ 70,000
Catholic Charities, Inc./HERO	42,000
Creative Grandparenting, Inc.	19,000
Delaware Senior Olympics	22,000
Georgetown CHEER Senior Services - Homebound Meals	5,500
Geriatric Services of Delaware, Inc.	143,000
Greenwood CHEER Senior Services - Homebound Meals	5,500
Harvest Years Senior Center	10,500
HERO, Inc.	11,500
Meals on Wheels Delaware	3,000
Meals on Wheels of Lewes and Rehoboth, Inc.	50,000
Modern Maturity Center, Inc. - Meals on Wheels	20,000

Aging - Other (continued)

Nanticoke Senior Center	\$ 5,000
Newark Senior Center	10,500
Northeast Community Creative Grandparenting, Inc.	15,000
Oak Orchard CHEER Senior Services - Homebound Meals	10,500
Roxana CHEER Senior Services - Homebound Meals	10,500
Slaughter Neck CHEER Senior Services - Homebound Meals	10,500
Sussex County Senior Services, Inc.	50,500
Sussex County Senior Services - Cheermobile Mini Market	11,700
William "Hicks" Anderson Community Center - Senior Physical Fitness Program	8,000

Handicapped/Health/Labor

Adult Special Education Program, Inc.	\$ 52,500
AHEDD, Inc. - Dover/Wilmington	53,700
AIDS Delaware	10,000
Alliance for the Mentally Ill in Delaware	62,500
American Cancer Society, De. Division, Inc.	35,000
American Diabetes Assoc. - Delaware Affiliate, Inc.	10,500
American Heart Association, Delaware Affiliate, Inc.	2,000
Arthritis Foundation, Delaware Chapter	21,400
Association for the Rights of Citizens with Mental Retardation in Delaware	11,800
Brain Injury Association of Delaware, Inc.	7,700
Career Exploration Program, Inc.	41,900
Center for Community Education	5,000
Connections CSP, Inc.	3,500
Delaware Association for Blind Athletes	7,000
Delaware Association for the Blind	54,200
Delaware Association for Home & Community Care	2,500
Delaware Association for Rehabilitation Facilities	2,500
Delaware Breast Cancer Coalition	10,500
Delaware Center for Wellness, Inc.	56,700
Delaware Chapter Alzheimer's Association	10,500
Delaware Elwyn, Inc.	24,000
Epilepsy Foundation of Delaware	20,000
Delaware Hospice, Inc.	215,000
Delaware Mental Health Consumer Coalition, Inc.	5,500
Delaware Nursing Centers, Inc.	25,800
Delaware Paralyzed Veterans Prosthetics Fund, Inc.	38,000
Delaware Special Olympics	21,500
Easter Seal Society of Del-Mar, Inc.	99,300
First State Project with Industry	2,500

Goodwill Industries of Delaware & Delaware Co., Inc.	5,000
Institute for Development of Human Resources	24,000
Jobs for Delaware Graduates, Inc.	227,900
Kent/Sussex Industries, Inc.	64,100
Kent/Sussex Industries, Inc. - Cafeteria	10,500
Mancus Foundation	40,600
Mary Campbell Center, Inc.	78,800
Mental Health Association in Delaware, Inc.	22,000
National Multiple Sclerosis Society	12,500
Opportunity Center, Inc.	15,000
Parent Information Center of Delaware, Inc.	7,000
Perinatal Association, Inc.	20,000
Ronald McDonald House of Delaware	35,000
Tressler Centers of Delaware	3,500
W. E. Tobin Foundation for the Visually Impaired	3,200
Wellness Community - Delaware	10,000

Family and Youth Services

Residential Treatment	
Aid-in-Dover, Inc.	\$ 57,750
Children's Home, Inc.	50,600
Diamond State Youth, Inc.	122,000
Home for Aged Women - Minquadales Home, Inc.	21,000
Independent Living, Inc.	106,100
Layton Home for Aged Persons	182,700
Milton & Hattie Kutz Home, Inc.	5,300
The Shepherd Place, Inc.	36,800
Other	
Because We Care, Inc.	\$ 46,000
Big Brothers/Big Sisters of Delaware, Inc.	56,000
Boys & Girls Clubs of Delaware, Inc.	100,000
Boy Scouts of America, De-Mar-Va Council, Inc.	2,000
Boy Scouts of America, De-Mar-Va Council, Inc. - Sussex	7,000
Camp Barnes, Inc.	30,000
Caring About People, Inc.	12,000
Central Delaware Branch of YMCA	31,500
Child, Inc.	94,200
Children & Families First	432,000
Delaware Children's Trust Fund	15,100
Delaware Guidance Services for Children & Youth, Inc.	191,100
Delaware Parents Association, Inc.	19,500
Delaware Volunteer Legal Services, Inc.	5,200
Delawareans United To Prevent Child Abuse	45,200
Diamond State Classic	5,000
The Family & Workplace Connection (formerly Child Care Connection, Inc.)	136,800
Harrison House Community Programs, Inc.	10,800
Interfaith Housing Delaware, Inc.	16,200
Jewish Family Service of Delaware, Inc.	26,300
LPGA Urban Youth Golf Program	1,200
Lutheran Community Services, Inc.	12,500
Lutheran Community Services, Inc. - Life Food Pantries	1,000
National Council on Agricultural Life and Labor Research Fund, Inc.	40,950
New Hope Recreation and Development Center	16,300
Northern Delaware Youth for Christ, Inc.	11,900
PAL of Delaware	21,600
People's Place II, Inc.	114,700
"Slam Dunk to the Beach" - National Holiday Basketball Invitational	75,000
SOAR, Inc.	12,500
Stormin's Classic	6,300
Supporting K.I.D.D.S.	16,500
United Cerebral Palsy of Delaware, Inc.	69,500
Volunteers for Adolescent Pregnancy Prevention	5,300
Youth Guidance Program	19,800

Alcohol/Drug Abuse

The 1212 Corporation	\$ 35,000
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Addictions Coalition of Del., Inc.	28,000
ANKH, Inc.	31,500
Brandywine Counseling, Inc.	15,000
Center for Pastoral Care	44,000
City of Dover Police Department, Substance Abuse Prevention Program	26,000
City of Seaford - Delaware Prevention Network	2,200
Delaware Association for Children of Alcoholics	28,000
Kent County Counseling	21,000
Limen House, Inc.	52,000
Open Door, Inc.	158,000
Peoples Settlement Association	29,000
Resource Center of the YMCA of Delaware	62,900
SODAT - Delaware, Inc.	1,000
Sojourners' Place, Inc.	29,000

Neighborhood/Community Services

A Door of Hope, Inc.	\$	34,000
American Red Cross in De. - Emergency/Disaster Services		45,000
American Red Cross in De. - Emergency Response Training		8,500
American Red Cross in De. - Military/Social Services		15,000
American Red Cross in De. - Transportation		15,000
Better Homes of Seaford, Inc.		16,700
Casa San Francisco		64,000
Chesapeake Bay Girl Scout Council, Inc.		38,800
Civil Air Patrol, Delaware Wing		20,000
Claymont Community Council, Inc.		293,000
Community Design Center		20,000
Community Legal Aid Society, Inc.		122,500
CONTACT Delaware, Inc.		85,000
Delaware Aerospace Education Foundation		8,000
Delaware Center for Justice (formerly Delaware Council on Crime and Justice)		11,500
Delaware Chapter - People to People International		8,000
Delmarva Clergy United in Social Action, Inc.		7,400
Delaware Community Reinvestment Action Council, Inc.		5,200
Delaware Crime Stoppers, Inc.		20,000
Delaware Crop Improvement Association		2,500
Delaware Envirothon		2,000
Delaware Housing Coalition		29,500
Delaware Humane Association, Inc.		12,000
Delaware Mentor Program		17,000
Delaware Partners of the Alliance		6,000
Delaware Rural Water Association		12,500
Delaware Safe Kids Coalition		6,000
Delaware Safety Council, Inc.		43,500
Delaware Teachers Academy for Service Learning		18,000
Delaware Wrestling Alliance, Inc.		5,000
Delmarva Rural Ministries, Inc.		30,000
Dover Housing Development Corp.		5,300
Eastlawn Area Human Services, Inc.		66,000
Eastside Citizens, Inc.		26,000
Edgemoor Community Center, Inc.		222,000
Elsmere Recreation, Inc.		175,000
First State Community Action Agency, Inc.		47,500
First State Community Loan Fund		5,200
First State Resource Conservation & Dev. Council, Inc.		25,000
Food Bank of Delaware		165,000
Girls Inc. of Delaware		44,000
Hilltop Lutheran Neighborhood Center, Inc.		62,000
Hockessin Community Center, Inc.		100,000
Home of Divine Providence, Inc./Bayard House		50,000
Homeward Bound, Inc.		67,000
Ingleside Homes, Inc. - Care Center		15,000
Ingleside Homes, Inc. - KAMIN		44,500
Ingleside Homes, Inc. - Project C.A.R.E.		33,000
Jewish Community Center		15,800
Junior Achievement of Delaware		11,000
Latin American Community Center, Inc.		46,200
Literacy Volunteers of America - Wilmington Library		5,000
Methodist Action Program		46,200
Milford Housing Development Corporation		16,800

Ministry of Caring, Inc. - Emmanuel Dining Room	73,500
Ministry of Caring, Inc. - House of Joseph	45,150
Ministry of Caring, Inc. -- House of Joseph II	2,600
Ministry of Caring, Inc. - Job Placement Center	28,400
Ministry of Caring, Inc. - Phase I	75,700
Ministry of Caring, Inc. - Phases II and III	74,500
Neighborhood House, Inc.	64,000
Neighborhood House, Inc./MOT Community Action	82,900
Project Assist	10,000
Project for Domestic Violence Reform, Inc.	5,000
Richardson Park Community Action Program, Inc.	26,600
Rose Hill Community Center, Inc.	187,200
The Salvation Army, Inc. -Community Integration Program	5,000

Neighborhood/Community Services (continued)

The Salvation Army, Inc. - Emergency Housing	\$ 113,600
The Salvation Army, Inc. - Enclave Program	5,000
The Salvation Army, Inc. - Kent Co. Crisis Alleviation	37,800
The Salvation Army, Inc. - Supported Employment Program	10,800
The Salvation Army, Inc. - Sussex Co. Crisis Alleviation	6,800
Science Alliance, Inc.	20,000
Seamen's Center of Wilmington, Inc.	7,500
Sharing Our Services - Ezion Mt. Carmel U.M. Church	5,500
Slaughter Neck Community Action Agency, Inc.	47,250
Southbridge Medical Advisory Council, Inc. (HJCC)	115,000
Southwest Civic Association, Inc.	15,000
Southwest Wilmington Community Center, Inc.	110,000
STEHM, Inc.	15,750
Sussex Community Crisis Housing Services, Inc.	29,400
The Sussex Family YMCA	27,000
Tri-State Bird Rescue and Research, Inc.	31,500
Union Baptist Community Services, Inc.	88,200
Urban Environmental Center, Inc.	3,500
USO Delaware, Inc.	3,500
West End Neighborhood House, Inc.	49,300
Whatcoat Social Service Agency	73,500
Wildlife Habitat, Inc.	5,000
Wilmington Public Allies - National Office	16,000
YWCA of New Castle County, Delaware	<u>244,000</u>

TOTAL - Section 2

\$ 11,751,660

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	\$ 20,009
Belvedere Volunteer Fire Company	Belvedere	20,009
Brandywine Hundred Fire Co. No. 1	Bellefonte	20,009
Christiana Fire Co.	Christiana	20,009
Claymont Fire Co.	Claymont	20,009
Cranston Heights Fire Co.	Cranston Heights	20,009
Delaware City Fire Co.	Delaware City	20,009
Elsmere Fire Co.	Elsmere	20,009
Five Points Fire Co. No. 1	Richardson Park	20,009
Goodwill Fire Co. No. 1	New Castle	20,009
Hockessin Fire Co.	Hockessin	20,009
Holloway Terrace Fire Co.	Holloway Terrace	20,009
Mill Creek Fire Co.	Marshallton	20,009
Minquadales Fire Co.	Minquadales	20,009
Minquas Fire Co. No. 1	Newport	20,009
Odessa Fire Co., Inc.	Odessa	20,009
Port Penn Volunteer Fire Co., Inc.	Port Penn	20,009
Talleyville Fire Co., Inc.	Talleyville	20,009
Townsend Fire Co., Inc.	Townsend	20,009
Volunteer Hose Co., Inc.	Middletown	20,009
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	20,009

Kent County

Bowers Volunteer Fire Co., Inc.	Bowers	\$	20,009
Camden-Wyoming Fire Co.	Camden		20,009
Carlisle Fire Co.	Milford		20,009
Cheswold Volunteer Fire Co.	Cheswold		20,009
Citizens' Hose Co. No. 1, Inc.	Smyrna		20,009
Clayton Fire Co.	Clayton		20,009
Farmington Volunteer Fire Co.	Farmington		20,009
Felton Community Fire Co.	Felton		20,009
Frederica Volunteer Fire Co.	Frederica		20,009
Harrington Fire Co.	Harrington		20,009
Hartly Volunteer Fire Co.	Hartly		20,009
Houston Volunteer Fire Co.	Houston		20,009
Leipsic Volunteer Fire Co.	Leipsic		20,009
Little Creek Volunteer Fire Co.	Little Creek		20,009
Magnolia Volunteer Fire Co.	Magnolia		20,009
Marydel Volunteer Fire Co., Inc.	Marydel		20,009
Robbins Hose Co. (Dover Fire Dept.)	Dover		20,009
South Bowers Fire Co.	South Bowers		20,009

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$	20,009
Blades Volunteer Fire Co., Inc.	Blades		20,009
Bridgeville Volunteer Fire Co.	Bridgeville		20,009
Dagsboro Volunteer Fire Co.	Dagsboro		20,009
Delmar Fire Department	Delmar		20,009
Ellendale Volunteer Fire Co.	Ellendale		20,009
Frankford Volunteer Fire Co.	Frankford		20,009
Georgetown Fire Co., Inc.	Georgetown		20,009
Greenwood Volunteer Fire Co.	Greenwood		20,009
Gumboro Volunteer Fire Co., Inc.	Gumboro		20,009
Indian River Volunteer Fire Co.	Indian River		20,009
Laurel Fire Department, Inc.	Laurel		20,009
Lewes Fire Department, Inc.	Lewes		20,009
Millsboro Fire Co.	Millsboro		20,009
Millville Volunteer Fire Co.	Millville		20,009
Milton Volunteer Fire Co.	Milton		20,009
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach		20,009
Roxanna Volunteer Fire Co.	Roxanna		20,009
Seaford Volunteer Fire Dept., Inc.	Seaford		20,009
Selbyville Volunteer Fire Co., Inc.	Selbyville		20,009
Slaughter Beach Memorial Fire Co.	Slaughter Beach		20,009
	TOTAL	\$	1,200,540

(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	\$	2,741
Blades Volunteer Fire Co., Inc.	Blades		2,741
Bridgeville Volunteer Fire Co.	Bridgeville		2,741
Bowers Volunteer Fire Co., Inc.	Bowers		2,741
Brandywine Hundred Fire Co., No. 1	Bellefonte		2,741
Camden-Wyoming Fire Co.	Camden		2,741
Carlisle Fire Co.	Milford		2,741
Cheswold Volunteer Fire Co.	Cheswold		2,741
Christiana Fire Co.	Christiana		2,741
Claymont Fire Co.	Claymont		2,741
Cranston Heights Fire Co.	Cranston Heights		2,741
Dagsboro Volunteer Fire Co.	Dagsboro		2,741
Delaware City Fire Co.	Delaware City		2,741
Delmar Fire Department	Delmar		2,741
Ellendale Volunteer Fire Co.	Ellendale		2,741
Elsmere Fire Co.	Elsmere		2,741
Felton Community Fire Co.	Felton		2,741
Five Points Fire Co. No. 1	Richardson Park		2,741
Frankford Volunteer Fire Co. No. 1	Frankford		2,741
Frederica Volunteer Fire Co.	Frederica		2,741
Goodwill Fire Co. No. 1	New Castle		2,741

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Greenwood Volunteer Fire Co.	Greenwood	2,741
Gumboro Volunteer Fire Co., Inc.	Gumboro	2,741
Harrington Fire Co.	Harrington	2,741
Hartly Volunteer Fire Co., Inc.	Hartly	2,741
Hockessin Fire Co.	Hockessin	2,741
Holloway Terrace Fire Co.	Holloway Terrace	2,741
Laurel Fire Department, Inc.	Laurel	2,741
Leipsic Volunteer Fire Co.	Leipsic	2,741
Lewes Fire Department, Inc.	Lewes	2,741
Magnolia Volunteer Fire Co.	Magnolia	2,741
Mill Creek Fire Co.	Marshallton	2,741
Millville Volunteer Fire Co., Inc.	Millville	2,741
Milton Volunteer Fire Co.	Milton	2,741
Minquadales Fire Co.	Minquadales	2,741
Minquas Fire Co. No. 1	Newport	2,741
Port Penn Volunteer Fire Co.	Port Penn	2,741
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,741
Roxanna Volunteer Fire Co.	Roxanna	2,741
Seaford Volunteer Fire Co., Inc.	Seaford	2,741
Selbyville Volunteer Fire Co., Inc.	Selbyville	2,741
Slaughter Beach Memorial Fire Co.	Slaughter Beach	2,741
Talleyville Fire Co., Inc.	Talleyville	2,741
Volunteer Hose Co., Inc.	Middletown	2,741
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	2,741
	TOTAL	\$ 123,345

(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:

Actna Hose, Hook and Ladder Co.	Newark	\$ 2,741
Bethany Beach Volunteer Fire Co.	Bethany Beach	2,741
Blades Volunteer Fire Co.	Blades	2,741
Bowers Volunteer Fire Co., Inc.	Bowers	2,741
Brandywine Hundred Fire Co. No. 1	Bellefonte	2,741
Bridgeville Volunteer Fire Co.	Bridgeville	2,741
Camden-Wyoming Fire Co.	Camden	2,741
Carlisle Fire Co.	Millford	2,741
Cheswold Volunteer Fire Co.	Cheswold	2,741
Christiana Fire Co.	Christiana	2,741
Citizens' Hose Co. No. 1, Inc.	Smyma	2,741
Claymont Fire Co.	Claymont	2,741
Clayton Fire Co.	Clayton	2,741
Cranston Heights Fire Co.	Cranston Heights	2,741
Dagsboro Volunteer Fire Co.	Dagsboro	2,741
Delaware City Fire Co.	Delaware City	2,741
Delmar Fire Department	Delmar	2,741
Robbins Hose Co. (Dover Fire Dept.)	Dover	2,741
Ellendale Volunteer Fire Co.	Ellendale	2,741
Elsmere Fire Co.	Elsmere	2,741
Farmington Volunteer Fire Co.	Farmington	2,741
Felton Community Fire Co.	Felton	2,741
Five Points Fire Co. No. 1	Richardson Park	2,741
Frederica Volunteer Fire Co.	Frederica	2,741
Georgetown Fire Co.	Georgetown	2,741
Goodwill Fire Co. No. 1	New Castle	2,741
Greenwood Fire Co. No. 1	Greenwood	2,741
Gumboro Volunteer Fire Co., Inc.	Gumboro	2,741
Harrington Fire Co.	Harrington	2,741
Hartly Volunteer Fire Co., Inc.	Hartly	2,741
Hockessin Fire Co.	Hockessin	2,741
Holloway Terrace Fire Co.	Holloway Terrace	2,741
Houston Volunteer Fire Co.	Houston	2,741
Indian River Volunteer Fire Co.	Indian River	2,741
Laurel Fire Dept., Inc.	Laurel	2,741
Leipsic Volunteer Fire Co.	Leipsic	2,741
Lewes Fire Department, Inc.	Lewes	2,741
Little Creek Volunteer Fire Co.	Little Creek	2,741
Magnolia Volunteer Fire Co.	Magnolia	2,741
Marydel Volunteer Fire Co.	Marydel	2,741
Mill Creek Fire Co.	Marshallton	2,741
Millsboro Fire Co.	Millsboro	2,741
Millville Volunteer Fire Co., Inc.	Millville	2,741

Milton Volunteer Fire Co.	Milton	2,741
Minquadale Fire Co.	Minquadale	2,741
Minquas Fire Co. No. 1	Newport	2,741
Odessa Fire Co., Inc.	Odessa	2,741
Port Penn Volunteer Fire Co., Inc.	Port Penn	2,741
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,741
Roxanna Volunteer Fire Co.	Roxanna	2,741
Seaford Volunteer Fire Department, Inc.	Seaford	2,741
Selbyville Fire Co., Inc.	Selbyville	2,741
Slaughter Beach Memorial Fire Co.	Slaughter Beach	2,741
South Bowers Fire Co.	South Bowers	2,741
Talleyville Fire Co., Inc.	Talleyville	2,741
Townsend Fire Co., Inc.	Townsend	2,741
Volunteer Hose Co., Inc.	Middletown	2,741
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	2,741
	TOTAL	\$ 158,978

(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 high-rise fires throughout Delaware:

New Castle County

Actna Hose, Hook and Ladder Co.	Newark	\$ 4,086
Brandywine Hundred Fire Co., No. 1	Bellefonte	4,086
Christiana Fire Co.	Christiana	4,086
Claymont Fire Co.	Claymont	4,086
Delaware City Fire Co.	Delaware City	4,086
Elsmere Fire Co.	Elsmere	4,086
Five Points Fire Co. No. 1	Richardson Park	4,086
Goodwill Fire Co. No. 1	New Castle	4,086
Hockessin Fire Co.	Hockessin	4,086
Mill Creek Fire Co.	Marshallton	4,086
Talleyville Fire Co., Inc.	Talleyville	4,086
Volunteer Hose Co., Inc.	Middletown	4,086
Wilmington Manor Volunteer Fire Co.	Wilmington Manor	4,086

Kent County

Carlisle Fire Co.	Milford	\$ 4,086
Citizens' Hose Co., No. 1, Inc.	Smymrna	4,086
Hartly Volunteer Fire Co., Inc.	Hartly	4,086
Robbins Hose Co., (Dover Fire Dept.)	Dover	4,086

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$ 4,086
Delmar Fire Department, Inc.	Delmar	4,086
Georgetown Fire Co., Inc.	Georgetown	4,086
Lewes Fire Department, Inc.	Lewes	4,086
Millsboro Fire Co.	Millsboro	4,086
Milton Volunteer Fire Co., Inc.	Milton	4,086
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	4,086
Seaford Volunteer Fire Co., Inc.	Seaford	4,086
Selbyville Volunteer Fire Co., Inc.	Selbyville	4,086
	TOTAL	\$ 106,236

(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:

Blades Volunteer Fire Co., Inc.	Blades	\$ 2,476
Delaware City Fire Co.	Delaware City	2,476
Goodwill Fire Co. No. 1	New Castle	2,476
Holloway Terrace Fire Co.	Holloway Terrace	2,476
Leipsic Volunteer Fire Co.	Leipsic	2,476
Little Creek Volunteer Fire Co.	Little Creek	2,476

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Milton Volunteer Fire Co.	Milton	2,476
Port Penn Volunteer Fire Co., Inc.	Port Penn	2,476
Roxanna Volunteer Fire Co.	Roxanna	2,476
Seaford Volunteer Fire Co., Inc.	Seaford	2,476
South Bowers Fire Co.	South Bowers	<u>2,476</u>

TOTAL \$ 27,236

(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. \$140,063
- (ii) The maintenance of aerial or platform trucks and for the training of personnel in the techniques of extinguishing high-rise fires throughout the City of Wilmington. \$ 8,172
- (iii) The maintenance and operation of rescue boats in the public service. \$ 2,476

TOTAL \$150,711

(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	\$ 26,240
Blades Volunteer Fire Co., Inc.	Blades	26,240
Bowers Volunteer Fire Co., Inc.	Bowers	26,240
Bridgeville Volunteer Fire Co.	Bridgeville	26,240
Camden-Wyoming Fire Co.	Camden	26,240
Carlisle Fire Co.	Millford	26,240
Cheswold Volunteer Fire Co.	Cheswold	26,240
Citizens' Hose Co. No. 1, Inc.	Smyrna	26,240
Clayton Fire Co.	Clayton	26,240
Dagsboro Volunteer Fire Co.	Dagsboro	26,240
Delmar Fire Department	Delmar	26,240
Ellendale Volunteer Fire Co.	Ellendale	26,240
Farmington Volunteer Fire Co.	Farmington	26,240
Felton Community Fire Co.	Felton	26,240
Frankford Volunteer Fire Co.	Frankford	26,240
Frederica Volunteer Fire Co.	Frederica	26,240
Georgetown Fire Co., Inc.	Georgetown	26,240
Greenwood Volunteer Fire Co.	Greenwood	26,240
Gumboro Volunteer Fire Co., Inc.	Gumboro	26,240
Harrington Fire Co.	Harrington	26,240
Hartly Volunteer Fire Co.	Hartly	26,240
Houston Volunteer Fire Co.	Houston	26,240
Indian River Volunteer Fire Co.	Indian River	26,240
Laurel Fire Department, Inc.	Laurel	26,240
Leipsic Volunteer Fire Co.	Leipsic	26,240
Lewes Fire Department, Inc.	Lewes	26,240
Little Creek Volunteer Fire Co.	Little Creek	26,240
Magnolia Volunteer Fire Co.	Magnolia	26,240
Marydel Volunteer Fire Co., Inc.	Marydel	26,240
Millsboro Fire Co.	Millsboro	26,240
Millville Volunteer Fire Co.	Millville	26,240
Milton Volunteer Fire Co.	Milton	26,240
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	26,240
Robbins Hose Co., (Dover Fire Dept.)	Dover	26,240
Roxanna Volunteer Fire Co.	Roxanna	26,240
Seaford Volunteer Fire Dept., Inc.	Seaford	26,240
Selbyville Volunteer Fire Co., Inc.	Selbyville	26,240
Slaughter Beach Memorial Fire Co.	Slaughter Beach	26,240
South Bowers Fire Co.	South Bowers	<u>26,240</u>
TOTAL		\$ 1,023,360

Milton Volunteer Fire Co.	Milton	2,741
Minquadale Fire Co.	Minquadale	2,741
Minquas Fire Co. No. 1	Newport	2,741
Odessa Fire Co., Inc.	Odessa	2,741
Port Penn Volunteer Fire Co., Inc.	Port Penn	2,741
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,741
Roxanna Volunteer Fire Co.	Roxanna	2,741
Seaford Volunteer Fire Department, Inc.	Seaford	2,741
Selbyville Fire Co., Inc.	Selbyville	2,741
Slaughter Beach Memorial Fire Co.	Slaughter Beach	2,741
South Bowers Fire Co.	South Bowers	2,741
Talleyville Fire Co., Inc.	Talleyville	2,741
Townsend Fire Co., Inc.	Townsend	2,741
Volunteer Hose Co., Inc.	Middletown	2,741
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	2,741
	TOTAL	\$ 158,978

(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 high-rise fires throughout Delaware:

New Castle County

Aetna Hose, Hook and Ladder Co.	Newark	\$ 4,086
Brandywine Hundred Fire Co., No. 1	Bellefonte	4,086
Christiana Fire Co.	Christiana	4,086
Claymont Fire Co.	Claymont	4,086
Delaware City Fire Co.	Delaware City	4,086
Elsmere Fire Co.	Elsmere	4,086
Five Points Fire Co. No. 1	Richardson Park	4,086
Goodwill Fire Co. No. 1	New Castle	4,086
Hockessin Fire Co.	Hockessin	4,086
Mill Creek Fire Co.	Marshallton	4,086
Talleyville Fire Co., Inc.	Talleyville	4,086
Volunteer Hose Co., Inc.	Middletown	4,086
Wilmington Manor Volunteer Fire Co.	Wilmington Manor	4,086

Kent County

Carlisle Fire Co.	Milford	\$ 4,086
Citizens' Hose Co., No. 1, Inc.	Smyrna	4,086
Hartly Volunteer Fire Co., Inc.	Hartly	4,086
Robbins Hose Co., (Dover Fire Dept.)	Dover	4,086

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$ 4,086
Delmar Fire Department, Inc.	Delmar	4,086
Georgetown Fire Co., Inc.	Georgetown	4,086
Lewes Fire Department, Inc.	Lewes	4,086
Millsboro Fire Co.	Millsboro	4,086
Milton Volunteer Fire Co., Inc.	Milton	4,086
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	4,086
Seaford Volunteer Fire Co., Inc.	Seaford	4,086
Selbyville Volunteer Fire Co., Inc.	Selbyville	4,086
	TOTAL	\$ 106,236

(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:

Blades Volunteer Fire Co., Inc.	Blades	\$ 2,476
Delaware City Fire Co.	Delaware City	2,476
Goodwill Fire Co. No. 1	New Castle	2,476
Holloway Terrace Fire Co.	Holloway Terrace	2,476
Leipsic Volunteer Fire Co.	Leipsic	2,476
Little Creek Volunteer Fire Co.	Little Creek	2,476

Milton Volunteer Fire Co.	Milton	2,476
Port Penn Volunteer Fire Co., Inc.	Port Penn	2,476
Roxanna Volunteer Fire Co.	Roxanna	2,476
Seaford Volunteer Fire Co., Inc.	Seaford	2,476
South Bowers Fire Co.	South Bowers	2,476
	TOTAL	\$ 27,236

(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.	\$140,063
(ii) The maintenance of aerial or platform trucks and for the training of personnel in the techniques of extinguishing high-rise fires throughout the City of Wilmington.	\$ 8,172
(iii) The maintenance and operation of rescue boats in the public service.	\$ 2,476
TOTAL	\$150,711

(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	\$ 26,240
Blades Volunteer Fire Co., Inc.	Blades	26,240
Bowers Volunteer Fire Co., Inc.	Bowers	26,240
Bridgeville Volunteer Fire Co.	Bridgeville	26,240
Camden-Wyoming Fire Co.	Camden	26,240
Carlisle Fire Co.	Milford	26,240
Cheswold Volunteer Fire Co.	Cheswold	26,240
Citizens' Hose Co. No. 1, Inc.	Smyrna	26,240
Clayton Fire Co.	Clayton	26,240
Dagsboro Volunteer Fire Co.	Dagsboro	26,240
Delmar Fire Department	Delmar	26,240
Ellendale Volunteer Fire Co.	Ellendale	26,240
Farmington Volunteer Fire Co.	Farmington	26,240
Felton Community Fire Co.	Felton	26,240
Frankford Volunteer Fire Co.	Frankford	26,240
Frederica Volunteer Fire Co.	Frederica	26,240
Georgetown Fire Co., Inc.	Georgetown	26,240
Greenwood Volunteer Fire Co.	Greenwood	26,240
Gumboro Volunteer Fire Co., Inc.	Gumboro	26,240
Harrington Fire Co.	Harrington	26,240
Hartly Volunteer Fire Co.	Hartly	26,240
Houston Volunteer Fire Co.	Houston	26,240
Indian River Volunteer Fire Co.	Indian River	26,240
Laurel Fire Department, Inc.	Laurel	26,240
Leipsic Volunteer Fire Co.	Leipsic	26,240
Lewes Fire Department, Inc.	Lewes	26,240
Little Creek Volunteer Fire Co.	Little Creek	26,240
Magnolia Volunteer Fire Co.	Magnolia	26,240
Marydel Volunteer Fire Co., Inc.	Marydel	26,240
Millsboro Fire Co.	Millsboro	26,240
Millville Volunteer Fire Co.	Millville	26,240
Milton Volunteer Fire Co.	Milton	26,240
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	26,240
Robbins Hose Co., (Dover Fire Dept.)	Dover	26,240
Roxanna Volunteer Fire Co.	Roxanna	26,240
Seaford Volunteer Fire Dept., Inc.	Seaford	26,240
Selbyville Volunteer Fire Co., Inc.	Selbyville	26,240
Slaughter Beach Memorial Fire Co.	Slaughter Beach	26,240
South Bowers Fire Co.	South Bowers	26,240
	TOTAL	\$ 1,023,360

(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:

American Legion, Kent Post #14	Smyrna	\$ 2,741
American Legion, Sussex Post #8	Georgetown	2,741
Mid-Sussex Rescue Squad, Inc.	Millsboro	2,741
Sussex Memorial Post #7422, V.F.W.	Millsboro	2,741
TOTAL		<u>\$ 10,964</u>

TOTAL - Section 3 \$ 2,801,370

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	\$ 34,299
Veterans of Foreign Wars, Department of Delaware	34,299
Disabled American Veterans, Department of Delaware	28,578
Paralyzed Veterans of America, Department of Delaware	28,578
Vietnam Veterans of America, Department of Delaware	28,578

(b) Funds are hereby appropriated to the following grants-in-aid in the amounts listed for operations expenses:

American Legion, Department of Delaware	\$ 8,340
Disabled American Veterans, Department of Delaware	8,340
Veterans of Foreign Wars, Department of Delaware	8,340
Vietnam Veterans of America	8,340
American Veterans of World War II, Korea & Vietnam	7,350
Paralyzed Veterans of America, Department of Delaware	7,151
Jewish War Veterans of the U.S., Department of Delaware	4,775
Delaware Veterans of World War I	3,566

(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 \$6,741 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 \$6,741 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 \$2,693 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 \$ 226,709

Section 5. Section 2 of this Act appropriates \$200,000 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 1998. Of the remaining \$120,000, \$5,000 shall be used for purses on Governor's Day and 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 Camp Barnes, Inc. 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 Years 1998 and 1999 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 1998 shall be paid in quarterly installments. For Fiscal Year 1998, 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;
- (d) Failure to pay Corporation Franchise Tax; and
- (e) Agency is no longer in operation.

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 1999:

(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 1999.

(f) For Fiscal Year 1998, 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, 1997. 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, 1998, 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 1998 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
Harrison House Community Programs, Inc.
Miss Delaware Scholarship Pageant, Inc.
National Multiple Sclerosis Society
New Castle Historical Society
Sharing Our Services - Ezion Mt. Carmel U.M. Church
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 1998 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 1998.

(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 1998.

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, 1998, 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, 1998, 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, Emergency Medical Services (35-05-30), for the state component of the operational costs associated with each county's paramedic service for Advanced Life Support. These funds shall be disbursed by Emergency Medical Services on a quarterly basis to counties that operate approved programs.

Emergency Medical Services 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 1998, the remaining balance in the Fiscal Year 1997 account (35-05-30-01-81) shall remain as a continuing appropriation and shall not be subject to reversion until June 30, 1998.

Section 19. Appropriations made in Section 1 of this Act to Emergency Medical Services 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. 1998, direct paramedic initial training, recertification training and testing for the Statewide paramedic program shall be offered at a single site.

Section 21. Amend Title 16, Section 9814 (e), Delaware code by inserting the following sentence after the first sentence in that section:

"For those capital projects with a total cost greater than \$200,000, the state shall reimburse on a debt service basis."

Section 22. 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 23. Section 2 of this Act appropriates funds to Eastlawn Area Human Services, Inc. None of these funds, nor any Federal, State or Local Government funds, shall be expended for the purchase of television, cable T.V. and/or radio broadcasting services.

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.

Section 25. Section 2 of this Act appropriates \$15.0 to the Southwest Civic Association, Inc. That amount shall be used to support the Cab Calloway School for the Performing Arts After-School Tutorial Program.

Section 26. Section 1 of this Act includes an appropriation in the one-time items in the amount of \$50,000 for the Delaware Volunteer Firemen's Association. This amount shall be prorated to each volunteer fire company based on the expenditure for Hepatitis B made by that volunteer fire company as indicated in a letter, dated April 24, 1995, to the Controller General from the Delaware Volunteer Firemen's Association.

Section 27. Section 2 of this Act appropriates funds for the Community Policing Program in the City of Wilmington.

- (a) Eligible costs to be paid from this grant are limited to Civilian personnel.
- (b) The Secretary of the Department of Public Safety shall review expenditures of the appropriations for this grant. A report indicating the categories and amounts of expenditures shall be forwarded to the Joint Finance Committee by May 15, 1998.

Section 28. Section 2 of this Act appropriates \$29,000 to People's Settlement Association. Of this amount, \$6,000 shall be used in support of Project CURB for anti-violence programs.

Approved July 9, 1997

CHAPTER 170

FORMERLY

HOUSE BILL NO. 320

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXATION
ON THE DISTRIBUTION AND USE OF PUBLIC UTILITIES.

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 § 5501, Title 30, Delaware Code, by designating all of existing paragraph "(1)" of said section as paragraph (1)(a) and by adding to said paragraph a new paragraph (1)(b) to read as follows:

"(b) Gas is a public utility whether distributed to a consumer or user within this State by a distributor, either directly or through an intermediary, or delivered by a transmission company."

Section 2. Amend § 5501(3), Title 30, Delaware Code, by striking said paragraph in its entirety and substituting in lieu thereof a new paragraph (3) to read as follows:

"(3) 'Distributor' includes any company, corporation, municipality, partnership, firm, association, cooperative or any person or group of persons which supplies any public utility for sale to ultimate consumers or users within this State, whether, in the case of gas, the gas is supplied through a distributor's own or a transmission company's facilities."

Section 3. Amend § 5501, Title 30, Delaware Code, by inserting after the word "user" as it appears in paragraph (ii) of said section the following phrase: "for any heat, light or power use."

Section 4. Amend § 5501, Title 30, Delaware Code, by adding to said section new paragraphs (5) and (6) to read as follows:

"(5) 'Gas' for purposes of this chapter means natural gas which is further defined as a naturally occurring gaseous mixture of hydrocarbons and non-hydrocarbons, the principal constituent of the gaseous mixture being methane.

(6) 'Transmission company' includes any company, corporation, municipality, partnership, firm, association, cooperative or any person or group of persons owning, leasing or controlling property or fixtures to property within this State used for the transmission, transportation or distribution of gas."

Section 5. Amend § 5502(b), Title 30, Delaware Code, by striking paragraph (1) of said subsection in its entirety and substituting in lieu thereof a new paragraph (1) to read as follows:

"(1) Except as provided in subsection (a) or paragraphs (2), (3), or (4), a tax is imposed upon any distributor of public utilities, which tax shall be at the rate of 4.25% of the gross receipts or tariff charges received by the distributor for such public utilities."

Section 6. Amend § 5502(b), Title 30, Delaware Code, by re-designating paragraph (3) as paragraph (4) of said subsection and by adding to said subsection a new paragraph (3) to read as follows:

"(3) Notwithstanding paragraphs (1) or (2) of this subsection, whenever: (i) gas is delivered within this State by a transmission company from a person who is not a distributor within this State and such person does not report and remit the tax on such gas; and (ii) a tax would have been imposed under this section had the delivery been

made by a distributor, then the tax imposed by this section shall be upon the use of the gas and shall be paid by the consumer or user and shall be at the same rate applied to the amount paid for the gas as if the tax had been computed under paragraph (1) or (2). Transmission companies shall, in a manner to be prescribed by the Director of Revenue, inform persons to whom they deliver gas of the tax on the use of gas. The Director of Revenue may require information returns from transmission companies to include, without limitation, identification of the persons to which gas is delivered and the dates and quantities delivered. The Director of Revenue shall maintain the confidentiality of prices assessed or paid for gas."

Section 7. Amend § 5503(b), Title 30, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(b) The tax imposed by § 5502(b) of this title shall be paid only once and shall be considered imposed upon, in the case of deliveries of gas described in § 5502(b)(3), the ultimate consumer or user for the use of such gas. In all other cases, the tax shall be imposed on the tax shall be imposed on the distributor and is not to be construed as a tax upon the consumer or user."

Section 8. Amend § 5504(a), Title 30, Delaware Code, by striking the word "The" at the beginning of said subsection and substituting in lieu thereof the following phrase:

"In the case of the distribution of public utilities as described in § 5502(a) and (b)(1), (2), or (4) of this title, the".

Section 9. Amend § 5504, Title 30, Delaware Code, by adding to said section a new subsection (c) to read as follows:

"(c) In the case of deliveries of gas as described in § 5502(b)(3) the taxes due under this chapter shall be paid within twenty days after the end of the calendar month in which the user first receives a statement from the seller of the utility setting forth the amount charged for such gas."

Section 10. Amend § 5506, Title 30, Delaware Code, by adding to said section subsections (h) and (i) to read as follows:

"(h) The gross receipts or tariff charges received by a person who furnishes gas or electricity to another person who purchases said gas or electricity for resale shall be exempt from the tax imposed by this chapter.

(i) The gross receipts or tariff charges received by a person who furnishes gas for use by a distributor in the generation of electricity for distribution and sale and the receipt and consumption of such gas shall be exempt from the tax imposed by this chapter."

Section 11. Amend § 5502(b), Title 30, Delaware Code, by striking the word "electricity" as it appears in paragraph (2) of said subsection and substituting in lieu thereof the phrase "electricity and gas".

Section 12. Amend § 5501, Title 30, Delaware Code, by striking the phrase "As used in this chapter" as it appears at the beginning of said section and substituting in lieu thereof the phrase "For purposes of this chapter only".

Section 13. It is declared to be the legislative intent that, if any section, subsection, sentence, clause or provision of this Act is held to be invalid, the remainder of the Act shall also be held invalid.

Section 14. This Act shall be effective for utility services and commodities delivered or distributed after December 31, 1997.

Approved July 9, 1997

CHAPTER 171

FORMERLY

SENATE BILL NO. 199
AS AMENDED BY SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE
REGISTRATION OF FOREIGN CORPORATIONS.

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

Section 1.

Section 1510 of Title 11 of the Delaware Code shall be repealed in its entirety, and any interest in real property, as defined in 11 Del. C. §1502(10), otherwise adversely affected by the provisions of §1510 of Title 11 of the Delaware Code, as in effect prior hereto, shall be deemed valid ab initio, as if said §1510 had never been enacted.

Section 2.

Add a new Section 1510 of Title 11 of the Delaware Code as follows:

"§1510 Registration of foreign corporations.

(a) Each foreign corporation desiring to acquire of record any real property shall have, prior to acquisition, and shall continuously maintain in this State during any year thereafter in which such real property is owned by the corporation:

(1) A registered office; and

(2) A registered agent, which agent may be either:

(a) An individual resident in this State, whose business office is identical with such registered office; or

(b) Another corporation authorized to transact business in this State, having a business office identical with such registered office.

A foreign corporation that, prior to acquisition of any real property in this State, complies with the requirements of §371 of Title 8 and thereafter continuously maintains a registered agent in this State for the purposes of that section shall be deemed to have complied with the requirements of this subsection.

(b) Each foreign corporation shall file with the Secretary of State on or before the 30th day of June of each year, a sworn report on such forms as the Secretary of State shall prescribe, setting forth:

(1) The name of such corporation;

(2) The street address and the principal office of such corporation;

(3) The name and street address of the registered agent and registered office of such corporation; and

(4) The signature of the corporate president, vice-president, secretary, assistant secretary or treasurer attesting to the accuracy of the report as of the date immediately preceding filing of the report.

A foreign corporation that complies with §374 of Title 8 by filing the annual report as required by that section shall be deemed to have complied with this subsection.

(c) Each foreign corporation which fails to comply with subsections (a) and (b) of this section shall not be entitled to sue or to defend in the courts of the State, until such corporation has a registered agent and registered office pursuant to subsection (a) of this section (or until such corporation registers with the Secretary of State pursuant to §371 of Title 8) and complies with subsection (b) of this section by filing a report pursuant to such subsection (or pursuant to §374 of Title 8).

(d) The filing of a report by a corporation as required by this section shall be solely for the purposes of this chapter and, notwithstanding any other act, shall not be used as a determination of whether the corporation is doing business in this State; provided, however, this subsection (d) shall not apply to a foreign corporation which satisfies the requirements of subsection (b) by filing an annual report under §374 of Title 8.

(e) This section shall not apply to any foreign financial, banking, insurance, or lending organization whose lending activities are regulated by any other state or the United States of America.

(f) The Secretary of State may establish fees for any filings required by this section, which fees shall not exceed those prescribed for similar filings as stated in §391 of Title 8."

Section 3.

If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this 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 9, 1997

CHAPTER 172

FORMERLY

HOUSE BILL NO. 218

AN ACT TO AMEND CHAPTER 11, TITLE 9, DELAWARE CODE RELATING TO NEW CASTLE COUNTY GOVERNMENT.

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

Section 1. Amend §1141(e), (f), and (g), Chapter 11, Title 9, Delaware Code by adding the phrase "Unless otherwise provided by law," at the beginning of each such subsection before the word "In".

Approved July 9, 1997

CHAPTER 173

FORMERLY

HOUSE BILL NO. 102
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE RULES OF THE JUSTICE OF THE PEACE COURTS.

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

Section 1. Amend Section 9202, Title 10 of the Delaware Code as follows:

(1) Add to the end of subsection (a) the following:

"Such rules may prescribe and regulate the form and manner of process, pleading, practice and procedure governing civil and criminal proceedings in the Justice of the Peace Courts from inception to termination. As provided in Art. IV., § 13(1) the authority of the court to promulgate such rules shall be subject to the review of the Supreme Court."

(2) Add new subsections "(b)" and "(c)" to read as follows:

"(b) Such rules shall not abridge, enlarge or modify the substantive rights of any person.

(c) Nothing in this title, anything therein to the contrary notwithstanding, shall in any way limit, supersede or repeal any such rules heretofore prescribed under authority of law."

(3) Renumber existing subsections "(b)" and "(c)" as "(d)" and "(e)" respectively.

Approved July 9, 1997

CHAPTER 174

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 192

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE BOOT CAMP INMATE TRAINING PROGRAM.

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

Section 1. Amend §6705(b)(2) of Title 11 of the Delaware code by striking said paragraph in its entirety, and by substituting in lieu thereof the following:

"(2) Any person who is serving a sentence of Level V incarceration for a violent crime."

Section 2. Amend §6705(b) of Title 11 of the Delaware Code by redesignating paragraph (3) thereof as paragraph (4), and by adding thereto a new paragraph (3) to read as follows:

"(3) Any person who is serving a sentence for a violation of probation or parole where the crime for which the offender was originally convicted is any Class A, B or C Title 11 violent felony, or any sexual offense as set forth in Subpart D, Subchapter 11 or Title 11 of the Delaware Code, or any of the following offenses; assault second degree, vehicular homicide first and second degree, criminally negligent homicide, promoting prison contraband felony or stalking;"

Section 3. Amend §6705 of Title 11 of the Delaware Code by adding thereto a new subsection to be designated as subsection (d), to read as follows:

"(d) Subject to the provisions of subsections (a), (b)(1) and b(3) of this section, any person serving a sentence for a violation of probation or parole shall be eligible for the boot camp program."

Section 4. Amend Title 11 of the Delaware Code by adding thereto a new section, to be designated as §6712, to read as follows:

"§6712. First offender boot camp diversion program.

(a) Subject to the provisions of this section and notwithstanding any other law, rule or regulation to the contrary, a person convicted upon a plea of guilty of any of the offenses set forth in subsection (b) of this section may petition the sentencing court to defer further sentencing proceedings, and to divert the offender to a boot camp inmate training program which shall be subject to the terms and conditions set forth in this section. No person shall be eligible to petition the sentencing court pursuant to this section without the agreement of the Attorney General. Following agreement of the Attorney General as to such person's eligibility to petition the sentencing court for diversion to the boot camp training program, the sentencing court shall have the discretion to grant or deny said petition.

(b) Subject to the provisions of this section, certain persons convicted upon plea of guilty of the following offenses shall be potentially eligible for diversion to the boot camp inmate training program:

- (1) Manufacture, delivery or possession with intent to deliver a controlled or counterfeit controlled substance, as set forth in §§4751 and 4752 of Title 16 of the Delaware Code;

- (2) Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, L.S.D. or designer drugs as set forth in §4753A of Title 16 of the Delaware Code, but only if the weight of the illegal substance possessed is:

- (a) less than 15 pounds, for a person convicted pursuant to §4753A(1) of Title 16; or
- (b) less than 15 grams, for a person convicted pursuant to §4753A(2), (3), (4), (5) or (6) of Title 16; or
- (c) less than 100 doses, or in a liquid form less than 15 milligrams, for a person convicted pursuant to §4753A(7) of Title 16.

(c) Notwithstanding any other provision of this section, no person shall be permitted to petition the sentencing court to defer further sentencing proceedings pursuant to this section or to otherwise utilize the provisions of this section, if:

- (1) such person has previously been incarcerated as an adult pursuant to a sentence imposed for a criminal conviction for any offenses set forth in titles 11 or 16 of the Delaware Code, or any equivalent offense set forth under the laws of this State, any other State, the United States, or any territory thereof; or
- (2) such person has previously been convicted of any felony under the laws of this State, any other State, the United States, or any territory thereof; or
- (3) the Attorney General opposes the petition.

(d) Subject to the provisions of this section, and notwithstanding any other law, rule or regulation to the contrary, if the sentencing court chooses to grant the petition to defer further sentencing referred to in subsection (a) of this section, the sentencing court shall enter a judgment of conviction, and shall then defer further sentencing proceedings, and shall defer the imposition of any Level V sentence, including any mandatory minimum Level V sentence otherwise required by §4751, 4752, 4753A or 4763 of Title 16, or by §4205 of Title 11, or by any other law, and shall remand the offender to the custody of the Department of Correction upon the condition that the offender shall complete a program of supervision which shall include:

- (1) placement in a boot camp facility with a substance abuse treatment program for a period of not less than 6 months, to be followed by supervision at Level IV or III, or both, for a period of not less than two and one-half years; and
- (2) a requirement that, while at supervision Level IV or III, the offender comply with the terms of a curfew, said terms to be imposed by either the sentencing court or the Department of Correction. The terms of said curfew may include mandated compliance with certain geographical limitations, prohibitions or restrictions; and
- (3) a requirement that, while at supervision Level IV or III, the offender participate in substance abuse treatment which shall include periodic, random urine surveillance during the entire period of supervision at Level IV or III, or both; and
- (4) payment of the costs of prosecution, and payment of a \$500.00 civil penalty to the Substance Abuse Rehabilitation, Education and Prevention Fund; and
- (5) any other terms or provisions deemed appropriate by the sentencing court or the Department of Correction.

(e) Whenever the court defers further sentencing proceedings pursuant to this section, it shall inform the offender of the sentence to be imposed in the event that the offender fails to

comply with any of the terms of supervision or probation imposed pursuant to this section. Such term of imprisonment shall not be less than any applicable mandatory minimum sentence mandated for the offense(s) of which the offender was convicted, as set forth in §4751, 4752, 4753A or 4763 of Title 16, or §4205 of Title 11. Failure of the court to comply with this subsection shall not preclude the sentencing court from complying with any of the other provisions of this section.

(f) Whenever the court defers further sentencing proceedings pursuant to this section, it shall have the authority to remand the offender to the custody of the Department of Correction at Accountability Level III, IV or V until such offender is placed in a boot camp facility.

(g) The Department of Correction shall closely monitor all participants in this program, and shall ensure that those program participants at supervision Level IV or III shall be monitored by officers specifically assigned to such duties. The Department of Correction shall at all times have on duty no fewer than eight probation officers (two for each county and two for the City of Wilmington) who shall promptly respond to police agencies as requested for the purpose of taking custody of any person who is believed to have violated the terms or conditions of his or her program of supervision or probation at the boot camp, or at Level IV or III. Pursuant to Chapter 43 of this Title such probation officer shall promptly file a probation violation report setting forth the nature and circumstances of the alleged violation with the appropriate court.

(h) Upon receipt of an allegation that an offender has violated the terms of his or her supervision, the sentencing court shall cause the offender to be brought before it without unnecessary delay. Upon a finding that the offender has violated any of the terms or conditions of supervision or probation at the boot camp or at Level IV or Level III, the court shall proceed to sentencing on all charges for which sentencing was originally deferred pursuant to this section, and shall impose not less than the full applicable Level V sentence mandated for the offense(s) of which the offender was convicted, as set forth in §4751, 4752, 4753A or 4763 of Title 16, or §4205 of Title 11. No credit time shall be given for any time spent in boot camp, Level IV or Level III. Failure of the sentencing court to comply with the sentencing provisions of this subsection shall constitute an illegal sentence within the meaning of the Chapter 99 of Title 10.

(i) Upon conclusion of the period of supervision and probation imposed pursuant to this section, the court may find that the offender has successfully completed the program, and, if it does, it shall discharge the offender from probation.

(j) Prior to the release of any offender from the boot camp to supervision Level IV or III, the Department of Correction shall enter into the DELJIS criminal history system information identifying the offender as a First Offender Drug Felon."

Section 5. This Act shall expire two years after the date of its enactment into law unless it is specifically re-enacted by the General Assembly and approved by the Governor. Six months prior to the expiration date of this Act, the Sentencing Accountability Commission shall make a report to the General Assembly and the Governor as to the effectiveness of the Act. In the event that the Act expires, no person shall be admitted into any of the programs established herein after the date of expiration. The Act shall remain in full force and effect as to those persons admitted into any of the programs established herein prior to the date of the Act's expiration, and all the provisions of the Act shall remain in full force and effect so long as any such persons remain in any of the programs.

Approved July 11, 1997

CHAPTER 175

FORMERLY

SENATE BILL NO. 53
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:

Section 1. Amend §1304, Title 11, Delaware Code by replacing the words "national
original" with the words "sexual orientation, national origin".

Section 2. Amend § 1304, Title 11, Delaware Code to insert the following sentence at the
end of subsection (a)(2) of said section:

"For purposes of this section, the term 'sexual orientation' means heterosexuality,
bisexuality, or homosexuality."

Approved July 12, 1997

CHAPTER 176

FORMERLY

SENATE BILL NO. 204

AN ACT AMENDING THE DELAWARE CODE AND THE LAWS OF DELAWARE RELATING TO THE ORGANIZATION, COMPOSITION, AND OPERATION OF THE JUDICIARY OF THE STATE OF DELAWARE.

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

Section 1. Amend Title 10, Delaware Code by striking Section 510 in its entirety.

Section 2. Amend §901, Title 10 of the Delaware Code, by striking Subsection (4) in its entirety.

Section 3. Amend § 922, Title 10, Delaware Code, by striking Subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) The Court shall have concurrent criminal jurisdiction with the Justice of the Peace Court in all proceedings concerning alleged curfew violations under Sections 39-14 through 39-16 of the Wilmington Code."

Section 4. Amend Title 10 of the Delaware Code, by striking Section 1302 in its entirety and by substituting in lieu thereof the following:

"Section 1302. Judges: Qualification: Residence: Chief Judge.

(a) The Court shall consist of seven Judges.

(b) The Judges must be citizens of the State and must have been actively engaged in the general practice of law in the State for at least five years.

(c) Five Judges shall be residents of New Castle County, one Judge shall be a resident of Kent County, and one Judge shall be a resident of Sussex County.

(d) The Judge appointed by the Governor as Chief Judge shall be the administrative head of the Court during the term of his or her appointment."

Section 4A. The Governor, by and with the consent of a majority of all of the members elected to the Senate, shall appoint the Chief Judge of the Court of Common Pleas from among the Judges of the Court of Common Pleas sitting as of June 28, 1997, to serve as Chief Judge until the end of his or her existing term as a Judge of that Court. Such Chief Judge shall be removable during such term only on the same basis as a Chief Judge nominated by the Governor and confirmed by the Senate to serve a full term as the head of a state court would be removable during his or her term. Future appointments pursuant to § 1302(d), Title 10, Delaware Code shall be for 12 years.

Section 5. Any full-time Judge serving on the Municipal Court of the City of Wilmington on the effective date of this Act shall become a Judge of the Court of Common Pleas and shall serve until the expiration date of his or her present term and until a successor is duly nominated and confirmed. The enactment of this Act ratifies any such appointment and confirmation of a Judge of the Court of Common Pleas with the jurisdiction vested in that office by law. Any full-time Judges of the Municipal Court of the City of Wilmington, actively serving on the effective date of this Act, may elect within 30 days of the effective date of this Act to remain a member of the City of Wilmington's Pension Plan or may elect to become a member of the State of Delaware Judges'

Plan pursuant to Chapter 56 of Title 29 of the Delaware Code, as if they first became members of the State Judiciary after July 1, 1980; provided, however, that if a Municipal Court Judge elects to join the State Pension Plan for the Judiciary, his or her years of employment with the Municipal Court shall count towards determining eligibility for a pension and he or she shall receive credited service for such years of employment with the Municipal Court pursuant to the following conditions: (i) The Board of Pension Trustees of the State of Delaware for the State Judiciary Pension Fund shall determine the amount of funds necessary to fund the accrued past service liability of each Judge under the State Judges' Pension Plan arising out of each Judge's years of employment with the Municipal Court and (ii) this amount shall be paid to the State Judiciary Pension Fund by the City of Wilmington pursuant to Section 6 of this Act or by the Judge himself, and the State of Delaware shall not pay any portion of such amount. Prior to the effective date of this Act, the City and the Judges shall determine by agreement the amounts to be paid to the State Judges' Pension Plan by the City and the Judges to satisfy the requirements created by Sections 5(i) and 5(ii) of this Act. The amount of service eligible to be purchased may be a portion of the Judge's years of employment with the Municipal Court not to exceed his total service.

Section 6. As of November 1, 1998, the City shall allocate and pay to the State a portion of such fines to which the City is otherwise entitled under 21 Del. C. § 706 such that, over a period of three years, beginning November 1, 1998, the State shall be paid in full for all obligations relating in any way to the Municipal Court, its judges, its employees, and its operations, whether now outstanding, incurred as a result of this Act, or created, accrued, or recognized pursuant to any other agreement between the State and the City of Wilmington.

Section 7. Amend § 1303(b), Title 10, Delaware Code by deleting it in its entirety and substituting in lieu thereof "Each Judge shall receive a salary in accordance with the annual appropriations act."

Section 8. Amend 1303(a), Title 10, Delaware Code by striking the last sentence thereof, and by adding two new sentences in its place as follows: "The Governor shall appoint one Judge of the Court as Chief Judge of the Court to hold office during the term of his or her appointment. Nothing in this section shall affect the ability of the Chief Judge of the Court of Common Pleas to serve in that capacity for the duration of his current term of office."

Section 9. Amend Subchapter II, Chapter 13, Part I, Title 10, Delaware Code, by inserting a new section, to read:

"§ 1317. City Solicitor; powers and duties.

(a) The City Solicitor of Wilmington or a duly authorized designee shall be ex officio the prosecuting officer in the Court of Common Pleas and the Justice of the Peace Court for all offenses committed within the City of Wilmington against any of the laws, ordinances, regulations or Charter of the City. The Courts may by rule establish a regularly scheduled time and place to hear and try such matters. The Attorney General of the State may, however, prosecute in person or by his or her deputy and papers shall be signed by the City Solicitor and shall be served by any police officer. Any false answer or statement given in such a case shall be deemed perjury and punishable accordingly. The costs in such cases shall be paid by the Clerk of the Court of Common Pleas and the Justice of the Peace Court in the same manner as the costs of other proceedings in the Court are paid."

(b) The City Solicitor shall appoint an Assistant City Solicitor who shall hold office at the pleasure of the City Solicitor and perform the duties required of him or her by the City Solicitor. The City Solicitor may discharge the Assistant at any time, and his or her acts in this regard shall not be questioned.

(c) In addition to his or her other powers, the City Solicitor may compel the attendance of witnesses and the production of books and papers at his office at any time, and may administer oaths and affirmations to witnesses at any time or in any place, for the purpose of securing information relative to the enforcement of the laws, ordinances, regulations, or Charter of the City. Subpoenas and attachments for the attendance of such witnesses and the production of such books and papers shall be signed by the City Solicitor and shall be served by any police officer. Any false answer or statement given in such a case shall be deemed perjury and punishable

accordingly. The costs in such cases shall be paid by the Clerk of the Court of Common Pleas and the Justice of the Peace Court in the same manner as the costs of other proceedings in the Court are paid

Section 10. Chapter 17 of Title 10 of the Delaware Code is hereby repealed and stricken in its entirety.

Section 11. Amend § 8701, Title 10, Delaware Code, by striking the words "or the Municipal Court for the City of Wilmington," as they appear therein.

Section 12. Amend § 9203, Title 10, Delaware Code, by striking the line which reads "New Castle.... 24" and substituting in lieu thereof the line "New Castle 27".

Section 13. Amend § 1240(b)(3), Title 11, Delaware Code, by striking the words "Municipal Court" as they appear therein.

Section 14. Amend § 2102(4), Title 11, Delaware Code, by deleting all the text after "State," and inserting "and justice of the peace." in lieu thereof.

Section 15. Amend § 2115(a), (b), Title 11, Delaware Code, by striking the words "the Municipal Court of the City of Wilmington or" as they appear therein.

Section 16. Amend § 2304, Title 11, Delaware Code, by striking the words "the Municipal Court for the City of Wilmington," as they appear therein.

Section 17. Amend § 2701, Title 11, Delaware Code, by striking Subsection (b) in its entirety and by substituting in lieu thereof the following:

"(b) The Court of Common Pleas for the State shall have original jurisdiction to hear, try and finally determine all misdemeanors and violations alleged to have been committed within the State, except where jurisdiction over such offenses is vested exclusively in another court.

The Court of Common Pleas shall have original jurisdiction to hear, try and finally determine all offenses committed within the City of Wilmington against any of the laws, ordinances, regulations or Charter of the City.

The jurisdiction conferred by this subsection includes concurrent jurisdiction with the Justices of the Peace in all cases in which the Justices of the Peace have jurisdiction."

Section 18. Amend § 4302(6), Title 11, Delaware Code, by striking the words "and Municipal Court of the City of Wilmington" as they appear therein, and by inserting after "Pleas," and before "Justices" the word "or".

Section 19. Amend § 4302(10), Title 11, Delaware Code, by striking the words "and the Municipal Court of the City of Wilmington," as they appear therein, and by inserting after "Family Court," and before "Court of Common Pleas" the word "or".

Section 20. Amend § 4331(g), Title 11 of the Delaware Code, by striking the words ", and the Municipal Court for the City of Wilmington" as they appear therein.

Section 21. Chapter 57, Title 11, Delaware Code is hereby repealed and stricken in its entirety.

Section 22. Amend § 9401(7), Title 11, Delaware Code, by striking the words "Municipal Court for the City of Wilmington" as they appear therein.

Section 23. Amend § 9411(b), Title 11, Delaware Code, by striking it in its entirety and by substituting in lieu thereof the following:

"(b) In all other courts, the Attorney General shall give the victim:

- (1) Notice of the scheduling of the court proceedings and changes, including trial date, case review, and sentencing hearings;
- (2) Notice of the crime(s) of which the defendant is convicted;
- (3) Notice of the specifics of any sentencing order; and
- (4) Notice of sentence reduction or modification order."

Section 24. Amend § 9412, Title 11, Delaware Code by striking the words "except the Municipal Court" as they appear therein.

Section 25. Amend § 4795, Title 16, Delaware Code, by striking the words "and further except that for violations of subsection (b) of §4754 of this title by persons 18 years of age or older occurring within the City of Wilmington, the Municipal Court of the City of Wilmington shall have original jurisdiction concurrent with the Court of Common Pleas" as they appear therein.

Section 26. Amend § 516, Title 17, Delaware Code, by striking Subsection (c) in its entirety and by substituting in lieu thereof the following:

"(c) The Council of the 'Mayor and Council of Wilmington' may abate the nuisance by the enactment of ordinances giving directions for the cleansing, removal or remedy of the matter or thing complained of and providing penalties for violations of its orders to be recovered in the Court of Common Pleas."

Section 27. Amend § 703(a), (b), Title 21 of the Delaware Code, by striking such subsections in their entirety and by substituting in lieu thereof the following:

"(a) A person arrested without a warrant for a violation of any section of this Title, or arrested for any moving traffic violation or any municipal ordinance regulating traffic within its territorial limits as set forth in Chapter 41 of this Title shall have such case heard and determined by a Justice of the Peace.

(b) Notwithstanding subsection (a) of this section, the arresting officer may issue a summons to the person arrested for an appearance at a subsequent date before a Justice of the Peace."

Section 28. Amend § 704 (a), (d), Title 21, Delaware Code, by striking the words "and the Municipal Court for the City of Wilmington" as they appear therein.

Section 29. Amend § 704(e), Title 21, Delaware Code, by striking the words "or any Judge of the Municipal Court" as they appear therein.

Section 30. Amend § 708(a), Title 21, Delaware Code, by striking the text " , except the City of Wilmington," as it appears therein.

Section 31. Amend § 2314, Title 24, Delaware Code, by striking the words "the Judges of the Municipal Court for the City of Wilmington," as they appear therein.

Section 32. Amend § 122, Title 25, Delaware Code, by striking the words "or before the Judge of the Municipal Court of the City of Wilmington," as they appear therein.

Section 33. Amend § 5804(11)b, Title 29, Delaware Code, by striking subparagraph 7 and renumbering the remaining subparagraphs therein accordingly.

Section 34. Amend § 5804(12), Title 29, Delaware Code, by striking paragraph g and redesignating the remaining paragraph therein accordingly.

Section 35. Amend § 5812(a)(10), Title 29, Delaware Code, by striking it and renumbering the remaining paragraphs of § 5812(a) therein accordingly.

Section 36. Amend § 8228(a), Title 29, Delaware Code, by striking paragraph (2) in its entirety and by substituting in lieu thereof the following:

"(2) A person arrested without a warrant for a violation of this Act or any regulation thereunder shall have his case heard and determined by the nearest available justice of the peace, notwithstanding the fact that the court of said justice of the peace is situated in a county other than that in which the violation is alleged to have occurred. It shall be a sufficient defense for such person to show by 1 competent witness that there was at the time of his arrest an available justice of the peace whose regular office was nearer to the place where such person was arrested than the justice of the peace before whom the case is being tried."

Section 37. The Court of Common Pleas, Justices of the Peace Court system and the Department of Justice may offer employment to individuals in the position of Municipal Court Commissioner and individuals employed by the Criminal Division of the City Solicitor's Office whose position with the City is eliminated as a result of consolidation. The Court of Common Pleas and the Justice of the Peace Court system shall offer employment to all other persons who are permanent employees of the Municipal Court whose position with the City is eliminated as a result of consolidation. The above shall be accomplished without complying with the hiring requirements of the Merit System Rules promulgated pursuant to Chapter 59, Title 29 of the Delaware Code, solely for the purpose of filling the new positions created and generally carrying out the Court consolidation herein enacted. After the said positions have been initially filled, no further exemption from any applicable Merit System Rules shall be permitted.

Section 38. Any individual employed in the Municipal Court of the City of Wilmington or the Criminal Division of the City Solicitor's Office as of April 30, 1998, who is hired as a state employee pursuant to Section 37 of this Act, may transfer his or her entire balance of accrued vacation to the State. The balance of vacation to be transferred shall include only a pro rata portion of the vacation which the employee would have earned for the current calendar year had he or she remained in the employ of the Municipal Court for the full year. The City of Wilmington shall compensate the State for such transferred accrued vacation based upon the employee's starting rate of pay with the State. Any employee transferring to state employment may elect not to transfer his or her vacation to the State, and nothing in this Section shall preclude any employee electing not to transfer vacation time from exercising any rights existing under the City Code of the City of Wilmington or union contract with respect to receipt of severance pay for accrued vacation actually credited by the City of Wilmington as of April 30, 1998.

Section 39. Any individual employed in the Municipal Court or Criminal Division of the City Solicitor's Office of the City of Wilmington as of April 30, 1998, who is hired as a state employee pursuant to Section 37 of this Act may transfer his or her entire balance of accrued sick leave to the State. The City of Wilmington shall compensate the State for such transferred sick leave when such sick leave is used by the employee. Employees shall use all sick time earned as a state employee before using sick time transferred from the City. Such compensation shall be based upon the employee's state pay rate at the time the employee uses transferred sick time. Any employee going to state employment may elect not to transfer his or her sick leave to the State, and nothing in this Section shall preclude any employee electing not to transfer sick leave from exercising any rights existing under City Code or union contract with respect to receipt of severance pay for accrued sick leave actually credited by the City of Wilmington as of April 30, 1998.

Section 40. All property of the City of Wilmington, exclusive of real property, which is assigned to or used in the Municipal Court and the Criminal Division of the City Solicitor's Office as of April 30, 1998, including but not limited to all files, supplies, furniture and equipment, shall, as of May 1, 1998, become property of the State of Delaware.

Section 41. All building space occupied by the Municipal Court and the Criminal Division of the City Solicitor's Office as of April 30, 1998, and the property under Section 40 shall be allocated to the Court of Common Pleas and the Justice of the Peace Court based on anticipated increases in court personnel as a result of the court consolidation herein enacted.

Section 42. This Act does not affect any adjudications rendered or sentences, fines, or penalties imposed by the Municipal Court of the City of Wilmington on or prior to April 30, 1998. All prosecutions, proceedings, and matters pending in the Municipal Court for the City of Wilmington as of May 1, 1998, shall be transferred to the courts of the State of Delaware together with all records, papers, and things pertaining thereto and shall be proceeded with to final judgment thereon in the state courts in the manner prescribed by law. The state courts shall have jurisdiction over all offenses so transferred and all such matters shall survive and further proceedings may be had thereon in the state courts. Notwithstanding any other provisions of Delaware law or anything herein to the contrary, all violations of the rules, procedures, orders, or other mandates of the Municipal Court for the City of Wilmington as formally constituted, shall continue to be prosecuted as if such Court continued to exist except that such prosecutions shall be in accordance with the rules of the state courts.

All books, records, and papers of the Municipal Court on the effective date of this Act which pertain to non-pending matters shall become records of such state courts as the Chief Justice determines. To ensure an efficient and just transfer of responsibility, the Chief Justice shall establish a procedure to determine which of the two principal state courts to which Municipal Court jurisdiction is being transferred, the Court of Common Pleas and the Justice of the Peace Courts, will assume jurisdiction over and the records relating to various cases pending before the Municipal Court at the time this Act becomes effective, which determination shall be issued no later than October 15, 1997.

Section 43. If any section, subsection, sentence, phrase, or word of this Act or circumstances arising out of the application thereof shall be declared unconstitutional under the Constitution of the State of Delaware or of the United States by a state or federal court of competent jurisdiction, the remainder of this Act shall be unimpaired and shall continue in full force and effect and proceedings thereunder shall not be affected.

Section 44. All provisions of this Act shall become effective 270 days after enactment into law except for section 4A and lines 17-18 of section 4 which shall become effective upon enactment into law.

Section 45. The enactment of this Act into law shall be sufficient to cover the requirements of Sections 42 and 43 of the Fiscal Year 1998 State Budget Act

Section 46. 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 July 14, 1997

CHAPTER 177

FORMERLY

HOUSE BILL NO. 276
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 4

AN ACT TO AMEND CHAPTER 99 OF TITLE 16 OF THE DELAWARE CODE RELATING
TO HEALTH CARE INFORMATION.

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

Section 1. Amend Title 16, Chapter 99, Delaware Code by adding thereto a new
subchapter III to read as follows:

"Subchapter III.

§ 9220. Purpose.

(a) The purpose of this subchapter is to create a public instrumentality of this
State known as the Delaware Health Information Network ('DHIN') under the direction
and control of the Delaware Health Care Commission ('Commission') to promote the
design, implementation, operation and maintenance of facilities for public and private use
of health care information in the State.

(b) It is intended that the DHIN be a public-private partnership for the benefit of
all of the citizens of this State.

(c) The DHIN shall ensure the privacy of patient health care information.

§ 9921. Creation of Delaware Health Information Network.

(a) There is hereby established the Delaware Health Information Network which
will be managed and operated by a Board of Directors consisting of at least 13 and not
more than 21 members. It is intended that the membership of the Board reasonably
reflect the public-private and diverse nature of the DHIN. Up to 6 members of the Board
shall be appointed by the Commission to serve at its pleasure for a term to be determined
by the Commission. The chairperson of the Board shall be elected by a majority of the
members appointed to the Board.

(b) The remaining membership of the DHIN Board shall be appointed as follows:
the Commission will appoint an additional 3 members from Delaware authorized health
insurers, HMO or Medical Service Corporations; the Association of Delaware Hospitals
and the Medical Society of Delaware or their successor entities may each appoint up to 3
members; the Delaware State Chamber of Commerce, the Delaware Health Care
Coalition, the State Budget Director, the Insurance Commissioner, the Secretary of
Health & Social Services and the Director of Public Health, or their successor entities,
may each appoint 1 member.

(c) The Commission and other appointing authorities are authorized to appoint
State officers and employees and other individuals to the Board, and no State officer or
employee appointed to the board or serving in any other capacity for the Board shall be
construed to have resigned his public office or employment by reason of such
appointment or service.

(d) The Board is authorized to conduct its business by a majority of a quorum. A
quorum is a simple majority of the members appointed.

(c) The Board may propose the adoption or amendment of rules or regulations to the Commission for implementing and operating the DHIN, *including but not limited to*, the establishment of staggered terms for the Board chairperson and members.

§ 9922. Powers and Duties.

(a) In furtherance of the purposes of this subchapter, the DHIN shall have the following powers and duties:

(1) Develop a community-based health information network to facilitate communication of patient clinical and financial information, designed to:

(i) Promote more efficient and effective communication among multiple health care providers, including but not limited to, hospitals, physicians, payers, employers, pharmacies, laboratories, and other health care entities;

(ii) Create efficiencies in health care costs by eliminating redundancy in data capture and storage and reducing administrative, billing, and data collection costs;

(iii) Create the ability to monitor community health status; and

(iv) Provide reliable information to health care consumers and purchasers regarding the quality and cost-effectiveness of health care, health plans, and health care providers;

(2) Develop or design other initiatives in furtherance of its purpose;

(3) Report and make recommendations to the Commission; and,

(4) Perform any and all other activities in furtherance of the above or as directed by the Commission.

(b) To carry out the above duties, the DHIN is granted all incidental powers, including contracting with others to perform its duties and employing sufficient staff. The DHIN is authorized to establish a non-appropriated special funds account in the Commission's budget in order to receive gifts and donations. All of the above are subject to the Commission's approval and control.

§ 9923. Immunity from suit; Limitation of liability.

(a) All members of the Board of Directors of the DHIN and all members of the Commission, whether temporary or permanent, shall not be subject to, and shall be immune from claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken, performed or reached in good faith and without malice by any such member or members acting individually or jointly in carrying out the responsibilities, authority, duties, powers, and privileges of the offices conferred by law upon them under this chapter, or any other State law, or duly adopted rules and regulations of the aforementioned committees, good faith being presumed until proven otherwise, with malice required to be shown by a complainant. All employees and staff of the DHIN and the Commission, whether temporary or permanent, shall enjoy the same rights and privileges concerning immunity from suit otherwise enjoyed by State employees pursuant to the Constitution of this State and Title 10 §§ 4001 through § 4005.

(b) The DHIN is not a health care provider and is not subject to claims under 18 Del. C. Chapter 68. No person who participates or subscribes to the services or information provided by the DHIN shall be liable in any action for damages or costs of any nature, in law or equity, which result solely from that person's use or failure to use DHIN information or data that was imputed or retrieved in accordance with the rules or regulations of the DHIN as approved by the Commission. In addition, no person shall be

subject to antitrust or unfair competition liability based on their membership or participation in the DHIN which provides an essential governmental function for the public health and safety.

§ 9924. Property rights.

(a) All persons providing information and data to the DHIN shall retain a property right in that information or data, but grant to the other participants or subscribers a nonexclusive license to retrieve and use that information or data in accordance with the rules or regulation promulgated by the Commission.

(b) All processes or software developed, designed or purchased by the DHIN shall remain its property subject to use by participants or subscribers in accordance with the rules or regulations promulgated by the Commission

§ 9925. Regulations; Resolution of disputes.

(a) The Commission is hereby authorized to promulgate rules and regulations under and pursuant to Subchapter II of 29 Del. C. Chapter 101 to carry out the objectives of this subchapter.

(b) To resolve disputes under this subchapter, or the rules and regulations promulgated herein among participants, subscribers or the public, the Commission is hereby authorized to hear and determine case decisions under and pursuant to Subchapter III of 29 Del. C. Chapter 101.

(c) Any person aggrieved by the unlawfulness of any rule or regulation of the Commission herein, or any person against whom a case decision has been decided, may appeal to the Superior Court in accordance with Subchapter V of 29 Del. C. Chapter 101.

§ 9926. Privacy; Protection of Information.

(a) The Commission shall by rule or regulation ensure that patient specific health information be disclosed only in accordance with the patient's consent or best interest to those having a need to know.

(b) The health information and data of the DHIN shall not be subject to the Freedom of Information Act, 29 Del. C. Chapter 100, nor to subpoena by any court. Such information may only be disclosed by consent of the patient or in accordance with the Commission's rules, regulations or orders.

(c) Any violation of the Commission's rules or regulations regarding access or misuse of the DHIN health information or data shall be reported to the Office of the Attorney General, and subject to prosecution and penalties under the Delaware Criminal Code or federal law.

§ 9927. No Pledge of State Credit; No Assumption of Liability By State.

The DHIN 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 DHIN as a result of any actions by the DHIN."

Approved July 15, 1997

CHAPTER 178

FORMERLY

SENATE BILL NO. 78
AS AMENDED BY SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 1AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH
INSURANCE.

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

Section 1. Amend Chapter 33, Title 18 of the Delaware Code to add a new section
thereto to read as follows:

"§3340. Obstetrical and Gynecological Coverage.

(a) This section applies to every individual policy or contract of health insurance, or certificate issued thereunder, which is delivered or issued for delivery in this State that requires an insured, participant, policyholder, subscriber, or beneficiary to designate a participating primary care provider.

(b) Any such policy or contract shall permit each female enrolled insured participant, policyholder, subscriber or beneficiary to designate a participating, in network, obstetrician-gynecologist as the enrollee's primary care provider if: (i) the obstetrician-gynecologist meets the standards established by the insurance plan for primary care providers; (ii) the obstetrician-gynecologist requests that the insurer makes the obstetrician-gynecologist available for designation as a primary care provider; (iii) the obstetrician-gynecologist agrees to accept the payment terms applicable under the plan to primary care providers for services other than obstetrician-gynecological services and; (iv) the obstetrician-gynecologist agrees to abide by all other terms and conditions applicable to primary-care physicians under the plan generally.

(c) If a female enrolled insured, participant, policyholder, subscriber, or beneficiary has designated a primary care provider who is not an obstetrician-gynecologist, then the policy or contract shall not require as a condition to the coverage of the services of a participating in-network obstetrician-gynecologist that a female enrollee first obtain a referral from another primary care physician, and shall permit the female enrolled insured, participant, policyholder, subscriber, or beneficiary to have direct access to the health care services of an in-network obstetrician-gynecologist participating the plan, within the benefits provided under that plan. In such cases the obstetrician-gynecologist shall consult with the primary care physician with respect to the care given and any follow up care, and the plan may require a visit to the primary care physician, if necessary, before the patient may be directed to another specialty provider, or for inpatient hospitalization or outpatient surgical procedures.

(d) For purposes of this section, 'health care services' means the full scope of medically necessary services provided by the participating obstetrician-gynecologist within the benefits provided under that plan.

(e) This section shall not be construed to require an individual obstetrician-gynecologist to accept primary care physician status if the obstetrician-gynecologist does not wish to be designated as a primary care physician, nor to interfere with the credentialing and other selection criteria usually applied by a health benefit plan with respect to other physicians within its network.

(f) Any such policy or contract may not impose a copayment, coinsurance requirement, or deductible for directly accessed obstetric and gynecologic services as required in this section, unless such additional cost sharing is imposed for access to health care practitioners for other types of health care services

(g) If a policy or contract limits an insured's access to a network of participating providers for other health care services, then it may limit access for obstetric and gynecologic services, but the policy or contract shall include in all its provider networks sufficient numbers of obstetrician-gynecologists to accommodate the direct access needs of their female enrollees.

(h) Each such policy or contract shall provide notice to female enrolled participants, policyholders, subscribers, and beneficiaries regarding the coverage required by this act. The notice shall be in writing, printed in type not less than eight-point, and prominently positioned in any literature or correspondence, including benefit handbooks and enrollment materials. Policies or contracts shall include an explanation of any voluntary process of pre-authorization of services available to female enrollees and obstetrician-gynecologists. The enrollee handbook explanation shall include information regarding any limitation to direct access, including, but not limited to, a closed network of providers, or any limitation on access to an obstetrician-gynecologist based on a female's choice of primary care provider."

Section 2. Amend Chapter 35, Title 18 of the Delaware Code to add a new section thereto to read as follows:

"§3556. Obstetrical and Gynecological Coverage.

(a) This section applies to every group or blanket policy or contract of health insurance, or certificate issued thereunder, which is delivered or issued for delivery in this State that requires an insured, participant, policyholder, subscriber, or beneficiary to designate a participating primary care provider.

(b) Any such policy or contract shall permit each female enrolled insured participant, policyholder, subscriber or beneficiary to designate a participating, in-network, obstetrician-gynecologist as the enrollee's primary care provider if: (i) the obstetrician-gynecologist meets the standards established by the insurance plan for primary care providers; (ii) the obstetrician-gynecologist requests that the insurer makes the obstetrician-gynecologist available for designation as a primary care provider; (iii) the obstetrician-gynecologist agrees to accept the payment terms applicable under the plan to primary care providers for services other than obstetrician-gynecological services and; (iv) the obstetrician-gynecologist agrees to abide by all other terms and conditions applicable to primary-care physicians under the plan generally.

(c) If a female enrolled insured, participant, policyholder, subscriber, or beneficiary has designated a primary care provider who is not an obstetrician-gynecologist, then the policy or contract shall not require as a condition to the coverage of the services of a participating in-network obstetrician-gynecologist that a female enrollee first obtain a referral from another primary care physician, and shall permit the female enrolled insured, participant, policyholder, subscriber, or beneficiary to have direct access to the health care services of an in-network obstetrician-gynecologist participating in the plan, within the benefits provided under that plan. In such cases the obstetrician-gynecologist shall consult with the primary care physician with respect to the care given and any follow up care, and the plan may require a visit to the primary care physician, if necessary, before the patient may be directed to another specialty provider, or for inpatient hospitalization or outpatient surgical procedures.

(d) For purposes of this section, 'health care services' means the full scope of medically necessary services provided by the participating obstetrician-gynecologist within the benefits provided under that plan..

(c) This section shall not be construed to require an individual obstetrician-gynecologist to accept primary care physician status if the obstetrician-gynecologist does not wish to be designated as a primary care physician, nor to interfere with the credentialing and other selection criteria usually applied by a health benefit plan with respect to other physicians within its network.

(f) Any such policy or contract may not impose a copayment, coinsurance requirement, or deductible for directly accessed obstetric and gynecologic services as required in this section, unless such additional cost sharing is imposed for access to health care practitioners for other types of health care services.

(g) If a policy or contract limits an insured's access to a network of participating providers for other health care services, then it may limit access for obstetric and gynecologic services, but the policy or contract shall include in all its provider networks sufficient numbers of obstetrician-gynecologists to accommodate the direct access needs of their female enrollees.

(h) Each such policy or contract shall provide notice to female enrolled participants, policyholders, subscribers, and beneficiaries regarding the coverage required by this act. The notice shall be in writing, printed in type not less than eight-point, and prominently positioned in any literature or correspondence, including benefit handbooks and enrollment materials. Policies or contracts shall include an explanation of any voluntary process of pre-authorization of services available to female enrollees and obstetrician-gynecologists. The enrollee handbook explanation shall include information regarding any limitation to direct access, including, but not limited to, a closed network or providers, or any limitation on access to an obstetrician-gynecologist based on a female's choice of primary care provider."

Section 3. The effective date of this Act is September 1, 1997. The provisions of this Act shall apply to policies, contracts of health insurance or certificates issued thereunder, delivered or issued for delivery in Delaware on and after the effective date of this Act.

Section 4. STATEMENT OF PURPOSE: It is the purpose of this act to facilitate the unique physician-patient relationship between and among Obstetrician-Gynecologists and their patients without unduly inhibiting the beneficial market forces that have reformed and are currently reforming, the financing and delivery of health care in Delaware. In that regard, the General Assembly expressly finds that the physician-patient relationship at issue in this Act is unlike other specialist-patient relationships, in that obstetrician-gynecologists more frequently deliver "primary care" to their patients than other medical specialties, warranting the unique treatment outlined in this act. It is not the intent of the Delaware General Assembly to expand the provisions of this act to other medical specialties.

Section 5. All provisions of this Act apply as well to health service corporations as defined and regulated by Chapter 63 of Title 18 of the Delaware Code.

Section 6. If any section, subsection, paragraph, or provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other sections, subsections, paragraphs, or provisions of this Act or the application thereof which can be given effect without the invalid section, subsection, paragraph, provision or application, and to that end the provisions of this Act are declared to be severable.

Approved July 15, 1997

CHAPTER 179

FORMERLY

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

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE REQUIRING
MANDATORY INCARCERATION FOR CRIMINAL CONTEMPT OF FAMILY
COURT PROTECTIVE ORDERS.

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

Section 1. Amend Subpart F, Subchapter VI, Chapter 5, Title 11 of the Delaware Code
by adding to the end of Section 1271A the following:

"A person found guilty of criminal contempt of a Family Court protective order
shall receive a minimum sentence of 15 days incarceration if:

- (a) such contempt resulted in physical injury; or
- (b) such contempt involved the use or threatened use of a deadly weapon;
or,
- (c) the defendant was convicted of criminal contempt of a Family Court
protective order under this section on two or more occasions prior to this
violation.

This minimum sentence shall not be subject to suspension and no person subject
to the minimum sentence shall be eligible for probation, parole, furlough or suspended
custody during said sentence."

Approved July 15, 1997

CHAPTER 180

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 81

AS AMENDED BY HOUSE AMENDMENT NOS. 2, 4 AND 5

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO
EDUCATION.

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

Section 1. This Act may be referred to as the "Department of Education Act of 1997".

Section 2. Amend Chapter 1, Title 14, Delaware Code by replacing the words "STATE BOARD OF EDUCATION" in the chapter heading with "DEPARTMENT OF EDUCATION".

Section 3. Amend §§ 101-106, Title 14, Delaware Code by deleting them in their entirety and inserting in lieu thereof the following:

§ 101. Establishment of Department of Education.

The general administration of the educational interests of the State shall be vested in a Department of Education within the Executive Branch, hereinafter in this title referred to as the 'Department'.

§ 102. Secretary; Deputy, Associate, and Assistant Secretaries; Acting Secretary; appointment.

(a) The administrator and head of the Department shall be the Secretary of Education, who shall be a graduate of an accredited college and shall have not less than 5 years' experience in teaching and administration, with experience in each such category. The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. He or she shall be paid a salary as determined by the General Assembly in the annual appropriations act. The Secretary of Education shall become a bona fide resident of the State within 6 months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional extension of 6 months.

(b) In the event the position of Secretary is vacant, the Governor, by appointment, shall have the power to fill the position or positions of Deputy, Associate, or Assistant Secretaries of Education as are vacant. Persons so appointed shall serve at the pleasure of the Governor and, upon the position of Secretary being filled, such persons may be removed by the Secretary with the written approval of the Governor.

(c) In the event of death, resignation, temporary incapacity or removal of the Secretary and prior to the appointment of his or her successor, the Governor may appoint the Deputy Secretary or an Associate Secretary of Education to serve as Acting Secretary. The Secretary may, during his or her absence from the State, appoint the Deputy Secretary or an Associate Secretary to serve as Acting Secretary during such absence. In either case, the Acting Secretary shall have all the powers and perform all the duties and functions of the Secretary during his or her absence or incapacity or until his or her successor is duly qualified and appointed.

§ 103. Powers, duties, and functions of the Secretary.

(a) The Secretary may:

(1) Supervise, direct, and account for the administration and operation of the Department, its offices, functions, and employees;

(2) Appoint and fix the salary, with the written approval of the Governor, of the following officers : Deputy Secretary, Associate and Assistant Secretaries and an Executive Assistant. These officers may be removed from office by the Secretary with the written approval of the Governor, and they shall have such powers, duties and functions in the administration and operation of the Department as may be assigned by the Secretary;

(3) Appoint such additional personnel as may be necessary for the administration and operations of the Department, within such limits as may be imposed by law;

(4) With the written approval of the Governor, establish, consolidate, abolish, transfer, or combine the powers, duties, and functions of the branches, work groups, offices, or units within the Department as the Secretary may deem necessary, providing that all powers, duties, and functions required by law shall be provided for and maintained;

(5) Make and enter into any and all contracts, agreements, or stipulations; retain, employ, and contract for the services of private and public consultants, and research and technical personnel; and procure by contract consulting, research, technical and other services and facilities whenever the same shall be deemed by the Secretary necessary or desirable, in the performance of the functions of the Department or to determine and ensure the quality and effectiveness of education programs and initiatives, and whenever funds shall be available for such purpose. All necessary legal services shall be provided pursuant to Chapter 25 of Title 29 unless otherwise provided by law;

(6) Delegate any of his or her powers, duties or functions to the Deputy Secretary or an Associate or Assistant Secretary, except the power to remove employees of the Department or to fix employee compensation;

(7) Establish and promulgate such rules and regulations governing the administration and operation of the Department as may be deemed necessary by him or her and which are not inconsistent with the laws of this State;

(8) Maintain such facilities throughout the State as may be necessary for the effective and efficient operation of the Department;

(9) Adopt an official seal or seals for the Department;

(10) In consultation with the State Board of Education, prepare a proposed annual operating and capital improvement budget for the Department and state support of the public school system to be submitted for the consideration of the Governor and the General Assembly. The Department shall be operated within the limitations of the annual appropriation and any other funds appropriated to it by the General Assembly. Special funds may be used in accordance with approved grants, programs, and appropriations;

(11) Appoint committees or advisory entities to assist him or her in performing the duties of his or her office. When the committee or entity is formed to assist in developing policies or regulations the adoption of which must be approved by the State Board, the Secretary shall consult with the State Board regarding the composition of such committee or entity.

(b) The Secretary shall:

(1) develop and implement policy for grades 1-12 that will substantially decrease the number of nonperformance-based promotions, or social promotions, which allow students who have not passed a course or courses required for promotion to the next grade to advance to the next grade, with the goal of eliminating those promotions by the year 2001.

§104. State Board of Education; composition; term; powers and duties; qualifications; vacancies; staggered appointments; office location; compensation.

(a) The State Board of Education shall be composed of 7 members who shall be citizens of the State and shall be appointed by the Governor and confirmed by the Senate. The Governor shall name the President of the Board who shall serve at the Governor's pleasure. Each of the remaining members of the Board shall be appointed to serve for 6 years and until his or her successor qualifies.

(b) The State Board of Education shall have powers, duties, and responsibilities as specified in this title. Included among the powers, duties and responsibilities are those specified in this subsection. The State Board of Education shall:

(1) Provide the Secretary of Education with advice and guidance with respect to the development of policy in those areas of education policy where rule- and regulation-making authority is entrusted jointly to the Secretary and the State Board. The State Board shall also provide guidance on new initiatives which may from time to time be proposed by the Secretary. The Secretary shall consult with the State Board regularly on such issues to ensure that policy development benefits from the breadth of viewpoint and the stability which a citizens' board can offer and to ensure that rules and regulations presented to the State Board for its approval are developed with input from the State Board. Consistent with its role in shaping critical educational policies, the State Board of Education may also recommend that the Secretary undertake certain initiatives which the State Board believes would improve public education in Delaware;

(2) Provide the Secretary of Education with advice and guidance on the Department's annual operating budget and capital budget requests;

(3) Provide the Secretary of Education with guidance in the preparation of the annual report specified in § 124 of this title, including recommendations for additional legislation and for changes to existing legislation;

(4) Provide the Secretary of Education with guidance concerning the implementation of the student achievement and statewide assessment program specified in § 122(b)(4) of this title;

(5) Decide, without expense to the parties concerned, certain types of controversies and disputes involving the administration of the public school system. The specific types of controversies and disputes appropriate for State Board resolution and the procedures for conducting hearings shall be established by rules and regulations pursuant to § 121 (12) of this title;

(6) Fix and establish the boundaries of school districts, which may be doubtful or in dispute, or change district boundaries as provided in §§ 1025, 1026, and 1027 of this title;

(7) Decide on all controversies involving rules and regulations of local boards of education pursuant to § 1058 of this title;

(8) Subpoena witnesses and documents, administer and examine persons under oath, and appoint hearing officers as the State Board finds appropriate to conduct investigations and hearings pursuant to paragraphs (5), (6), and (7) of this subsection;

(9) Review decisions of the Secretary of Education, upon application for review, where specific provisions of this title provide for such review. The State Board may reverse the decision of the Secretary only if it decides, after consulting with legal counsel to the Department, that the Secretary's decision was contrary to a specific state or federal law or regulation, was not supported by substantial evidence, or was arbitrary and capricious. In such cases, the State Board shall set forth in writing the legal basis for its conclusion;

(10) Approve such Department rules and regulations as require State Board approval, pursuant to specific provisions of this title, before such regulations are implemented;

(11) Approve rules and regulations governing institutions of postsecondary education that offer courses, programs of courses, or degrees within the State or by correspondence to residents of the State pursuant to §§ 121(16) and/or 122(b)(8).

(c) The Department, through the Secretary, shall provide reasonable staff support to assist the State Board in performing its duties pursuant to this title and shall, upon request through the Secretary, provide the State Board with reports and data necessary to enable the State Board to perform its duties pursuant to this title. The Secretary of Education, in addition to his or her other duties of office, shall serve as Executive Secretary of the State Board.

(d) The members of the Board shall be appointed solely because of their character and fitness subject to the following qualifications: At least 2 members of the Board shall have had prior experience on a local board of education; no more than 4 members of the Board shall belong to the same political party; no person shall be eligible to appointment who has not been for at least 5 years immediately preceding appointment a resident of this State; and no person shall be appointed to the Board who is in any way subject to its authority.

Any member of the Board shall be eligible for reappointment unless otherwise disqualified by this title. In constituting the Board, the President shall be appointed from the State at large, but the appointments of the remaining 6 members shall be made so that there shall be on the Board at least 1 resident of the City of Wilmington, 3 residents from New Castle County outside the City of Wilmington, 1 from Kent County and 1 from Sussex County.

(e) Vacancies on the Board for any cause shall be filled by the Governor for the unexpired term and until a successor shall qualify.

(f) The Governor may appoint members for confirmation by the Senate for terms shorter than 6 years where that is necessary to ensure that Board members' terms expire on a rotating annual basis.

(g) The Board shall meet in Dover in meeting space provided by the Department.

(h) The members of the Board shall receive \$100 for each day's attendance at the meetings of the Board not to exceed 24 days' attendance in any 1 calendar year; and they shall be reimbursed for their actual travel and other necessary expenses incurred in attending meetings and transacting the business of the Board.

§ 105. State Board Procedures.

(a) The Board shall hold an annual meeting each year, in Dover, during the month of July. At this meeting the Board shall each year elect 1 of its members to serve as Vice-President. Other meetings shall be held at such times and places as the duties and business of the Board require. No motion or resolution shall be declared adopted without the concurrence of a majority of the whole Board.

(b) Whenever this Code requires that the State Board approve a regulation or other action proposed by the Department, the State Board shall approve such regulation or action at a meeting held in conformity with Chapter 100 of Title 29 of this Code. Provided that the Department has complied with the provisions of Chapter 101 of Title 29 of this Code in proposing a regulation or other regulatory action to the extent such action is governed by said Chapter 101, the State Board shall not be subject to said Chapter 101 in approving, or refusing to approve, such Departmental proposal.

§ 106. Advisory Board to the Secretary of Education.

There shall be formed an Advisory Board to the Secretary of Education consisting of a representative from each board of education and from each county vocational-technical district, and such additional representatives of educational stakeholder organizations as appointed by the Secretary and the State Board. This Board shall not meet less than twice in any calendar year and the State Board shall participate in such meetings. The Advisory Board shall:

(1) Review current state policies and submit recommendations to the Department of Education when appropriate for changes, modifications, or deletions;

(2) Study and review planning guides for program improvement of the Delaware Public School System as submitted by the Department of Education and make appropriate recommendations to the Department of Education on legislative and policy implementation;

(3) Meet at a time and place that shall be at the discretion of the Secretary of Education or the Deputy Secretary. The call for the meeting shall be through the office of the Secretary of Education. The members of the Advisory Board shall receive their actual expenses for 2 dinner meetings per year, but not including travel expenses. The Department of Education shall not expend more than \$1,000 for such expenses during any 1 fiscal year."

Section 4. Amend §§ 107-110, Title 14, Delaware Code by deleting them in their entirety.

Section 5. Amend §§ 121 and 122(a)-(c), Title 14, Delaware Code, by deleting them in their entirety and inserting in lieu thereof the following:

"§ 121. General Powers of the Department of Education.

The Department shall exercise general control and supervision over the public schools of the State, including:

(1) Developing and executing the educational policies and laws of the State and promoting public sentiment in support of public education;

(2) Consulting with, and advising and cooperating with the boards of education and superintendents of reorganized school districts, and other officers, principals, teachers, and interested citizens in matters relating to education and to the conduct of schools;

(3) Appointing, through the Secretary, by execution of a written contract for a term of not less than 1 year nor more than 5 years, of additional officers necessary for administering and developing the policies, rules, and regulations of the Department. As used in this section, the term 'additional officers' shall be defined as the team leaders and directors authorized by § 1321(a) of this title and any certificated professional employees assigned to the office of the Secretary, whose positions are not covered in § 103(a)(2) of this chapter. The Secretary may elect not to renew the contract of any additional officer upon its expiration. However, in such a case the Secretary shall notify the officer in writing by certified mail, return receipt requested, at least 4 months prior to the expiration date of the existing contract that he or she does not intend to renew the

contract, thereby providing official notice that the services of the officer are to be terminated; provided, however, that any person so notified will automatically be entitled to a 2-month extension of his or her existing contract in order that he or she may be afforded a total of 6-months notice. Failure to notify an additional officer covered by this subsection in writing by the required date shall result in an automatic extension of the existing contract for a period of 1 year from its expiration date;

(4) Hiring, through the Secretary, by execution of a written contract for a term of not less than 1 year and not more than 5 years, of certificated professional employees, other than those persons described in subsection (3) of this section and § 103(a)(2) of this chapter, necessary for carrying out the policies, rules, and regulations of the Department. For the purposes of this subsection, the term 'certificated professional employees' includes Education Associates, Education Specialists, Field Agents, Technicians and other employees holding positions of similar rank. The Secretary may elect not to renew the contract of a certificated professional employee upon its expiration. However, in such a case, the Secretary shall notify the employee in writing by certified mail, return receipt requested, at least 4 months prior to the expiration date of the existing contract that he or she does not intend to renew the contract, thereby providing official notice that the services of the employee are to be terminated; provided, however, that any person so notified will automatically be entitled to a 2-month extension of his or her existing contract in order that he or she may be afforded a total of 6-months notice. Failure to notify a person covered under this subsection in writing by the required date shall result in an automatic extension of the existing contract for a period of 1 year from its expiration date. The written notification shall indicate that just cause exists for the Secretary's proposed action. For the purposes of this subsection, 'just cause' shall be defined as including, but not limited to, reduction in force, inefficiency, or unsatisfactory performance of duties. Any employee notified of the Secretary's intention not to renew for reasons other than a reduction in force may request a formal hearing before a hearing officer appointed by the State Personnel Director to present information in his or her own defense and may have legal counsel at the hearing. Such hearing shall be held not earlier than ten (10) days nor more than ninety (90) days after the issuance of the written notification of the Secretary's intent not to renew the contract, unless both parties mutually agree to a different schedule;

(5) Dismissing or disciplining, through the Secretary, during the contract period, for misconduct in office, incompetency, or willful neglect of duty, any officer or certificated professional employee appointed under this title or under any special school law except an employee whose position is covered in § 103(a)(2) of this title, giving him or her a copy of the charges against him or her. In making a determination to dismiss or to impose a lesser disciplinary action, the Secretary shall assess and take into account any mitigating or extenuating circumstances as well as the employee's work history. Any employee dismissed pursuant to this subsection may request a formal hearing before a hearing officer appointed by the State Personnel Director to present information in his or her own defense and may have legal counsel at the hearing. Such hearing shall be held not earlier than ten (10) days nor more than ninety (90) days after the issuance of written notification of dismissal from the Secretary.

(6) Hiring, through the Secretary, any clerical assistants and other non-certificated employees necessary to provide support in carrying out the policies, rules, and regulations of the Department or the State Board, or both. An employee hired pursuant to this subsection shall not enter into a written contract with the Department. Such employee shall be subject to dismissal or other disciplinary action imposed by the Secretary only for just cause. For the purposes of this subsection, 'just cause' includes, but is not limited to, reduction in force, inefficiency, unsatisfactory performance of duties, misconduct, immorality, incompetency, and willful neglect of duty.

In making a determination to dismiss or to impose a lesser disciplinary action pursuant to this subsection, the Secretary shall assess and take into account any mitigating or extenuating circumstances as well as the employee's work history. An employee dismissed pursuant to this subsection may request a formal hearing before a

hearing officer appointed by the State Personnel Director to present information in his or her own defense and may have legal counsel at the hearing. Such hearing shall be held not earlier than ten (10) days nor more than ninety (90) days after the issuance of written notification of dismissal from the Secretary;

(7) Granting to any person employed by the Department pursuant to this section who is called to the service or voluntarily enters the Armed Forces of the United States or the National Guard of the State, when in continuous active service, a leave of absence which shall cover the period of voluntary service, not to exceed 3 years, or the term of service to which he or she has been called until that term of service is terminated; and upon the completion of the leave of absence, reinstating such person in the position which he or she held at the time that the leave of absence was granted, if such person has received a certificate of satisfactory completion of service;

(8) Appointing persons to replace employees on leaves of absence for active military service, as described in subsection (7) of this section, but such appointments shall be only for the period covered by said leaves of absence;

(9) Requiring boards of education of reorganized school districts to submit reports covering student achievement, discipline, expenditures, business methods, accounts, registration, attendance, and any other matter it finds necessary and advisable consistent with the State's policy, as reflected in § 122 (d) and (e) and § 124A(f) of this title, to avoid duplicative or unnecessarily burdensome reporting obligations; and receiving and examining such reports and, through its staff, examining and giving advice on expenditures, business methods, and accounts of boards of education of reorganized school districts;

(10) Conducting investigations relating to the educational needs of the State and the means of improving the educational conditions; and for such investigations, employing additional expert assistants and appointing special agents when deemed advisable;

(11) Causing the provisions of this title to be carried into effect, so as to provide a general and efficient system of public schools throughout the State;

(12) Deciding, without expense to the parties concerned, certain types of controversies and disputes involving the administration of the public school system. The specific types of such controversies and disputes appropriate for Department resolution and the procedures for the resolution of such controversies and disputes shall be established by rules and regulation proposed by the Secretary subject to approval by the State Board. Hearing examiners or panels, including panels of the State Board of Education, may be appointed to hear such controversies and disputes;

(13) Obtaining witnesses and documents through subpoena, administering oaths, examining under oath, and causing such examinations to be reduced to writing, when necessary to enforce any provision of this title. The Secretary and the State Board of Education, and any hearing examiner or panel duly appointed by either, may exercise the provisions of this subsection;

(14) Entering into contracts with states bordering on the State, or with agencies, political subdivisions, or school districts of such states, for the establishment and operation of joint educational facilities wherever it is found by the Department that such joint facilities would be of greater educational value to the citizens of the State than separate facilities. Tuition payments required by such contracts shall be paid from funds specifically appropriated in the annual budget for this purpose, from educational contingency funds, or from both. Tuition payments received under such contracts shall be deposited in the General Fund of the State, notwithstanding any other provisions of this title;

(15) Supervising generally the design of educational facilities by:

(a) Establishing and applying evaluative criteria to all stages in the design of proposed educational facilities;

(b) Analyzing and researching design factors as they relate to educational effectiveness;

(c) Recommending to local school districts matters dealing with educational design.

(16) Determining criteria to be met and procedures to be followed by institutions of postsecondary education that offer courses, programs of courses, or degrees within the State but that are not institutions either incorporated in Delaware or located in Delaware except for the purpose of offering the particular courses, programs of courses, or degrees referred to above. The administration of the authority herein granted shall be carried out according to rules and regulations of the Department as authorized in § 122 of this title.

§ 122. Rules and Regulations.

(a) The Department shall adopt rules and regulations, consistent with the laws of this State, for the maintenance, administration and supervision throughout the State of a general and efficient system of free public schools in accordance with this title, including the rules and regulations specified in subsection (b) of this section. Such rules and regulations, when prescribed and published, shall not extend, modify, or conflict with any law of this State or the reasonable implications thereof, and shall be binding throughout the State.

(b) The Department shall prescribe rules and regulations:

(1) Governing the hygienic, sanitary, and protective construction of school buildings; the selection, arrangement, and maintenance of school sites and grounds; and the condemnation, for school purposes, of public school buildings that do not conform to such rules and regulations;

(2) Governing the physical inspection of and the protection of the health and physical welfare of public school students in the State;

(3) Governing the issuance of certificates and diplomas for the public schools of the State. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education.

(4) Governing the statewide assessment of student achievement and the assessment of the education attainments of the Delaware public school system, and any system of student, educator, school district, or school accountability linked thereto. The Secretary shall consult with the State Board and representatives of the local school districts in designing and implementing assessment programs required under this paragraph. Assessment programs shall be designed and operated to provide the General Assembly, the Governor, the Secretary, the State Board of Education, educational administrators, teachers, and the public with timely and accurate information on student achievement and educational attainments. The Department of Education shall conduct an annual assessment of student achievement for all students in a minimum of at least 4 grade levels. Guidelines for inclusion in the student achievement assessment program will be determined by regulations. The Secretary of Education shall annually report the results of assessment programs to the Governor, General Assembly, and the public. Such reports shall include an analysis of the results of each assessment activity; recommended statewide action to address identified deficiencies; and, where applicable, school and district assessment results and district plans to address identified deficiencies. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education;

(5) Determining the minimum courses of study for all public elementary schools and all public high schools of the State, including ensuring that all elementary school students have an opportunity to attend a school where all elementary school subjects, with the exception of foreign languages, are taught in the English language and requiring that all pupils of all public elementary schools and all public high schools of the State be instructed in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants, and narcotics upon the human system. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education;

(6) Governing the qualifications and certification of educators in all of the public schools of the State. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education. The Secretary shall, in consultation with the State Board, establish a Professional Standards Council to provide advice to the Department and the State Board regarding standards that assure professional competence, and rules and regulations concerning teacher, specialist, and administrator education in Delaware as well as ways to implement those standards through the licensing, certification, and professional development of educators;

(7) Governing the attendance of teachers now employed and prospective teachers at the summer schools at the University of Delaware and Delaware State University, and, in cooperation with the Presidents of those institutions, determining the conditions by which such teachers and prospective teachers may receive from the State all or a part of the expenses incurred by such summer school attendance;

(8) Providing for the licensing of any institution of higher education, public or private, which is not incorporated in the State or which is not established according to Delaware law, whether the main office of that institution is located within the State or in any state of the United States or in any nation of the world, if that institution offers any course, program of courses, or degree at a location within the State or by correspondence to residents of the State. Regulations on this subject shall include provisions for the identification and licensing of any agent of such an institution who contacts persons within the State, in person or by correspondence, for the purpose of soliciting enrollment by a permanent or temporary resident of the State in any such course, program of courses, or degree. The Department shall also determine the minimum requirements for the presentation of any course or program of courses and for the issuing of academic, normal school, collegiate, professional, or university degrees of any level by such institutions as are not otherwise authorized by Delaware law to determine such requirements. Rules and regulations pursuant to this paragraph shall be proposed by the Secretary subject to approval by the State Board of Education;

(9) Determining the days on which the schools are closed by the authority of the local board for such reasons as storms, necessary repairs, quarantine, destruction of school property by fire, or other causes. Under the above conditions, a school employee shall suffer no loss of pay, and the total number of hours required by § 1049(l) of this title may be adjusted accordingly. Any excusal of educational hour requirements set forth in § 1049(l) shall be approved by the Secretary and the State Board of Education;

(10) Providing for the enforcement of school attendance laws of this State, controlling the necessary absence of pupils enrolled in the public schools, and determining the circumstances under which such absence shall be considered necessary. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education;

(11) Requiring a uniform series of forms and blanks for the keeping and reporting of all financial accounts, the annual school budget and all educational records; and providing a series of forms and blanks for the same;

(12) Providing for the physical examination of students and for the mental examination of such students who have made no advancement in their studies for 3 successive years of regular attendance and ensuring the implementation of § 3122 of this title;

(13) Assuring the permanent maintenance for a period of not less than 40 years of the personnel records of all employees of all the school districts of the State, including those employees who terminate employment in the district. These records shall include, but not be limited to, all annual salaries and sick leave and vacation information;

(14) Providing for instruction in driver education during the summer months beyond the period usually designated as the school term. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education. Such rules and regulations shall provide for a comprehensive, quality program including at minimum that:

a. The program presented shall use dual-controlled vehicles and follow procedures provided in § 2710(c) of Title 21;

b. The program shall be available to any pupil who is a resident of the reorganized school district in which the program is offered or in which the program is offered in cooperation with other reorganized school districts, who has been enrolled in or is eligible for enrollment in the tenth grade or who is enrolled in grades 11 or 12, or who has reached his or her fifteenth birthday on or before July 15;

c. Teachers shall be assigned on a ratio of 1 teacher for each 125 qualified pupils, or one-fifth of a teacher may be assigned for each 25 qualified pupils, unless these ratios are modified by other sections of this title enacted after July 1, 1967;

d. Instruction shall be available to qualified pupils without charge to said pupils;

e. Driver-education teachers shall be regularly certified to teach driver education;

f. Salaries paid to teachers assigned to the program shall be paid in accordance with Chapter 13 of this title;

(15) Governing the conduct of interscholastic athletics. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education. The Secretary, with the approval of the State Board, may delegate to a non-profit organization the authority, with Department oversight and subject to State Board review of disputes involving such rules and regulations, to implement the Department's rules and regulations on this subject. The Department shall not approve any rule or regulation that denies a student the right to simultaneously try out, practice, or participate in games on a team similar to the school team on which he or she is a member, except that the authority for such dual membership and participation on a similar team shall be authorized only upon written consent by the parent, custodian, or guardian of the student. Such written consent shall clearly state the authority to participate on a particularly specified team of a designated organization or institution;

(16) Requiring health and wellness educational programs for grades K-12, emphasizing the health enhancement benefits of seat belt usage, exercise, proper nutrition, and the avoidance of unhealthy behaviors such as smoking and drug abuse. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education. An advisory and resource committee comprised of the Secretary of Public Safety, the Secretary of Health and Social Services,

and the Secretary of Education is hereby established to assist in the development of the program;

(17) Establishing mandatory drug and alcohol educational programs in each grade, kindergarten through grade 12, in each public school in this State. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education;

(18) Providing for the operation of adult education and family literacy programs including, but not limited to, adult basic education, literacy education, adult high school, apprenticeship programs, and family literacy. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education;

(19) Providing, in cooperation with the Family Services Cabinet Council, for the operation of state-supported early education pre-school intervention and birth mandate programs that are authorized by this title and designed to enhance individual student readiness for public school, unless specific authority is vested elsewhere by this Code;

(20) Establishing and monitoring the enforcement, in cooperation with the Department of Health and Social Services and the Department of Services for Children, Youth and Their Families, of standards for state-operated residential programs associated with state-operated educational programs that are authorized by this title."

Section 6. Amend § 122(d)-(g), Title 14, Delaware Code by inserting the words "Department" in lieu of "State Board" in the first sentence of subsection (d); to insert the words "the Department of Education" in lieu of "State Board of Education" or "State Board" where they appear in subsection (e); to replace "State Board" in subsection (f) with "Department of Education in conformity with subsection (g) of this section"; and to insert the words "Department of Education" in lieu of "State Board" the first four times it appears in subsection (g)(2), to insert the words ", subject to State Board denial pursuant to this subsection" between "effective" and the period "." in subsection (g)(2), and to insert the sentence "The State Board shall be advised of any waiver of a regulation it must promulgate or approve, and may deny such waiver by action taken within thirty days or by the next regularly scheduled meeting, whichever is earlier, of the waiver's approval by the Department."

Section 7: Amend § 123, Title 14, Delaware Code by replacing all references to the "Board" or "State Board" with the word "Department".

Section 8. Amend § 124, Title 14, Delaware Code to replace "Board" with "Department" in the first sentence; to delete the words "by the Board" and the words "it and" in the second sentence thereof; and to insert a new paragraph at the end of the existing text to read as follows: "The annual report shall include an assessment of the performance of Delaware's public school system using the information contained in the school profiles published pursuant to § 124A of this title and such other relevant information as is available. Such assessment shall address Delaware's progress in promoting high student achievement for all students, the success of state and local educational initiatives, and the performance of the Department of Education."

Section 9: Amend § 124A, Title 14, Delaware Code to replace "Public Instruction" wherever it appears with "Education"; to delete "Board of Education" in subsection (a); to insert the words "Secretary and" between "the" and "State" in the last sentence of subsection (c); to delete the words "State Board's" in subsection (d)(3) and insert "State's" in lieu thereof; to insert the words "Department, after consultation with the State Board," in lieu of "State Board" in subsection (d)(11); and to replace "State Board" with "Department" each time it appears in subsection (f).

Section 10: Amend § 125, Title 14, Delaware Code by replacing "(12)" with "(13)".

Section 11: Amend § 126, Title 14, Delaware Code, to replace the word "Board" with the word "Department" wherever it appears.

Section 12: Amend § 127, Title 14, Delaware Code by inserting the words "Department of Education with the approval of the" between "The" and "State" in the first line thereof and by replacing all subsequent references to "Board" or "State Board" with "Department".

Section 13: Amend §§ 128-130, Title 14, Delaware Code by deleting them in their entirety.

Section 14: Amend § 131, Title 14, Delaware Code by deleting the words "Board" or "State Board" wherever they appear therein and inserting the word "Department" in lieu thereof.

Section 15: Amend § 132, Title 14, Delaware Code by replacing the words "State Superintendent" with "Secretary" in subsection (a); by deleting the words ", upon approval of the State Board of Education" in subsection (a); by replacing the words "Public Instruction" with the word "Education" in subsection (d); and by replacing the words "State Board" with the word "Department" in subsection (e).

Section 16: Amend § 203, Title 14, Delaware Code by inserting the words "Department with the approval of the" between "The" and "State" in the first sentence.

Section 17: Amend § 204, Title 14, Delaware Code by deleting it in its entirety.

Section 18: Amend § 205, Title 14, Delaware Code by inserting the words "Department of Education with the approval of the" between "The" and "State" in the first line thereof.

Section 19: Amend § 206(d) and § 207, Title 14, Delaware Code by replacing the words "of Public Instruction" with "of Education".

Section 20: Amend §§ 403(a) and 407(b), Title 14, Delaware Code, by replacing the words "State Board" with the word "Department".

Section 21: Amend § 408, Title 14, Delaware Code by replacing the existing text of subsection (c) with "The Department of Education shall annually calculate the local cost per pupil expended by each school district for each type of pupil for the school year immediately preceding and shall annually certify each district's local cost per pupil expenditure by September 1 of each year."; by deleting the word "State Board" in the formula under subsection (d) and inserting "Department" in lieu thereof; and by replacing the words "Public Instruction" in subsection (e) with the word "Education".

Section 22: Amend § 409(b)(3), Title 14, Delaware Code to replace "Public Instruction" with "Education".

Section 23: Amend § 501, Title 14, Delaware Code by replacing "State Board" with "Department of Education".

Section 24: Amend § 503, Title 14, Delaware Code by replacing "Board of Education (hereinafter in this chapter, 'State Board')" with "Department of Education (hereinafter in this chapter, 'Department') with the approval of the State Board of Education (hereinafter in this chapter, 'State Board')" in the first sentence thereof; and by inserting "Department with the approval of the" between "The" and "State" in the last sentence thereof.

Section 25: Amend §§ 504(b) & § 504A(c), Title 14, Delaware Code to replace the words "State Board" with "Department with the approval of the State Board" wherever they appear.

Section 26: Amend § 509, Title 14, Delaware Code to replace all references to the "State Board" with "Department" and to replace the words "Public Instruction" wherever they appear with the word "Education".

Section 27: Amend § 510, Title 14, Delaware Code, to replace all references to the words "Public Instruction" with the word "Education".

Section 28: Amend § 511, Title 14, Delaware Code to replace the reference to "State Board" in subsection (c) with "Department"; to insert a new sentence after the first sentence of

subsection (c) to read as follows "Whenever a charter school seeks a charter from the Department as approving authority, such approval shall require the assent of both the Secretary and the State Board, as shall any action pursuant to §§ 515 and 516 of this chapter."; to replace the reference in subsection (f) to "State Board" with "Department with the approval of the State Board"; and to replace the reference to "State Board" in subsection (k) with "Department".

Section 29: Amend § 512(d), Title 14, Delaware Code to delete the words "Board of Education".

Section 30: Amend § 513, Title 14, Delaware Code to replace the words "Public Instruction" with "Education" wherever they appear; to insert the words ", the Department" in the first sentence of subsection (b) after "authority"; and to replace the words "State Board" in the second sentence of subsection (c) with "Department".

Section 31: Amend §§ 514 and 515, Title 14, Delaware Code to replace "State Board" with "Department" wherever it appears.

Section 32: Amend § 602(c), Title 14, Delaware Code, by deleting the words "State Superintendent of Public Instruction" and "State Superintendent" and inserting in lieu thereof the words "Secretary of Education".

Section 33: Amend § 603, Title 14, Delaware Code, by deleting subsections (b),(c),(e) and relettering the remaining subsections.

Section 34: Amend § 604(a), Title 14, Delaware Code by deleting the words "State Department of Public Instruction or a State Board of Education" as they appear on lines 2-3 therein and substituting in lieu thereof the words "Department of Education or an"; by deleting the words "Public Instruction" on line 5 thereof and inserting the word "Education" in lieu thereof; and by inserting the words "Department with the approval of the" between "the" and "State" in the second sentence.

Section 35: Amend § 604(b), Title 14, Delaware Code by deleting the words "of Public Instruction" wherever they appear and inserting in lieu thereof the word "Education".

Section 36: Amend § 604(c), Title 14, Delaware Code, by deleting the word "Board" and inserting the word "Department" in lieu thereof.

Section 37: Amend §§ 605, 606, and 607, Title 14, Delaware Code by deleting the words "Superintendent of the Department of Public Instruction", "State Superintendent of Public Instruction", and "State Superintendent of the Department of Public Instruction" wherever they appear and inserting in lieu thereof the words "Secretary of Education".

Section 38: Amend Chapter 8, Title 14, Delaware Code to replace all references to "Public Instruction" with "Education".

Section 39: Amend § 803(a), Title 14, Delaware Code to replace the reference to the "State Board's" with the "Department of Education's".

Section 40: Amend § 803(b), Title 14, Delaware Code to insert the words "Department of Education with the approval of the" between "The" and "State".

Section 41: Amend § 804(a), Title 14, Delaware Code to replace "State Board" where it appears twice therein with "Department".

Section 42: Amend § 805, Title 14, Delaware Code to replace "State Board" in subsection (a) with "Department"; and to insert the words "Department of Education with the approval of the" between "The" and "State" in the first sentence of subsection (b).

Section 43: Amend § 806(a), Title 14, Delaware Code by replacing the reference to "State Board" in the first sentence with "Department"; and to insert the words "Department of Education with the approval of the" between "The" and "State" in the fifth sentence thereof.

Section 44: Amend § 807, Title 14, Delaware Code to replace the words "State Board" in subsections (a), (b), (d), and (g) with "Department"; to insert the words "Department of Education with the approval of the" between "the" and "State" in the second and third lines of subsection (c); to replace "State Board" with "Department" in the last line of subsection (c); and to insert the words "Department of Education with the approval of the" between "the" and "State" in subsection (e).

Section 45: Amend § 1029, Title 14, Delaware Code to insert the words "State through its Department of Education as provided in this Code" in lieu of the words "of the State Board of Education" as they appear in subsections (a) and (b) thereof.

Section 46: Amend § 1043, Title 14, Delaware Code to replace the words "State Board of Education" with "State".

Section 47: Amend § 1049, Title 14, Delaware Code to insert the word "State" in lieu of "State Board of Education" and to replace the references to "State Superintendent of Public Education" and "State Superintendent" respectively with "Secretary of Education" and "Secretary" respectively.

Section 48: Amend § 1050, Title 14, Delaware Code to replace "State Board" with "Department".

Section 49: Amend § 1055, Title 14, Delaware Code to replace "State Board of Education" with "Department".

Section 50: Amend § 1056, Title 14, Delaware Code to replace each reference in subsection (c) to "State Board" with "Department"; and to replace the reference to "State Board" in subsection (e) with "Department".

Section 51: Amend § 1057, Title 14, Delaware Code to replace all references to the "State Board" with "Department".

Section 52: Amend § 1058, Title 14, Delaware Code to delete the last 3 sentences and to insert in lieu thereof the following:

"Any party to such controversy may appeal to the State Board of Education by setting forth such grievance in a petition which shall be served by certified or registered mail within 30 days after receiving notice of the decision upon the Secretary of Education. The Department with approval of the State Board shall by rules and regulations provide for adequate procedures for the hearing of any such petitions and shall decide the controversy. The State Board shall overturn the decision of a local board only if it decides, after considering the advice of the Secretary and the Department's counsel, that the local board's decision was contrary to a specific state or federal law or regulation, was not supported by substantial evidence, or was arbitrary or capricious, and in such case the State Board shall set forth in writing the legal basis for such conclusion. The decision of the State Board shall be final."

Section 52A: Amend §§ 1062-1063, Title 14, Delaware Code by deleting them in their entirety.

Section 53: Amend § 1083(d), Title 14, Delaware Code by replacing the reference to the "the State Board" with "Education in his or her capacity as Executive Secretary of the State Board" in subsection (d)(1); and by replacing the words "the State Board of Education" in subsection (d)(2) with "the Department of Education and the Department of Elections" after the word "Education" as it appears twice in subsection (d).

Section 54: Amend § 1092, Title 14, Delaware Code to insert the words "Department with the approval of the" between the words "the" and "State" in the second line thereof.

Section 55: Amend § 1094(a), Title 14, Delaware Code to replace "State Board" with "Department".

Section 56: Amend § 1101, Title 14, Delaware Code to replace "State Board" in the second sentence thereof with "Department" and to insert the words "are assigned to the Department of Education with approval of the State Board" between "areas" and "and" in the same sentence.

Section 57: Amend § 1102, Title 14, Delaware Code to replace the reference to "State Board" the first time it appears with "Department" and to insert the words "Department of Education with the approval of the" between "the" and "Board" in the fourth line thereof.

Section 58: Amend § 1103, Title 14, Delaware Code, to insert the words "Department of Education with approval of the" between "The" and "State".

Section 59: Amend §§ 1104-1108, Title 14, Delaware Code to replace all references to "State Board of Education" with "Department of Education with State Board approval".

Section 60: Amend § 1201, Title 14, Delaware Code to insert the words "Department of Education and" immediately before "State Board" as it appears twice in that section, and to delete the words "as the board" and insert in lieu thereof "as the state agency and board".

Section 61: Amend § 1230, Title 14, Delaware Code to insert the words "Department of Education with the approval of the" between "The" and "State" in the first line thereof; and to replace the reference to the "State Superintendent of Public Instruction" with "Secretary of Education".

Section 62: Amend § 1250, Title 14, Delaware Code to insert the words "Department of Education with approval of the" in between the words "The" and "State" in the third sentence.

Section 62A. Amend § 1260, Title 14, Delaware Code to replace references to "State Board" with "Department", and to add a new subsection (c) to read: "(c) Rules and regulations to implement this subchapter shall be proposed by the Secretary subject to approval by the State Board."

Section 62B. Amend § 1261, Title 14, Delaware Code to replace the references in subsections (b) and (c) to "State Board" with "Department"; and to insert the words "Secretary with approval of the" between "the" and "State" in subsection (d).

Section 62C. Amend § 1263, Title 14, Delaware Code to replace references to "State Board" with "Department".

Section 62D. Amend § 1264, Title 14, Delaware Code to replace the references to "State Board" and the "Board" with "Department" in subsection (a); to replace the first reference to "State Board" in subsection (b) with "Department"; and to replace "with existing State Board policies" with "with the Department policy, as approved by the State Board,".

Section 63: Amend §§ 1302, Title 14, Delaware Code, by replacing all the text between and including ", the school district of the City of Wilmington" and "Vocational Education" with "Department of Education"

Section 63A: Amend § 1303, Title 14, Delaware Code to replace "the State Board of Education and the State Board of Vocational Technical Education" with "Department of Education".

Section 64: Amend § 1305(e), Title 14, Delaware Code by replacing the first reference to the "State Board" with the word "Department"; replacing the second reference to the "State Board" with the words "Department with the approval of the State Board"; and replacing the third reference to "State Board" with "Department with the approval of the".

Section 65: Amend § 1307(2), Title 14, Delaware Code by replacing the words "State Board" with "Department with the approval of the State Board".

Section 66: Amend § 1308, Title 14, Delaware Code by deleting the words "having the qualifications required by the State Board of Education and" in subsection (a); and by replacing

the words "State Board of Education", and the State Board of Vocational Education" in the first clause of subsection (d) with "Department of Education"; and by replacing the word "Board" where it appears in the second clause of subsection (d) with "Department".

Section 67: Amend § 1309, Title 14, Delaware Code to replace references to "State Board" with "Department".

Section 68: Amend § 1310(b), Title 14, Delaware Code to insert the words "Department with the approval of the" between the words "the" and "State" in the fifth line thereof.

Section 69: Amend §§ 1311-1316 & 1318, Title 14, Delaware Code, by replacing the words "State Board" with "Department" wherever they appear.

Section 69A: Amend § 1321, Title 14, Delaware Code to replace the reference in the heading to "State Board of Education and the State Board of Vocational Education" with "Department of Education".

Section 70: Amend § 1321(a), Title 14, Delaware Code by replacing all references to the "State Board of Education/State Board of Vocational Education" with "Department of Education"; replacing all references to the "State Board of Education and State Board For Vocational Education" with "Department of Education"; and replacing all references to the "State Board" or "Board" with "Department".

Section 70A: Amend § 1321(e)(4), (6), to replace "State Board" with "Department".

Section 71: Amend § 1321(e) (11), (12), Title 14, Delaware Code, by replacing the words "State Board of Education" and "State Board of Education for that use" with "Department of Education for that use, provided that the State Board may review any objection to the Department decision" where they appear respectively in subsections (11) and (12).

Section 72: Amend § 1321(e)(15), Title 14, Delaware Code by replacing the words "State Board" with "Department with the approval of the State Board" in subsection (e)(15) a.; by replacing references to "State Board" with "Department" in subsection (15)b. and by inserting the words ", provided that the State Board may review any objection to the Department's decision" between "Education" and the period "." in the last sentence thereof; and by replacing "State Board" in (e)(15) c. with "Department with the approval of the State Board".

Section 73: Amend § 1321(e)(16), Title 14, Delaware Code by replacing "State Board" in the second sentence of (e)(16) with "Department with the approval of the State Board" and by inserting the words ", provided that the State Board may review any objection to the Department's decision" between "use" and the semicolon ";" in the last sentence of that subsection.

Section 74: Amend § 1321(e)(17), Title 14, Delaware Code by inserting "Department with the approval of the" between "the" and "State" in the first sentence.

Section 75: Amend § 1321(f), (g), Title 14, Delaware Code to replace the words "State Board" with "Department".

Section 76: Amend § 1322(a), Title 14, Delaware, Code by replacing the first reference to "State Board" in subsection (a) with "Department with the approval of the State Board".

Section 77: Amend § 1323, Title 14, Delaware Code, to delete it in its entirety.

Section 78: Amend § 1324(a), Title 14, Delaware Code to replace "State Board of Education approved" with "state-approved".

Section 79: Amend § 1329, Title 14, Delaware Code to replace "State Board" with "Department".

Section 80: Amend § 1330, Title 14, Delaware Code, to replace the words "State Board of Education and the State Board for Vocational" with the words "Department of".

Section 81: Amend § 1331(b), Title 14, Delaware Code to insert with "Department with the approval of the" between "the" and "State".

Section 82: Amend § 1332(a), (c), Title 14, Delaware Code to replace "State Board" with "Department with the approval of the State Board" in the first, third and fourth sentences of subsection (a) and the first sentence of subsection (c).

Section 83. Amend § 1332(d), Title 14, Delaware Code to replace the references to "State Board" with "Department" in the last sentence thereof and to insert the words ", provided that the State Board may review any objection to the Department's decision" before the period "." in that sentence.

Section 84. Amend § 1332(e), Title 14, Delaware Code to replace the reference to "State Board of Education" with "Department" in the second sentence thereof and to insert the words ", provided that the State board may review any objection to the Department's decision" before the period "." in that same sentence.

Section 85. Amend § 1332(f), Title 14, Delaware Code to insert the words "Department with the approval of the" between "The" and "State" in the first sentence and the second sentence.

Section 86: Amend § 1501, title 14, Delaware Code to delete the existing text in its entirety and substitute in lieu thereof the following:

"§ 1501. Support of Free Public Schools.

The free public schools of the State shall be maintained and supported by such moneys as shall be appropriated from time to time by the General Assembly, local school tax revenues generated and payments received in accordance with this title, payments received in accordance with chapters 4, 5, and 6 of this title, and appropriated and non-appropriated special funds otherwise authorized or legally acquired. Funds appropriated or otherwise allocated to the Department of Education on behalf of the public schools of this State shall be administered by the Department in accordance with the provisions of this title or other applicable state or federal laws and regulations."

Section 87: Amend § 1504, Title 14, Delaware Code, by deleting the phrase "such money as is derived from the income from the State School Fund"; by replacing the references to "State Board of Education" with "Department of Education"; by deleting the second reference to "items"; and by deleting the phrase "its President, or its Vice President, and its Secretary" and substituting in lieu thereof the phrase "Secretary or his or her designee."

Section 87A: Amend § 1505, Title 14, Delaware Code, by deleting the section in its entirety and substituting in lieu thereof the following:

"§ 1505. Limitation on Terms of Contracts.

No contract for public school purposes that is predicated on the availability of state funds shall be made to extend beyond the fiscal year covered by the current appropriation of the General Assembly in effect at the time of the making of such contract, unless all of the funds required to satisfy the obligation are available for encumbrance, or a cancellation provision should funds not be subsequently appropriated is included in the original contract. This provision does not apply to contracts involving the expenditure of moneys raised by bond issues or advance purchase orders for instructional materials duly authorized by the Secretary of Finance."

Section 88: Amend § 1506(a), Title 14, Delaware Code, by deleting said paragraph in its entirety and substituting in lieu thereof the following:

"(a) The Auditor of Accounts shall each year as soon as possible after July 1 audit the business and financial transactions, the records, and accounts of the Department of Education, the State Board of Education, the Delaware Center for Education

Technology, the Delaware Advisory Council for Career and Vocational Education and the boards of education of the school districts."

Section 88A: Amend § 1506(b), Title 14, Delaware Code, by deleting the words "State Board of Education" as they appear therein and substituting in lieu thereof the words "Auditor of Accounts."

Section 88B: Amend § 1506 (c) and (d), Title 14, Delaware Code, by deleting the words "State Board" as they appear therein and substituting in lieu thereof the word "Secretary."

Section 88C: Amend § 1506(e), Title 14, Delaware Code, by adding after the word "discovered" the following phrase:

"unless the Budget Director and the Controller General agree that the timing of the discovery or the potential impact on the affected district is such that satisfying the obligation in part or in its entirety should be deferred until the next ensuing fiscal year."

Section 89: Amend § 1509, Title 14, Delaware Code, by replacing the words "State Board" as they appear therein in the first paragraph and therein in the last paragraph with the word "Secretary"; and by replacing the words "State Superintendent of Public Instruction" with "Secretary of Education" wherever they appear.

Section: 89A. Amend §§ 1502 and 1503, Title 14, Delaware Code, to delete them in their entirety and renumber the remaining §§ 1504 through 1509 of Title 14 accordingly.

Section 90: Amend §§ 1601-1603, Title 14, Delaware Code to insert the words "Department" in lieu of the words "State Board" wherever they appear.

Section 91: Amend §§ 1604-1605, Title 14, Delaware Code to replace "State Board" with "Department" wherever it appears.

Section 92: Amend § 1605A, Title 14, Delaware Code to replace "Public Instruction" in the first sentence with "Education".

Section 93: Amend § 1606, Title 14, Delaware Code to insert the word "Department" in lieu of "State Board" in the first and second sentences thereof and to add the following sentence at the end of the second sentence: "The State Board shall be advised of any waiver of a regulation it must promulgate or approve, and may deny such waiver within thirty days or by the next regularly scheduled meeting, whichever is earlier, of the waiver's approval by the Department."

Section 94: Amend § 1607, Title 14, Delaware Code to replace "State Board" with "Department".

Section 94A. Amend § 1701, Title 14, Delaware Code by deleting it in its entirety and inserting in lieu thereof the following:

"§ 1701. Amount to be Appropriated by General Assembly.

The General Assembly shall make provision for the annual payment to the free public schools of the State an amount which shall amply provide for the items authorized by this title and those additional items that the General Assembly deems appropriate."

Section 95: Amend § 1702(b), Title 14, Delaware Code by replacing "State Board" with "Department".

Section 96: Amend § 1703(b),(c), Title 14, Delaware Code by replacing "State Board" and "Board" as they appear in subsection (b) with "Department"; and by replacing "State Board" in subsection (c) with "Department"; and by deleting the following phrases in their entirety from subsection (c):

"Beginning July 1, 1977 48 pupils

Beginning July 1, 1978 46 pupils

Beginning July 1, 1979 42 pupils".

Section 97: Amend § 1703(d), Title 14, Delaware Code, to insert the words "Department of Education with the approval of the" immediately before "State Board" each time those words appear; and to insert the words "or intensive learning center program" between the word "center" and the word "approved" as they appear in the third to last sentence of the subsection.

Section 98: Amend § 1703(e), (f), Title 14, Delaware Code, to replace "State Board" with "Department".

Section 99: Amend § 1703(g), (h), (j), Title 14, Delaware Code, to replace "State Board" wherever it appears therein with "Department".

Section 100: Amend § 1703(k), (l), (m), Title 14, Delaware Code by inserting the words "Department of Education with the approval of the" between "the" and "State" in the first sentence of subsections (k), (l) and (m) respectively; and to replace "Board" with "Department" in the fifth sentences of subsections (l) and (m).

Section 101: Amend § 1703(n), Title 14, Delaware Code to insert "Department of Education with the approval of the" before the first reference to "State Board" and to replace the second reference to "State Board" with "Department".

Section 102: Amend § 1703(o), Title 14, Delaware Code to insert "Department, provided that the State Board may review any objection to such use" in lieu of "State Board" in the second sentence.

Section 103: Amend § 1704, Title 14, Delaware Code by replacing "State Board" with "Department" wherever it appears therein.

Section 104: Amend § 1706, Title 14, Delaware Code by replacing "State Board" with "Department".

Section 105: Amend § 1707(i), Title 14, Delaware Code by replacing the words "President of the State Board" with "Secretary of the Department".

Section 106: Amend § 1708(a), Title 14, Delaware Code, by deleting it in its entirety and inserting in lieu thereof the following:

"Appropriations to the Department of Education on behalf of the school districts shall be in an aggregate form and shall be allocated to the districts in accordance with this title and the provisions of the annual Appropriations Act."

Section 106A: Amend § 1708 (c), Title 14, Delaware Code, by deleting the words "State Superintendent of Public Instruction" and inserting in lieu thereof the words "Secretary and Deputy Secretary of Education."

Section 107: Amend § 1710, Title 14, Delaware Code by deleting said section in its entirety and inserting in lieu thereof the following:

"The number of units in each school district as calculated under § 1704 of this title shall be certified by the Secretary of Education as soon as such calculations are completed."

Section 107A: Amend § 1713, Title 14, Delaware Code, by deleting it in its entirety.

Section 108: Amend § 1714, Title 14, Delaware Code, by deleting the first sentence in its entirety and inserting in lieu thereof the following:

"The Advanced Real Property Acquisition Revolving Fund authorized by Title 29, Delaware Code, and administered by the Budget Commission may be used for the

acquisition of school sites in anticipation of the need for construction of new school buildings."

Section 108A: Amend § 1714, Title 14, Delaware Code, by deleting the words "and shall deposit the receipts in the General Fund of the State" in the last sentence of the first paragraph and inserting in lieu thereof the following:

"and shall repay the Advanced Real Property Acquisition Revolving Fund and deposit any excess receipts in the General Fund of the State"

Section 108B: Amend § 1714, Title 14, Delaware Code by replacing the words "State Board" wherever they appear with "Department".

Section 109: Amend § 1716, Title 14, Delaware Code to replace "State Board" with "Department".

Section 110: Amend § 1716A., Title 14, Delaware Code to replace "State Board" in subsections (c) and (d) with "Department with approval of the State Board"; and to replace "State Board" with "Department" in subsection (h) and to add the words ", provided that the State Board may review any objection to the Department's decision" between "use" and the period ".".

Section 111: Amend § 1717, Title 14, Delaware Code by deleting subsections (a), (b) and (c) in their entirety and redesignating the remaining existing subsections as subsections (a), (b) and (c).

Section 112: Amend § 1718, Title 14, Delaware Code to replace "the State Board of Education and the State Board for Vocational Education are" with "the Department of Education is"

Section 113: Amend § 1719, Title 14, Delaware Code, by deleting it in its entirety and inserting in lieu thereof the following:

"§ 1719. Adjustment of Appropriations.

(a) In the event that the aggregate appropriations for Division I, II or III or any other unit driven appropriation are insufficient to cover the total number of units certified pursuant to § 1710 of this title, the Department of Education shall transfer sufficient funding from its Growth and Upgrade General Contingency and/or such other sources as the Budget Director may approve, to the school districts in order that all duly certified units are adequately funded. To the extent that the actual certified unit count of any individual district is less than the amount of units initially allocated to that district by the Department, the district's state funding shall be reduced accordingly by the Department and the Budget Director."

Section 114: Amend § 1720, Title 14, Delaware Code to replace "State Board" wherever it appears with "Department" and to delete the words "of Public Instruction".

Section 115: Amend § 1721(a), Title 14, Delaware Code by inserting "Department as approved by the" between "the" and "State".

Section 116: Amend § 1722(c), Title 14, Delaware Code to replace "Superintendent of the Department of Public Instruction" with "Secretary of Education".

Section 117: Amend § 1723, Title 14, Delaware Code by replacing "State Board" with "Department".

Section 118: Amend Chapter 18, Title 14, Delaware Code by deleting it in its entirety.

Section 119: Amend § 1902(a), Title 14, Delaware Code by replacing "State Board" with "Department".

Section 120: Amend § 1909 and 1910, Title 14 of the Delaware Code, by replacing the phrase "State Board of Education" wherever it appears in those sections with the phrase "Commissioner of Elections."

Section 120A. Amend § 1918(b), Title 14, Delaware Code to replace "State Superintendent of Public Instruction" with "Secretary of Education".

Section 121: Amend § 1919, Title 14, Delaware Code to replace "State Board" with "Department".

Section 122: Amend §§ 2002-2004, Title 14, Delaware Code, to replace "State Board" wherever it appears therein with "Department".

Section 123: Amend § 2005, Title 14, Delaware Code to replace "State Board" wherever it appears with "Department".

Section 124: Amend §§ 2102, 2106 & 2119, Title 14, Delaware Code by replacing "State Board" wherever it appears therein with "Department".

Section 125: Amend § 2105, Title 14, Delaware Code by replacing "State Board of Education" with "Commissioner of Elections".

Section 126: Amend § 2123, Title 14 of the Delaware Code, by striking the phrase "State Board of Education, which shall sit," as it appears in the first sentence and by substituting in lieu thereof the phrase "Commissioner of Elections, who shall,,"; by striking the word "and" where it appears in the first sentence between the phrases "after the vote," and "canvass the vote"; by striking the phrase "the Board of Education shall" where it appears in the second sentence and by substituting in lieu thereof the phrase "the Department of Elections shall"; by replacing all references to "State Board of Education" wherever they appear therein with "Department of Elections"; and by inserting a new last sentence to read: "The Commissioner of Elections shall notify the Secretary of Education of the election results no later than the fifteenth day after the vote."

Section 127: Amend § 2124, Title 14, Delaware Code to replace "State Board" with "Department".

Section 128: Amend Chapter 23, Title 14, Delaware Code to replace references to "State Board" wherever they occur with "Department"; to replace the phrase "such boards" in § 2303 (a) with "the Department and the school board"; to insert the word "board" between "local" and "and" in the first sentence of § 2305(c) thereof and replace "Boards" with "Department" therein; and to delete "boards" in the second sentence of § 2305(c).

Section 129: Amend § 2602(b)(1), Title 14, Delaware Code to replace the words "Public Instruction designated by the State Board" to "Education designated by the Secretary".

Section 130: Amend § 2604(a), Title 14, Delaware Code to replace "State Board" in the first sentence thereof with "Department".

Section 131: Amend § 2703, Title 14 of the Delaware Code, by deleting it in its entirety and by inserting in lieu thereof the following:

"§2703. Private School Attendance or Other Educational Instruction.

(a) Section 2702 of this title shall not apply to any student enrolled in a private school who is receiving regular and thorough instruction in the subjects prescribed for the public schools of the State in a manner suitable to children of the same age and stage of advancement, provided that such private school is subject to and in compliance with § 2704 of this chapter. For the purposes of this section, any student who is home schooled in affiliation with a home school association or organization registered with the Department of Education shall also be exempt from the provisions of § 2702 of this title.

(b) The provisions of § 2702 of this title shall not apply to any student who is home schooled and who is not affiliated with a home school association or organization registered with the Department of Education, provided that the student's instruction is accomplished under the auspices of the local school district superintendent of the district in which the student resides. The local superintendent shall determine in writing that the student is or will be provided with regular and thorough instruction in the subjects prescribed for the public schools of the State in a manner suitable to children of the same age and stage of advancement."

Section 132: Amend § 2704, Title 14, Delaware Code to replace "State Board" wherever it appears with "Department".

Section 133: Amend § 2706 (b), Title 14, Delaware Code by inserting "Department of Education with the approval of the" between "the" and "State".

Section 134: Amend § 2710, Title 14, Delaware Code by replacing "State Board" with "Department of Education".

Section 135: Amend § 2802, Title 14, Delaware Code to insert the words "or a program or between 180 and 230 days" at the end of the existing text and before the period ".".

Section 136: Amend § 2803, Title 14, Delaware Code by replacing the existing section with a new section to read as follows:

"§ 2803. Local Funds.

Any local district initiating an expanded school-year program must provide such program within the limits of state funding it would receive absent its decision to operate such program; provided, however, that nothing in this section shall preclude a district from using existing or additional local, federal or other non-state funding for the provision of an expanded school year program."

Section 137: Amend § 2804, Title 14, Delaware Code by deleting the words "State Board of Education must approve such expanded program, by a formal resolution, at least three months before such plan is submitted to referendum" in subsection (a) and by inserting in lieu thereof "Secretary of Education and Budget Director must approve such expanded program at least 4 months before such plan is implemented"; and by deleting subsection (c).

Section 137A: Amend § 2804, Title 14, Delaware Code by deleting existing subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) Such plan must clearly provide for teacher option for employment and must provide state compensation for days beyond the regular 185 day work year at a daily rate equal to 1/185th per day of the state teacher salary schedule in effect."

Section 138: Amend § 2805, Title 14, Delaware Code to insert the words "or a program of between 180 and 230 days" between the words "system" and "for" as they appear twice in that section.

Section 139: Amend § 2901, Title 14, Delaware Code to delete the existing text between the word "The" and the word "by" in the first sentence of subsection (a) and replace it with "The Secretary of Education, with the approval of the State Board of Education and," and to replace every subsequent reference to "State Board" with "Department".

Section 140: Amend §§ 2902-2904, Title 14, Delaware Code to replace "State Board" wherever it appears therein with "Department".

Section 141: Amend § 2905, Title 14, Delaware Code to insert the words "Department of Education with the approval of the" between "The" and "State" in the first sentence thereof and to replace "State Board" in subsection (2) with "Department".

Section 142: Amend §§ 2907-2909, Title 14, Delaware Code by replacing all references to "State Board" with "Department".

Section 143: Amend § 2910, Title 14, Delaware Code to delete the words "of Public Instruction" wherever they appear.

Section 144: Amend Chapter 30, Title 14, Delaware Code to replace all references to the "Department of Public Instruction" with "Department of Education".

Section 145: Amend § 3101, Title 14, Delaware Code to replace the words "State Board of Education rules and regulations" in the first sentence of subsection (2) with "Department of Education rules and regulations approved by the State Board of Education"; to replace the references to "State Board" and "Board" respectively in subsection (2) b. with "Department" and "Department as approved by the State Board" respectively; to replace the reference to "State Board of Education" in the penultimate sentence of subsection (2) with "Department, provided that the State Board may review any objection to the Department's decision"; to replace the reference to "State Board" in the last sentence of subsection (2) with "Department"; to replace the reference to "the State Board of Education" in subsection (4) with "Department of Education rules and regulations approved by the State Board of Education"; and to insert "Department and the" in subsection (8) between "the" and "State".

Section 146: Amend § 3110, Title 14, Delaware Code by replacing "State Board" in subsection (a) with "Department" and by adding the words ", with the approval of the State Board," between "that" and "shall" in that subsection; by replacing the words "State Board of Education" in subsection (b) with "Department of Education with the approval of the State Board of Education"; and by replacing "State Board of Education" in subsection (c) with "Department of Education, with the approval of the State Board of Education,".

Section 147: Amend § 3111, Title 14, Delaware Code by inserting the words "Department of Education, the" between "the" and "State" in the first sentence thereof.

Section 148: Amend § 3120, Title 14, Delaware Code to replace "State Board of Education" with "Department with the approval of the State Board" in the first sentence therein; and to replace "State Board" with "Department" in the second sentence.

Section 148A. Amend subchapter III, chapter 31, Title 14, Delaware Code, to replace the subchapter heading "Handicapped Persons" with "Persons with Disabilities"; and replace all subsequent references to "handicapped", "handicap", or "handicaps", respectively with "disabled", or "disability", or "disabilities" respectively.

Section 149: Amend § 3121, Title 14, Delaware Code to insert the words "the Department of Education approved by" between "regulations of" and "of the" in the first sentence thereof.

Section 150: Amend § 3122, Title 14, Delaware Code to insert the words "Department of Education with the approval of the" between "The" and "State" in the second sentence thereof.

Section 151: Amend § 3123, Delaware Code to replace "State Board of Education" with "Department of Education, provided that the State Board may review any objection to the Department's decision" in the second sentence of subsection (a); to replace "State Board of Education" with "Department with State Board approval" in the third sentence of subsection (a); to replace "State Board of Education" with "Department with State Board approval" in the first sentence of subsection (b); and replace "State Board" with "Department with the approval of the State Board" in subsection (b)(4).

Section 152: Amend § 3124, Title 14, Delaware Code to replace "State Board" with "Department" in the second sentence of subsection (a); to replace "State Board" with "Department" in the third sentence of subsection (a); to replace "State Board of Education" with "Department" in the last sentence of subsection (a); to replace "Superintendent of Public Instruction" in subsection (b) with "Secretary of Education"; to replace "State Board" with "Department approved by the State Board" in the first sentence of subsection (c)(2).

Section 153: Amend § 3126, Title 14, Delaware Code to replace "State Board" with "Department as approved by the State Board".

Section 154: Amend § 3132, Title 14, Delaware Code by replacing "State Board" with "Department with the approval of the State Board" in the first sentence thereof.

Section 155: Amend §§ 3135-3137, Title 14, Delaware Code to replace all references to "State Superintendent of Public Instruction" with "Secretary of Education."

Section 156: Amend § 3137(e), Title 14, Delaware Code to replace "State Board" with "Department with approval of the State Board".

Section 157: Amend §§ 3138, 3139, and 3142(c), Title 14, Delaware Code to replace references to "State Superintendent of Public Instruction" with "Secretary of Education".

Section 158: Amend § 3202, Title 14, Delaware Code to delete the words "State Board of Education, hereinafter referred to as the 'Board.'" and insert in lieu thereof "Department of Education."

Section 159: Amend § 3204, Title 14, Delaware Code to replace "Board" with "Department".

Section 160: Amend § 3310, Title 14, Delaware Code to replace the existing title with "Duties of State Department of Education In The Area of Vocational Education."; to replace the words "State Board for Vocational Education" with "Department of Education" wherever they appear therein; to delete "Prescribe" and to insert in lieu thereof the words "With the approval of the State Board, prescribe" at the beginning of subsection (4); and to replace the reference to the "State Department of Public Instruction" with "Department".

Section 161: Amend § 3451(a), Title 14, Delaware Code to replace "State Board" with "Secretary".

Section 162: Amend § 3457, Title 14, Delaware Code to replace "Superintendent of the Department of Public Instruction" with "Secretary of Education".

Section 163: Amend § 3502(a), Title 14, Delaware Code to replace each reference to "State Board" with "Department".

Section 164: Amend § 3503, Title 14, Delaware Code, to replace the words "State Board for Vocational Education" with "Secretary or Deputy Secretary of Education".

Section 165: Amend § 3504, Title 14, Delaware Code to replace "State Board" with "Department".

Section 166: Amend § 3505, Title 14, Delaware Code to replace "State Superintendent of Public Instruction" with "Secretary of Education".

Section 167: Amend § 3701, Title 14, Delaware Code to delete it in its entirety and to insert in lieu thereof a new section that reads as follows:

"§ 3701. Report on destruction of school property.

Wherever a public school building or the equipment thereof is damaged or destroyed by fire or other casualty, the local school district in which the school building is located shall, as soon as may be practicable, send to the Secretary of Education, with a copy to the State Risk Manager, a written communication giving detailed information respecting the fire or other casualty stating, among other things, the name of the school building and local school district where the fire or other casualty occurred and a description of the building and equipment with the cost or approximate value thereof."

Section 167A: Amend §3702, Title 14, Delaware Code to delete it in its entirety and to insert in lieu thereof a new section that reads as follows:

"§ 3702. Governor's allocation of General Fund.

Upon receipt of a written communication from the Secretary of Education and the State Risk Manager, the Governor may authorize, if there is a sufficient surplus available in the General Fund to meet the obligation, the allocation of an amount which, in the sole judgment and discretion of the Governor, is appropriate for such rebuilding and replacement."

Section 167B: Amend § 3703, Title 14, Delaware Code, to delete it in its entirety and to insert in lieu thereof a new section that reads as follows:

"§ 3703. Replacement of property, disbursements.

The State Budget Director and State Risk Manager shall authorize the transfer and expenditure of funds allocated pursuant to § 3702 of this title."

Section 167C: Amend existing § 3704 and § 3705, Title 14, Delaware Code, to delete them in their entirety.

Section 167D: Amend § 3706, Title 14, Delaware Code, by replacing the words "Board of Education" as they appear in subsection (a) with the words "Risk Manager"; by deleting the words "made in the school districts outside of the City of Wilmington" as they appear in subsection (a); by replacing the word "Board" as it appears before the word "therefor" in subsection (a) with the word "State"; by deleting subsection (b) in its entirety; and by renumbering the section as § 3704 of Title 14.

Section 167E: Amend § 3707, Title 14, Delaware Code, by replacing the words "State Board of Education and the Board of Public Education in Wilmington" with the words "Department of Education and local school districts"; and by renumbering the section as § 3705 of Title 14.

Section 168: Amend § 3804(a), Title 14, Delaware Code to replace the words "of Public Instruction, 1 of whom shall be the Superintendent of Public Instruction; and a drug and/or alcohol prevention specialist employed by the State School Board of Education or by the Department of Public Instruction." in the second sentence thereof with "of Education, 1 of whom shall be the Secretary of Education; and a drug and/or alcohol prevention professional employed by the Department of Education."

Section 169: Amend § 3807, Title 14, Delaware Code to replace "State Board" with "Department".

Section 170: Amend § 4103(b), Title 14, Delaware Code to insert the words "Department of Education with the approval of the" between "the" and "State" in the second sentence thereof.

Section 171: Amend §§ 4104, 4106, Title 14, Delaware Code to replace references to "State Board" wherever they appear with "Department".

Section 172: Amend § 4111(a)(2), Title 14, Delaware Code to replace "Public Instruction" in the second sentence with "Education".

Section 173: Amend § 4112, Title 14, Delaware Code to replace all references to "Public Instruction" with "Education" and to delete the words "and the superintendent of each attendance zone of the New Castle County School Districts".

Section 174: Amend § 4116(a), Title 14, Delaware Code to insert the words "Department of Education with approval of the" between "The" and "State" in the first sentence.

Section 175: Amend § 4118, Title 14, Delaware Code to replace references to "State Board" wherever they occur with "Department".

Section 176: Amend Chapter 42, Title 14, Delaware Code to replace all references to the "Department of Public Instruction" and "State Superintendent of Public Instruction" or "State

Superintendent" respectively with "Department of Education" and "Secretary of Education" respectively.

Section 177: Amend § 4201 & 4203(a), Title 14, Delaware Code by inserting the words "State of Delaware through the Department of Education and its" between "the" and "State" in the first sentence thereof.

Section 178: Amend § 4203, Title 14, Delaware Code to replace the references to 'State School Board' in subsection (c) and 'State Board' in subsection (f) respectively with 'Department of Education' and 'Department' respectively; and by adding a new paragraph (g) to read as follows: "The Center, in partnership with Department of Education and the Office of Information Systems, is authorized to establish statewide policies and procedures for the access of state-provided computer networks. This includes, but is not limited to, acceptable use and copyright policies. Statewide policies will be developed through a collaborative process involving major education constituencies. School districts may develop more restrictive policies and procedures but school districts may not modify their procedures to bypass state requirements".

Section 179: Amend § 4205(a), (b), Title 14, Delaware Code to insert the words ", the Department of Education" between "Assembly" and "and" in the first sentences thereof.

Section 180: Amend §§ 5302, 6511, Title 14, Delaware Code to replace references to "State Board" and "Board" with "Department".

Section 181: Amend Chapter 81, Title 14, Delaware Code, to delete it in its entirety.

Section 182: Amend § 8212, Title 14, Delaware Code to replace references to the "State Superintendent of Public Instruction" with "Secretary of Education"; and to replace the words "State Board" in the last sentence with "Department".

Section 183: Amend § 8304, Title 14, Delaware Code to replace "Public Instruction" with "Education".

Section 184: Amend § 8501(3), Title 14, Delaware Code to delete it and replace it with "(3) 'Secretary' means the Secretary of Education."

Section 185: Amend § 8502(a), Title 14, Delaware Code to delete the existing text and replace it with:

"(a) The Secretary of Education shall appoint an advisory committee of 5 persons whose function it shall be to advise the Secretary relative to the administration of this chapter in regard to policies concerning the conduct of private business schools serving clients in the State."

Section 186: Amend Chapter 85, Title 14, Delaware Code to replace all references to the "State Superintendent of Public Instruction" or "Department of Public Instruction" respectively with "Secretary of Education" and "Department of Education" respectively.

Section 187: Amend § 8502(d), Title 14, Delaware Code to replace "State Board" with "Department".

Section 188: Effective upon the amendment of 8 Del. C. § 125 to enable the Department of Education to approve the certification of private trade schools, amend § 8503, Title 14, Delaware Code to replace "Board" wherever it appears with "Department".

Section 189: Effective upon the amendment of 8 Del. C. § 125 to enable the Department of Education to approve the certification of private trade schools, amend § 8504, Title 14, Delaware Code to replace "Board" with "Department".

Section 190: Effective upon the amendment of 8 Del. C. § 125 to enable the Department of Education to approve the certification of private trade schools, amend §§ 8504-8530, Title 14,

Delaware Code to replace all references to "State Board" or "Board" with "Department" and to delete § 8528.

Section 191: Amend § 8603(1), Title 14, Delaware Code to insert the words "Department of Education and" in between "the" and "State" in the first line thereof.

Section 192: Amend § 8902, Title 14, Delaware Code to delete the words "current guidelines which have been developed by the State Board of Education" in the first sentence and insert in lieu thereof "guidelines developed by the Department of Education"; and to replace the words "Public Instruction" in the first sentence with "Education".

Section 193: Amend § 8904(a), Title 14, Delaware Code to replace "State Board" with "Department".

Section 194: Amend § 8905(a), Title 14, Delaware to replace "State Board" with "Department of Education".

Section 195: The provisions of this Act which address the tenure of current employees of the Department of Education shall not be effective as to any individual employee until the expiration of any contract between the State and such employee in effect on the effective date of this bill.

Section 196: Any rules and regulations of the State Board of Education existing prior to the effective date of this Act shall remain in full force and effect until otherwise modified in accordance with Delaware Law; provided, however, that if any rule or regulation heretofore adopted shall conflict with any of the provisions of this Act, the language contained in this Act shall prevail over that contained in such rule or regulation.

Section 197: Contracts issued prior to the effective date of this bill by the State Board of Education shall continue in force with the Department of Education as the successor to the State Board of Education.

Section 198. This bill shall become effective 15 days after its signature into law.

Approved July 16, 1997

CHAPTER 181

FORMERLY

SENATE BILL NO. 182
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO
EDUCATIONAL RULES AND REGULATIONS.

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

Section 1. Amend §122(b), Title 14, Delaware Code by deleting existing paragraph (17).

Section 2. Amend Chapter 1, Title 14, Delaware Code by adding a new Subchapter III to read as follows:

"Subchapter III. State Student Testing Program.

§151. State Student Testing Program; Rules and Regulations.

(a) The Department shall adopt rules and regulations consistent with the laws of this State governing the statewide assessment of student achievement and the assessment of the educational attainments of the Delaware public school system. The Secretary shall consult with the State Board and representatives of the local school districts in designing and implementing the assessment program required under this section. The assessment program shall be designed and operated to provide the General Assembly, the Governor, the Secretary, the State Board of Education, educational administrators, teachers, parents, and the public with timely and accurate information on student achievement and educational attainments.

(b) Beginning no later than the 1997-'98 school year, the Department shall conduct an annual assessment of student achievement for pupils in a minimum of at least 4 grade levels in the core curriculum areas of English Language Arts and Mathematics.

(c) Beginning no later than the 1998-'99 school year, the Department shall conduct an annual assessment of student achievement for pupils in a minimum of at least 4 grade levels in the core curriculum areas of Science and Social Studies.

(d) The assessments required pursuant to subsection (b) of this section shall be designed and constructed so as to provide:

(i) a valid and reliable measure of individual student performance relative to the State standards in such curriculum areas; and

(ii) a valid and reliable measure of student performance relative to students nationally.

(e) The assessments required pursuant to subsection (c) of this section shall be designed and constructed so as to provide a valid and reliable measure of individual student performance relative to State standards in such curriculum areas.

(f) The Secretary of Education shall annually report the results of the assessment program to the General Assembly, the Governor, and the public. Such reports shall include:

(i) an analysis of the results of each assessment activity;

(ii) recommended statewide action to address identified deficiencies;

(iii) school and district assessment results; and

(iv) a delineation of district plans to raise the achievement levels of performance by (or to measure and demonstrate by some alternative, Department established or approved criteria, the requisite level of achievement by) students who have failed to demonstrate the established level of performance required pursuant to §152(a) and (b) of this chapter and such levels of performance as shall be established for pre-high school students by Department regulation.

(g) Guidelines for inclusion in the assessment program will be determined by regulations.

(h) Rules and regulations pursuant to this subchapter shall be proposed by the Secretary subject to approval by the State Board of Education."

Section 3. Amend Chapter 1, Title 14, Delaware Code by adding a new section to read as follows:

"§152. State of Delaware High School Diploma Requirements.

(a) Every student before receiving a State of Delaware High School Diploma endorsed by the Department of Education on behalf of the State, shall, in addition to meeting state prescribed course requirements, also demonstrate a proficient level of performance relative to the state high school content standards on the assessments administered pursuant to subsections (b) and (c) of §151 of this subchapter. The Department, by regulation, shall define the level of individual performance necessary for a student to receive a State of Delaware High School Diploma. The Department, by regulation, may define a higher level of individual performance necessary for a student to receive a State of Delaware Distinguished Achievement Diploma. The requirements for a Distinguished Achievement Diploma may, in addition to the level of performance established pursuant to this section, include other criteria.

(b) Nothing contained in subsection (a) of this section shall prevent the Department from establishing alternative assessments to determine whether students with disabilities who are candidates for graduation have reached the same proficient level of performance required on the assessments administered pursuant to subsections (b) and (c) of §151 of this subchapter by the Department for award of a State of Delaware High School Diploma. Any alternative assessments adopted by the Department shall be equally rigorous, valid, and reliable as the assessments administered pursuant to subsections (b) and (c) of §151 of this subchapter. Approval of any alternative assessment by the Department shall require the joint approval of the Secretary and the State Board of Education, who shall issue written findings supporting the Department's decision to approve an alternative assessment.

(c) Nothing contained in subsection (a) of this section shall prevent an individual school district, with approval of the Department, from establishing alternative assessments to determine whether regular students who are candidates for graduation have reached the same proficient level of performance required on the assessments administered pursuant to subsections (b) and (c) of §151 of this subchapter by the Department for award of a State of Delaware High School Diploma. Any alternative assessments proposed by an individual district shall, prior to approval, be found by the Department to be equally rigorous, valid, and reliable as the assessments administered pursuant to subsections (b) and (c) of §151 of this subchapter. Approval of any alternative assessment by the Department shall require the joint approval of the Secretary and the State Board of Education, who shall issue written findings supporting the Department's decision to approve an alternative assessment. Any district that receives such approval shall provide such continuing evidence of the alternative assessment's reliability and validity as the Secretary and State Board of Education shall require to ensure compliance with this subsection.

(d) A high school student who fails to achieve a proficient level of performance on the high school assessments required by subsections (b) and (c) of §151 of this subchapter shall be required to retake such assessments at least once in each succeeding year until such student achieves the established level of performance. A student who demonstrates a proficient level of performance on an alternative assessment approved by the Department pursuant to subsections (b) and (c) of this section shall be exempt from this requirement.

(e) A local school district may establish a Certificate of High School Completion for issuance to a student who has successfully completed the high school graduation course credit requirements established by the State - or the District, if higher than the State - but who has failed to demonstrate the proficient level of performance established pursuant to subsections (a), (b) and (c) of this section."

Section 4. To further ensure that the General Assembly and/or the Department of Education, through action of the Secretary and the State Board pursuant to Title 14, can adopt a comprehensive system of accountability linked to student achievement, the State Student Testing Program established pursuant to §151 of this subchapter shall, to the extent practicable, be designed to enable the State and the local school districts to use such Program as a primary indicator in the decision process used to determine, at minimum, whether students should be: permitted to matriculate to the next level; required to receive extra instruction; and/or eligible for awards and scholarships for high achievement. Nothing herein should be construed to restrict the Department of Education from implementing a student assessment program capable of being used for additional purposes to those delineated herein.

Section 5. The Governor and the Secretary of Education, in consultation with the State Board of Education, shall report to the General Assembly on or before January 30, 1998 on their progress in developing a plan for a comprehensive system of accountability linked to the assessments mandated by this Act. Recognizing the importance and complexity of the issues included in this section for incorporation in the plan, the Governor and Secretary of Education may present such elements of the plan as are complete on or before January 30, 1998 and identify at such date a timetable for addressing the remaining elements. The Secretary shall also consult with educational stakeholder groups during the plan development process. To ensure progress, the Governor and Secretary of Education are encouraged to attach to the plan the specific legislative and regulatory proposals necessary to implement the plan. Such plan shall address, but need not be limited to:

- a. The role of the assessment program in determining whether students have made sufficient academic progress to matriculate to the next grade or academic level;
- b. The role of the assessment program in determining which students should be directed to programs providing extra instruction, mentoring, tutoring, or other additional educational assistance designed to improve the performance and knowledge of the students;
- c. The procedures and/or methodologies to be used in establishing the level of performance necessary to be attained by students in order to qualify for a State of Delaware High School Diploma or other diplomas authorized in 14 *Del. C.* §152;
- d. The procedures and/or methodologies to be used in establishing successful levels of performance for pre-high school level students on the assessments administered pursuant to 14 *Del. C.* §151(b) and (c);
- e. The role the assessment should have in identifying Delaware students whose academic achievement merits special recognition and/or scholarship assistance;
- f. The precise role the assessments required for science and social studies pursuant to 14 *Del. C.* §151(c) shall play in high school graduation requirements and, in particular, the costs and benefits of developing an assessment for such subjects which meets the same criteria for assessments of mathematics and English/language arts required by 14 *Del. C.* §151(b);

g. A component to address individual and/or collective accountability for teachers and administrators. Such component should be linked to Delaware Teacher and Administrator Standards and shall address preservice education program approval, induction and initial mentoring, certification, recertification, performance appraisal and such other issues as are deemed appropriate to support professional growth and accountability;

h. Recommendations regarding financial and other incentives that can be used at the building and district level to promote student achievement;

i. Recommendations as to how data from the results of the assessments authorized by this Act should be disaggregated and reported in order to support continuous improvement among all groupings of students and to measure the progress of individuals and groups of students over time;

j. An analysis of any existing curricular, financial, technical, or administrative impediments that may adversely affect the proposed implementation of the comprehensive system;

k. The role that other assessments may play in a system of accountability; and

l. A timetable for the implementation of the comprehensive accountability system.

Nothing herein should be construed to restrict the Department of Education from developing and implementing additional components of the Delaware State Testing Program that are designed to track and support Delaware student progress against the State's content standards.

Section 6. Should Senate Bill No. 79 or House Bill No. 81 or any successor Bill which moves the paragraph in §122(b) of Title 14 dealing with the governing of the State assessment of student achievement and the assessment of the educational attainments of the Delaware public school system from (17) to another number, it is the intent of this Act that (17) not be deleted but rather that what should be deleted is whichever paragraph deals with the governing of the State assessment of student achievement and the assessment of the educational attainments of the Delaware public school system.

Section 7. The provisions of 14 *Del. C.* §152(a) shall not be applied to deny any student a State of Delaware High School Diploma as a result of the failure of such student to pass any of the Assessments required under the provisions of 14 *Del. C.* §151(b), until four years after the first administration of such Assessments. The provisions of 14 *Del. C.* §152(a) shall not be applied to deny any student a State of Delaware High School Diploma as a result of the failure of such student to pass any of the Assessments required under the provisions of 14 *Del. C.* §151 (c), until six years after the first administration of such Assessments.

Section 8. This Act shall become effective August 1, 1997.

Approved July 16, 1997

CHAPTER 182

FORMERLY

HOUSE BILL NO. 353

AN ACT TO AMEND TITLE 4, DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS, LICENSE, AND FEES.

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

Section 1. Amend § 512, Chapter 5, Title 4 of the Delaware Code by adding thereto a new subsection to read as follows:

"(h) A certificated air passenger carrier maintaining and operating a warehouse storage facility in the State of Delaware may apply to the Commission for a license to purchase alcoholic liquors from an importer and to receive at the carrier's warehouse or airport facility, keep at the carrier's warehouse or airport facility, transport to the carrier's airport facility and sell such alcoholic liquor to its passengers for consumption on its aircraft only."

Section 2. Amend § 554, Chapter 5, Title 4 of the Delaware Code by adding thereto a new subsection to read (jj) as follows:

"(jj) For the license defined in § 512(h) of this chapter, the fee shall be \$500.00."

Approved July 16, 1997

CHAPTER 183

FORMERLY

HOUSE BILL NO. 328

AN ACT TO AMEND CHAPTER 66, TITLE 16 OF THE DELAWARE CODE, RELATING TO THE RIGHT OF APPEAL TO THE STATE FIRE PREVENTION COMMISSION BY PERSONS AGGRIEVED BY DECISIONS OF ASSISTANT STATE FIRE MARSHALS.

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

Section 1. Amend § 6608, Title 16 of the Delaware Code by designating subparagraph (b) as subparagraph (c) and adding a new subparagraph (b) to read as follows:

"(a) Appeals by any person aggrieved by an order or decision of the State Fire Marshal, the Marshal's Deputy or Deputies or Assistant State Fire Marshals, based upon or made in the course of the administration or enforcement of this chapter or local regulations incorporating the State Fire Prevention Commission Regulations shall be taken to the State Fire Prevention Commission. Appeals by any officer, department, board or bureau of the State and the several counties, cities and political subdivisions thereof affected by an order or decision of the State Fire Marshal, or the Marshal's Deputy or Deputies or Assistant Fire Marshals in the course of the administration or enforcement of this chapter or local regulations incorporating the State Fire Prevention Commission Regulations shall be taken to the State Fire Prevention Commission."

Approved July 16, 1997

CHAPTER 184

FORMERLY

HOUSE BILL NO. 18
AS AMENDED BY HOUSE AMENDMENT NO. 1AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO SECURITY
OF LOTTERY OPERATIONS AND THE STATE LOTTERY OFFICE.

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

Section 1. Amend § 4803, Title 29, Delaware Code by adding thereto new subsections to read as follows:

"(h) 'Employee organization' shall mean any organization that admits or seeks to admit to membership employees of a Delaware video lottery agent and which has a purpose the representation of such employees in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment, or conditions of work.

(i) 'Key employee' shall mean any officer and any employee of an employee organization who has direct involvement with or who exercises authority, discretion or influence in the representation of employees of a Delaware video lottery agent in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment or conditions of work."

Section 2. Amend § 4805(a), Title 29, Delaware Code by adding thereto new paragraphs to read as follows:

"(24)(a) A registration requirement and enforcement procedure for any employee organization representing or seeking to represent employees who are employed by a Delaware video lottery agent. Any employee organization may at any time file with the Office an application for registration as an employee organization. However, an employee organization shall be required to file such registration application within ten (10) business days after it secures a signed authorization card from any employee who is employed by a Delaware video lottery agent.

Any registration statement filed by an employee organization after the signature of an authorization card but prior to the employee organization's petition for election shall not be subject to disclosure by the Lottery Office to any video lottery agent.

(b) Every key employee of an employee organization shall be required to register with the Office at the same time as the application for registration is filed under subparagraph (a) of this paragraph or within thirty (30) days after the date on which such individual is elected, appointed or hired, whichever is later.

(c) The application for registration by an employee organization or key employee of such employee organization may be denied or registration revoked under the following circumstances:

(i) If such employee organization or key employee of such employee organization is in violation of standards established under the Labor-Management Reporting and Disclosure Procedure Prohibition Against Certain Persons Holding Office, 29 U.S.C 504(a).

(ii) The applicant's competence, honesty, or integrity pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the video lottery based on the applicant's associations or by virtue of the fact that the applicant has been convicted of a felony crime of moral turpitude

or has been arrested for an act constituting racketeering under 11 Del. C. Section 1502(9)(a)(b)(2)(4-10) within ten (10) years prior to applying for registration hereunder or at anytime thereafter. Any employee or employee organization denied registration based on an arrest for an act constituting racketeering under 11 Del. C. Section 1502(9)(a)(b)(2)(4-10) may apply for reconsideration of registration if subsequently acquitted or a nolle prosequi is entered or the charge is otherwise dismissed. In such instances, the Lottery shall reconsider the applicant's registration based on the criteria previously set forth in this subsection.

(iii) The organization or individual has knowingly made or caused to be made any written statement to any representative of the Office or the Delaware State Police or who has orally responded to an official inquiry by the Office, its employees or agents, which was at the time and in light of circumstances under which it was made false or misleading.

(iv) The organization or key employee thereof holds or obtains a direct financial interest in any video lottery agent, provided the employee organization is provided a thirty (30) day period to divest of any such direct financial interest.

The Delaware State Police shall conduct the background checks required by this paragraph. The failure of any key employee to satisfy the requirements of paragraph (c)(i-iv) may constitute grounds for suspension of the registration of the employee organization if the organization does not remove the key employee from his duties as defined in 29 Del. C. Section 4803(i). The employee organization will be given a reasonable opportunity to remove or replace any key employee found to be in violation of paragraph (c)(i-iv).

(d) All registration statements filed under this paragraph shall be valid for a one-year period and a renewed registration form or an updated supplemental registration form must be filed annually. The entity or individual filing such form is under a continuing duty to promptly notify the Director of any changes in disclosed information.

(e) The Secretary of Finance shall, within a reasonable time, if requested by the Director, appoint a hearing officer to determine whether the application for registration shall be denied or registration suspended or revoked. The hearing officer shall be required to hold a hearing in conformance with the requirements of §10131 of this Title. In any hearing, the Delaware Uniform Rules of Evidence shall be in effect. The denial of an application of registration or the suspension or revocation of a registration shall be bound by the provisions of §10133 and §10134 of this Title. The hearing officer's decision to deny an application of registration or to suspend or revoke a registration shall be appealable to the Superior Court under the provisions of the Delaware Administrative Procedures Act. All applications for registration shall be deemed approved unless the Director notifies the applicant within sixty (60) days of his or her decision not to approve and to appoint a hearing officer under this paragraph, or unless extenuating circumstances require a longer period, in which case the Director shall act with all deliberate speed to complete the process. Any employee organization may continue to provide services to employees of a Delaware video lottery agent during the review of the application process and the appeal process, except where the employee organization is found in violation of paragraph (c)(iv) or there has been a previous violation of paragraph (e)(i-iii) by the employee organization within the previous ten (10) years.

(f) Information requested in the Application of Registration provided for under this paragraph shall be adopted as part of the Office's official rules and regulations upon notice and opportunity for a hearing under the provisions of the Delaware Administrative Procedures Act.

(25) The Director shall adopt procedures under the Delaware Administrative Procedures Act for employment investigations of the honesty, integrity, reputation, and associations of Office employees in order to determine that the employee's employment does not pose a threat to the public interest of the State or the integrity of the Office. The procedures and any rules and regulations shall require any person seeking employment

for compensation with the Office for a position which has direct access to lottery ticket sales agents, video lottery agents, or vendors to submit his or her fingerprints and other relevant information in order to obtain the individual's *entire federal and state criminal history record*. The Delaware State Police shall conduct the investigations required under such rules and regulations. The rules and regulations shall require new employees to submit fingerprints for purposes of the state and federal criminal history checks."

Approved July 16, 1997

CHAPTER 185

FORMERLY

HOUSE BILL NO. 200

AN ACT TO AMEND TITLES 16, 24, AND 29 OF THE DELAWARE CODE RELATING TO OCCUPATIONS AND PROFESSIONS AND TRANSFERRING RESPONSIBILITY FOR THE LICENSURE OF PLUMBERS FROM THE DIVISION OF PUBLIC HEALTH TO THE DIVISION OF PROFESSIONAL REGULATION.

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

Section 1. Amend Title 24 of the Delaware Code by adding thereto a new chapter to read:

"CHAPTER 18. BOARD OF PLUMBING EXAMINERS

§ 1801. Objectives of the Board of Plumbing Examiners.

The primary objective of the Board of Plumbing 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 competence; shall monitor complaints brought against practitioners regulated by the Board; shall adjudicate at formal complaint hearings; shall promulgate rules and regulations; and shall impose sanctions, where necessary, against practitioners.

§ 1802. 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' means the State Board of Plumbing Examiners.

(2) 'License' means a document issued by the Division of Professional Regulation which indicates that a person is currently qualified by the Board of Plumbing Examiners to engage in the practice of plumbing.

(3) 'Licensed plumber' means a person holding a current license issued pursuant to this chapter.

(4) 'Plumber' means an individual who provides plumbing services.

(5) 'Plumbing services' means the art of installing in buildings the pipes, fixtures, and other apparatus for bringing in the water supply and removing liquid and water-carried wastes.

§ 1803. Board of Plumbing Examiners: appointment; composition; qualifications; term of office; suspension or removal; compensation.

(a) Appointment. The Board shall consist of 9 members who are residents of this State. Members shall be appointed by the Governor. Members of the initial Board shall be appointed so that the terms of 3 members shall expire 1 year after the initial appointment; the terms of 3 members shall expire 2 years after the initial appointment;

and the terms of the remaining 3 members shall expire 3 years after the initial appointment. Thereafter, appointments shall be made for a term of 3 years. A member of the Board shall be eligible for reappointment, but a member shall not be appointed to serve more than 2 consecutive terms. Each term of office shall expire on a date specified in the appointment, except that each member shall serve until his or her successor is duly appointed. A member who was initially appointed to fill a vacancy may succeed himself or herself for only one additional full term.

(b) Composition and provision. Six members shall be plumbers licensed in this State. The remaining 3 members shall be persons from the general public who are not now nor ever have been licensed plumbers and are not in any way connected to the provision of plumbing services, whether monetarily or through business activity or through educational activity or by their immediate family relations. The 3 public members shall be accessible to inquires, comments, and suggestions from the general public.

No member of the Board, while serving on the Board, shall be a president, chairperson, or other elected official of a professional association for plumbers. The provisions of Chapter 58, Title 29, of the Delaware Code shall apply to all members of the Board, and to all agents appointed by or otherwise employed by the Board.

(c) Suspension or removal. 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 of the Board subject to disciplinary proceedings shall be disqualified from Board business until the charge is adjudicated or until the matter is otherwise concluded.

(d) Compensation. Each member of the Board shall receive not more than \$50 for each meeting attended and not more than \$500 in any calendar year for his or her services as a member of the Board.

§ 1804. Officers; meetings; quorum.

(a) The Board shall elect annually from its membership a chair, vice-chair, and secretary.

(b) The Board shall hold a regularly scheduled business meeting at least once each quarter and at such other times as the Chair deems necessary, or at the request of a majority of Board members. A majority of members shall constitute a quorum; however, no disciplinary action against a plumber shall be taken without the affirmative vote of at least 6 members.

(c) 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 of the minutes shall be maintained by the Division of Professional Regulation. At any hearing in which evidence is presented, a record shall be made from which a verbatim transcript can be prepared upon request. The expense of preparing any transcript shall be incurred by the person requesting it.

§ 1805. Powers and duties.

The Board shall have the authority to:

(1) Enforce the provisions of the State Plumbing Code as adopted by the Department of Health and Social Services;

(2) Promulgate rules and regulations governing the licensure of plumbers, including rules and regulations relating to requirements for continuing education. Each rule or regulation shall implement or clarify a specific section of this chapter;

(3) Designate a written examination prepared by either a national professional association or by a recognized, legitimate national testing service;

(4) Provide for the administration of all examinations, subject to the approval of the Division of Professional Regulation, including notice and information to applicants;

(5) Evaluate certified records to determine whether an applicant for a license to practice, who has been previously licensed or registered in another jurisdiction, 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 applicant for such acts or offenses;

(6) Grant or deny licensure to an applicant in accordance with the qualifications criteria set forth in this chapter;

(7) Refer all complaints from practitioners and from the public concerning practitioners to the Division of Professional Regulation for investigation pursuant to § 8810 of Title 29. The Division of Public Health shall assist the Division of Professional Regulation, upon request, in the investigation of complaints requiring field inspections;

(8) Hold hearings and take such actions as are permitted under the provisions of Chapter 101 of Title 29;

(9) Designate and impose appropriate disciplinary action after time for appeal has lapsed where it has been determined after a disciplinary hearing that disciplinary action should be imposed; and

(10) Prepare and maintain a registry of licensed plumbers.

§ 1806. Qualifications of applicants to sit for examination.

(a) Prior to applying for a plumbing license in the State of Delaware, each applicant must, after receiving a Journeyman's Certificate issued by a plumbing apprenticeship program which meets or exceeds the Federal Bureau of Apprenticeship and Training Standards, perform plumbing services for at least 2 years under the supervision of a licensed plumber. In lieu of a Journeyman's Certificate, an applicant must have performed plumbing services for at least 7 years under the supervision of a licensed plumber and have completed the State of Delaware approved series of tests offered by Delaware apprenticeship schools.

(b) Each applicant shall provide such information as may be required on an application form designed and furnished by the Board and approved by the Division of Professional Regulation. No application form shall require a picture of the applicant; information relating to citizenship, place of birth, or length of State residency; or personal references.

(c) An applicant shall not have engaged in any of the acts or offenses that would be grounds for disciplinary action under this chapter, and shall not have any 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 plumber.

(d) Examination by the Board of Plumbing Examiners shall be at least quarterly. An applicant failing to qualify upon examination may submit for re-examination in accordance with the rules of the Board of Plumbing Examiners.

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

(f) Where the Board refuses or rejects an application and the applicant believes that the Board acted without justification, imposed higher or different standards for him or her than for other applicants, or in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

§ 1807 Reciprocity.

Reciprocity will be provided for licensed plumbers from other states provided that the standards for licensure in that state are equivalent to those set forth in § 1806 of this chapter. The applicant is responsible for contacting each state or jurisdiction where the applicant is currently or has been licensed to request a certified statement to verify (1) whether or not there are disciplinary proceedings or unresolved complaints pending against the applicant and (2) 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 plumbing in this State shall be deemed to have given consent to the release of such information and to have waived all objections to the admissibility of such evidence. Reciprocity applicants must follow the rules and regulations for application established under § 1808 of this chapter.

§ 1808. Licensure.

(a) Application. A person who desires to be licensed as a plumber shall apply to the Board in writing on a form furnished by the Board, and with the application shall submit payment of the application fees set by Division of Professional Regulation. In addition, the applicant shall submit proof that he or she has fulfilled the requirements of § 1806 of this chapter. The Board shall issue a license to each applicant who has met the requirements of the chapter.

(b) Renewal or reinstatement.

(1) A license shall be renewed every 2 years in a manner determined by the Division of Professional Regulation, which manner shall include completion of the renewal form and payment of the required fee established by the Division of Professional Regulation pursuant to 29 Del.C. § 8810(d).

(2) A licensee who fails to renew a plumbing license by its expiration date may renew the license within 12 months after its expiration date by paying the license fee and a late fee as established by the Division of Professional Regulation. A licensee may reinstate a license within 36 months after its expiration by paying the license fee and a late fee as established by the Division of Professional Regulation, and a reactivation fee in the same amount as the license fee. A license which has been expired for more than 36 months shall be deemed lapsed and may be renewed only by filing a new application for licensure and by fulfilling the qualifications for licensure, including taking and achieving a passing score on any required examination.

§ 1809. License required.

No person shall represent himself or herself as a licensed plumber or use the title 'Licensed Plumber' or provide plumbing services in this State unless that person is licensed under this chapter and holds a current and valid license, not expired, suspended, or revoked, or unless that person is exempt under the provisions of Section 1813 of this chapter.

(1) Where the Board determines that a person has provided plumbing services within this State without having a current and valid license to do so, the Board shall make a formal complaint to the Attorney General. The complaint shall include all evidence known to, or in the possession of, the Board.

(2) Where the Board has placed a licensed plumber on probationary status under certain restrictions or conditions and the Board determines that such restrictions or conditions are being or have been violated by the plumber, it may, after a hearing on the matter, suspend or revoke the plumber's license.

(3) A person not currently licensed as a plumber who is convicted of practicing plumbing in violation of this chapter shall, upon the first offense, be fined not less than \$100 nor more than \$1000 and shall pay all costs; provided, however, that where it is alleged that such violation has resulted in injury to any person, the offender may also be charged and tried under the applicable provisions of Title 11 of the Delaware Code.

(4) Where a person previously convicted of practicing plumbing in violation of this chapter is convicted of a similar violation subsequent to the first offense, the fine assessed against that person shall be increased by up to \$1,000 for each subsequent offense.

(5) Any criminal prosecution under this section for a violation of this chapter shall lie within the exclusive jurisdiction of the Superior Court.

§ 1810. Grounds for discipline.

(a) The following conditions and actions may result in disciplinary sanctions as set forth in § 1811 of this chapter if, after a hearing, the Board finds that a licensed plumber:

(1) has engaged or knowingly cooperated in fraud or material deception in order to be licensed;

(2) has engaged in illegal, incompetent, or negligent conduct in the provision of plumbing services;

(3) has been convicted of a felony, or, as a plumber or otherwise, in the practice of his or her profession has knowingly engaged in an act of consumer fraud or deception, engaged in the restraint of competition, or participated in price-fixing activities;

(4) has violated a provision of this chapter or any rule or regulation established hereunder;

(5) has had his or her license as a plumber suspended or revoked, or has had other disciplinary action taken against him or her 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 licensing authority in the other jurisdiction constitute one or more of the acts defined in this chapter. Every person licensed as a plumber in this State shall be deemed to have given consent to the release of this information by the Board of Plumbers or other comparable agency in all other jurisdictions and to have waived all objections to the admissibility of previously adjudicated evidence of such acts or offenses; or

(6) has failed to notify the Board that, as a plumber in another state he or she has been subject to discipline, or that his or her license has been surrendered, suspended, or revoked. A certified copy of the record of the disciplinary action, surrender, suspension, or revocation shall be conclusive evidence thereof.

(b) Subject to the provisions of this chapter and Chapter 101 of Title 29 of the Delaware Code, no license shall be restricted, suspended, or revoked by the Board, and no practitioner's right to practice plumbing 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.

§ 1811. Disciplinary sanctions.

A person regulated under this chapter who has been determined to be in violation of this chapter or of a rule or regulation promulgated under this chapter shall be subject to one or more of the following disciplinary sanctions by the Board:

- (1) Issuance of a letter of reprimand;
- (2) Censure;
- (3) Placement on probationary status;
- (4) Imposition of a fine not to exceed \$100 for a first offense or \$1,000 for each subsequent offense;
- (5) Suspension of license;
- (6) Revocation of license.

§ 1812. Administrative procedures.

All administrative procedures under this chapter shall be governed by the Delaware Administrative Procedures Act, Chapter 101, Title 29 of the Delaware Code.

§ 1813. Exceptions.

(a) No license shall be required of a person who installs his or her own plumbing work, service, or equipment in or about his or her own home that is not for sale or any part for rent or lease, except that such person shall be required to obtain a permit from the Division of Public Health or from the proper plumbing inspection authority. Nothing in this paragraph shall be construed to prohibit a person from obtaining free assistance in installing his or her own plumbing work, service, or equipment in his or her own home that is not for sale or any part for rent or lease.

(b) Any person who is employed by a plumber licensed under this chapter and who is providing plumbing services in this State under the direct supervision of State-licensed plumber shall not be required to obtain a license while under such direct supervision.

(c) Property used exclusively for agricultural purposes is excluded from all provisions of this section, except for the necessity to obtain a permit from the Division of Public Health or from the proper plumbing inspection authority."

Section 2. Amend Section 8810(a), Title 29 of the Delaware Code, by adding thereto a new paragraph to read:

"(31) Board of Plumbing Examiners, as set forth in Chapter 18 of Title 24."

Section 3. Amend Section 10161 (a), Chapter 101, Title 29 of the Delaware Code, by adding thereto a new paragraph to read:

"(45) Board of Plumbing Examiners."

Section 4. Amend Section 7906 of Title 16 of the Delaware Code by deleting Section 7906 in its entirety and by substituting in lieu thereof the following:

"§ 7906. Rules and regulations for installation of plumbing; registration of plumbers; application for inspection.

(a) The Division of Public Health, in order to provide for the health of the citizens of the State, shall adopt and promulgate suitable rules and regulations for the construction, alteration, repair, modification, or renovation of water and sewer systems and of building and house drainage systems; shall enforce those rules and regulations;

and shall make provisions under this section and Chapter 18 of Title 24 of the Delaware Code for the punishment of any person who violates or assists in the violation of or refuses to comply with such rules and regulations.

(b) Registration and licensure of plumbers and persons engaged in the practice of plumbing in this State shall be in accordance with Chapter 18 of Title 24 of the Delaware Code.

(c) No license shall be required of a person who installs his or her own plumbing work, service, or equipment in or about his or her own home that is not for sale or any part for rent or lease, except that such person shall be required to obtain a permit from the Division of Public Health or from the proper plumbing inspection authority. Nothing in this paragraph shall be construed to prohibit a person from obtaining free assistance in installing his or her own plumbing work, service, or equipment in his or her own home that is not for sale or any part for rent or lease.

(d) Property used exclusively for agricultural purposes is excluded from all provisions of this section, except for the necessity to obtain a permit from the Division of Public Health or from the proper plumbing inspection authority."

Section 5. Severability clause.

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 16, 1997

CHAPTER 186

FORMERLY

HOUSE BILL NO. 221

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

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

Section 1. Amend §1314(1), Title 24 of the Delaware Code by deleting the number "20" appearing therein and by substituting in lieu thereof the number "18".

Approved July 16, 1997

CHAPTER 187

FORMERLY

HOUSE BILL NO. 62

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO ENVIRONMENTAL CONTROL.

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

Section 1. Amend § 6023(a)(2), Title 7 of the Delaware Code by striking said paragraph in its entirety and by substituting in lieu thereof the following paragraph:

"(a)(2) Install, maintain, or repair pumping equipment in or from a well without a license issued by the Department, except (i) as, or under the supervision of, a licensed plumber, or (ii) an agricultural well on land owned or leased by the person installing, maintaining or repairing the pumping equipment. For the purpose of this paragraph 'agricultural well' shall mean a well used for irrigation of crops, the watering of livestock or poultry, for aquaculture uses, or for other on-farm purposes where the water is not to be used for human consumption or to service a residential dwelling."

Approved July 16, 1997

CHAPTER 188

FORMERLY

HOUSE BILL NO. 75

AN ACT TO AMEND CHAPTER 87, TITLE 29, DELAWARE CODE, RELATING TO THE DELAWARE COMMISSION OF VETERANS AFFAIRS

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

Section 1. Amend § 8723(e), Title 29, Delaware Code, by inserting the words "more than two (2)" after the words "who shall not serve", to read as follows:

"The members of the Commission shall elect 1 of their members to serve as Chairperson and 1 as Vice-Chairperson who shall not serve more than two (2) consecutive terms. Such elections shall be held annually in September."

Approved July 16, 1997

CHAPTER 189

FORMERLY

HOUSE BILL NO. 143

AN ACT TO AMEND SUBCHAPTER IV OF CHAPTER 11 OF TITLE 30 OF THE DELAWARE CODE RELATING TO THE TAXATION OF ESTATES, TRUSTS AND BENEFICIARIES.

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

Section 1. Amend Section 1133 of Title 30 of the Delaware Code by adding a new subsection (d) at the end thereof to read as follows:

"(d) Designated and qualified settlement funds. A trust that is a designated or qualified settlement fund (as defined in § 468B of the Internal Revenue Code of 1986 [26 U.S.C. § 468B], as amended, or Treas. Reg. § 1.468B-1 [26 C.F.R. § 1.468B-1]) shall be characterized as a trust for all purposes of this title and shall not be subject to tax under this chapter."

Section 2. This Act shall become effective on the date of enactment.

Approved July 16, 1997

CHAPTER 190

FORMERLY

HOUSE BILL NO. 302

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MORTGAGES AND OTHER LIENS.

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

Section 1. Amend § 2120(a)(9), Title 25 of the Delaware Code, by inserting the phrase "or mortgage loan servicer" between the words "creditor" and "who" as they appear therein.

Section 2. Amend § 2120(a)(10), Title 25 of the Delaware Code, by striking the text in its entirety as it appears therein and by substituting in lieu thereof the following:

"(10) If the fully paid creditor or mortgage loan servicer is other than the last mortgagee of record on the date of full payment, a statement by the attorney whose signature appears on the affidavit that (i) the attorney was provided with a written payoff statement by the creditor or mortgage loan servicer, (ii) the attorney relied upon the written payoff statement, and (iii) the attorney made payment or caused payment to be made of the outstanding debt to the creditor or mortgage loan servicer;"

Section 3. Amend § 2120(a)(11), Title 25 of the Delaware Code, by inserting a comma (,) between the phrases "mortgage 'payoff figure'" and "the open line" as they appear therein.

Section 4. Amend § 2120(a)(14), Title 25 of the Delaware Code, by striking the text in its entirety as it appears therein and by substituting in lieu thereof the following:

"(14) That the affiant attorney has fully paid or has caused to be fully paid the debt to the creditor or to the mortgage loan servicer and retains evidence of that payment;"

Section 5. Amend § 2120(e), Title 25 of the Delaware Code, by striking the phrase "25 DEL.C. § 2119" as it appears in the title of the form of mortgage satisfaction affidavit therein and by substituting in lieu thereof the phrase "25 DEL.C. § 2120".

Section 6. Amend § 2120(e) by striking Paragraphs (9), (10), and (14) of the form of mortgage satisfaction affidavit in their entireties as they appear therein and by substituting in lieu thereof respectively the following:

"(9) The full name and address of the creditor or mortgage loan servicer who was fully paid is _____;"

"(10) _____, who is the creditor or mortgage loan servicer that was fully paid is other than _____, the last mortgagee in interest which appeared of record on the date of said payment. I did, however, obtain a written payoff statement from the creditor or mortgage loan servicer on account of said mortgage, and, in accordance with and in reliance on the payoff statement, I made payment or caused payment to be made of the outstanding debt to the creditor or mortgage loan servicer;" and

"(14) I fully paid or caused to be fully paid such debt to the creditor or mortgage loan servicer and I retain evidence of that payment;"

Section 7. Amend § 2120(e) by striking the phrase "in the mortgage" as it appears therein between the phrases "in the mortgage" and "record, volume and page" in Paragraph (15) of the form of mortgage satisfaction affidavit.

Approved July 16, 1997

CHAPTER 191

FORMERLY

HOUSE BILL NO. 205
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO OPEN MEETINGS AND DELIBERATIONS.

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

Section 1. Amend §10004(h), Title 29, Delaware Code, by inserting a new numbered paragraph to read as follows, and by adjusting the punctuation of the subsection accordingly:

"The deliberations of the following agencies for any case decision governed by the Administrative Procedures Act in Title 29, Chapter 101 of this Code.

- a. State Human Relations Commission;
- b. Industrial Accident Board; and
- c. Tax Appeals Board."

Section 2. Nothing in this Act shall supersede any existing statutory provisions which permit any board or agency to conduct its hearings or deliberations in closed session.

Approved July 16, 1997

CHAPTER 192

FORMERLY

HOUSE BILL NO. 141
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT DIRECTING THE SECRETARY OF EDUCATION TO CREATE A PILOT PROJECT TO CHANGE THE DATE OF THE UNIT COUNT.

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

WHEREAS, currently, school administrators analyze student populations in September to calculate the number of teacher and staff units earned by the district; and

WHEREAS this delay causes financial and planning burdens on school districts while forcing some students to change classes or teachers, or both, a reality that disrupts the students' learning and the districts' administration of educational programs; and

WHEREAS this critical analysis is the primary tool education planners use to determine the need for classroom teachers, to reduce class sizes, and to provide essential services; and

WHEREAS, by changing the calculation date, appropriate staffing levels and necessary programs are provided immediately upon the opening of the school year;

NOW, THEREFORE:

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

Section 1. The Secretary of Education is hereby directed to conduct a pilot project to determine the efficacy of changing the date of the unit count from the last school day of September to the last school day of the previous March. Among school districts that volunteer to be part of the pilot project, the Secretary of Education may select up to three districts to participate in a unit count in March 1998. Any school district which participates may also choose to include in the unit count for each category of students an additional increase equal to one half of the increase in unit count for each category between the 1996 unit count and the 1997 unit count. The Secretary of Education shall report back the findings to the General Assembly by June 1, 1999, along with a recommendation to either change the date of the unit count statewide or to stay with the last school day of September.

Approved July 16, 1997

CHAPTER 193

FORMERLY

HOUSE BILL NO. 244
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 29 REGARDING THE DELAWARE FREEDOM OF
INFORMATION ACT.

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

Section 1. Amend Title 29, Section 10004 by adding a new section (i) as follows:

"(i) In an enforcement action pursuant to § 10005 of this chapter, a citizen or the Attorney General, as the case may be, may seek the forfeiture of all or part of the compensation of members of a board, commission, or other public body for any closed meeting which such board, commission, or other public body closed knowing that such action violated this chapter. Such forfeiture may only be ordered by the court if the court makes a specific finding that the board, commission, or public body had no good faith basis to believe that the meeting could be closed. It shall be an absolute defense that an individual never voted in favor of the closed meeting. If the board, commission, or public body also met validity for other purposes on the same day as the meeting which violated the act, such valid action shall be considered by the court in determining the extent of any forfeiture award."

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

Approved July 16, 1997

CHAPTER 194

FORMERLY

HOUSE BILL NO. 274

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO
EDUCATION.

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

Section 1. Amend § 1509, Title 14 of the Delaware Code, by deleting the last sentence in the third paragraph as it appears therein and by substituting in lieu thereof the following:

"If the July 31 report projects an October 15 surplus that is less than the amount required to cover 1 month's full local payroll cycle, the district shall also indicate what steps it plans to take to attempt to assure that such a minimum balance will be in place in the subsequent fiscal year.

Whenever the July 31 report shows that a district will be unable to meet all or some of its payroll obligations through October 15, the district may meet those obligations by requesting from the Secretary of Education with the approval of Secretary of Finance an advance of State funds in an amount sufficient to cover the district's payroll obligations through October 15. Upon such request and approval, the Secretary of Finance shall cause to have the requested funds advanced to the district, and the district shall reimburse the State for those funds no later than November 15 of the same year."

Approved July 16, 1997

CHAPTER 195

FORMERLY

HOUSE BILL NO. 299

AN ACT TO AMEND TITLE 6, DELAWARE CODE, BY AMENDING CHAPTER 33 RELATING TO TRADEMARKS, BRANDS AND LABELS.

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

Section 1. Amend Title 6, Chapter 33, by deleting Section 3314 in its entirety and replacing it as follows:

"§ 3314. Remedies, including injunctions against forged or counterfeited trademarks, service marks, or copyrighted or registered designs.

(a) The State of Delaware finds and declares that the citizens of this State have a right to receive those goods and services which they reasonably believe they are purchasing or for which they contract. The State further finds that the manufacture and sale of counterfeit goods or goods which are not what they purport to be and the offering of services through the use of counterfeit service marks constitutes a fraud on the public and results in economic disruption to the legitimate businesses of this State. Moreover, those individuals and businesses doing business in Delaware who have, through their labors, developed intellectual property rights associated with their goods or services sold to the public, also deserve protection. In order to protect the citizens of this State and those who do business in this State, it is necessary to take appropriate actions to remove counterfeit goods from the channels of commerce and prevent the manufacture, sale, and distribution of such goods or the offering of such services through the use of counterfeit service marks.

(b) As used in this Chapter, the term 'forged or counterfeited trademark, service mark, or copyrighted or registered design' means (1) any mark or design which is identical to, substantially indistinguishable from, or an imitation of a trademark, service mark, or copyrighted or registered design which is registered for those types of goods or services with the Secretary of State pursuant to this Chapter or registered on the Principal Register of the United States Patent and Trademark Office or registered under the laws of any other state, whether or not the offender knew such mark or design was so registered or protected, if the use by such offender of such trademark, service mark, or copyrighted or registered design has not been expressly authorized by the owner thereof, and (2) any mark or design which is designed to, is reasonably likely to, or does, give the impression that the mark or design, or the good or product to which the mark or design is affixed, is authorized by or produced by an owner of a trademark or service mark or copyrighted or registered design registered under this Chapter or on the Principal Register of the United States Patent and Trademark Office or registered under the laws of any other state.

(c) As used in this Chapter, the terms 'counterfeits' and 'counterfeit goods' mean any product or good bearing or to which is affixed a forged or counterfeited trademark, service mark, or copyrighted or registered design.

(d) As used in this Chapter, 'Court' means the Court of Chancery.

(e) Any owner of a trademark or service mark or copyrighted or registered design registered under this Chapter or on the Principal Register of the United States Patent and Trademark Office or registered under the laws of any other state may proceed by action to enjoin the manufacture, use, display, or sale of any counterfeits or imitations thereof; and the Court may grant such relief, including orders restraining or enjoining such manufacture, use, display, or sale as the Court may deem just and reasonable and the Court may further require the defendants to pay to such plaintiff all profits derived from such wrongful manufacture, use, display, or sale, or both profits and damages.

(f) If, in any action brought under this section, the Court determines that a trademark or service mark or copyrighted or registered design is counterfeit, the Court may order the destruction of all such forged or counterfeited trademarks or service marks or copyrighted or registered designs and all goods, articles, or other matter bearing the forged or counterfeited trademarks or service marks or copyrighted or registered designs, which are in the possession or control of the Court or any party to the action; or, after obliteration of the forged or counterfeited trademark or service mark or copyrighted or registered design, the Court may order the transfer of any of those materials to the State, a civil claimant, a charitable institution, or any other appropriate person.

(g) (1) The Court, upon application, including an *ex parte* application, in an action against persons known or unknown to enjoin either or both (i) the manufacture, use, display, or sale of counterfeits, or (ii) the unauthorized sale of any goods or products upon the plaintiff's property, whether counterfeit or not, may, as a preliminary matter, order seizure of the counterfeit goods upon a showing of good cause and upon the posting of a bond in an amount deemed appropriate by the Court. If it appears from an *ex parte* application that there is good reason for proceeding without notification to the defendant (including, for example, that the defendant may flee with or without the allegedly counterfeit goods or that the identity of the defendant is unknown), the Court may proceed *ex parte*. In determining 'good cause', the Court may grant an order of seizure in advance of such unlawful acts where they are reasonably anticipated to occur and the plaintiff demonstrates a particular need for such advance relief. A copy of the order of seizure shall be served at the time of seizure upon any person from whom seizure is effected. The order shall specifically set forth:

(i) The date or dates on which the seizure is ordered to take place;

(ii) A description of the goods to be seized;

(iii) The identity of the persons or class of persons to effect seizure, which persons may include officers of the Court, police officers and other law enforcement officials, persons licensed under Chapter 13 of Title 24, and such other persons as the Court may, in its discretion, decide are appropriate;

(iv) A description of the location or locations at which seizure is to occur; and

(v) A hearing date not more than ten court days after the last date on which seizure is ordered at which any person from whom goods are seized may appear and seek release of the seized goods.

(2) The persons effecting seizure shall seize those articles which are, in the judgment of such persons, described in the order.

(3) The order of seizure shall include a statement advising the person from whom the goods are seized that a bond has been filed and informing such person of the right to object to the bond, at the hearing called for in the order, on the grounds that the surety or the amount of the bond is insufficient.

(h)(1) Any applicant who causes seizure of goods which are subsequently determined not to be counterfeits shall be liable, except as provided in subsections (h)(2) and (h)(3) below, in an amount equal to the following:

(i) Any direct damages proximately caused to any person having a financial interest in the seized non-counterfeit goods; provided however, that in the event of a claim for lost profits, such damages may only be awarded upon a showing that the amount sought is reasonable and not speculative;

(ii) Costs incurred in defending against seizure of non-counterfeit goods; and

(iii) Upon a showing that the person causing the seizure to occur acted in bad faith, expenses, including reasonable attorneys' fees expended in defending against the seizure of any non-counterfeit or non-infringing goods.

(2) If in the course of seizing the non-counterfeit goods, counterfeit goods were also seized, no damages may be recovered unless the Court concludes that such a result would be grossly inequitable.

(3) If the non-counterfeit goods were seized on the plaintiff's property, no damages may be recovered unless the person from whom such goods were seized demonstrates to the Court that the sale of such goods was authorized in writing by the plaintiff and the sale otherwise complied with all applicable laws.

(4) A person seeking a recovery pursuant to this subsection may join any surety on a bond posted pursuant to this section, and any judgment of liability shall bind the person liable and the surety jointly and severally; provided, however, that the liability of the surety shall be limited to the amount of the bond.

(i) The enumeration of any right or remedy in this Chapter shall not affect a person's right to prosecute under any penal law of this State or the laws of any other State or Federal Government."

Approved July 16, 1997

CHAPTER 196

FORMERLY

HOUSE BILL NO. 316
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 45, PART V, TITLE 12 OF THE DELAWARE CODE, MAKING CERTAIN CHANGES IN THE DELAWARE UNIFORM TRANSFERS TO MINORS ACT.

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

Section 1. Amend Section 4501 by deleting clause (4) thereof in its entirety, renumbering clauses (5), (6), (7), and (8) as clauses (4), (5), (6), and (7), respectively, and adding the following new clause (8):

"(8) 'Guardian' means a person appointed or qualified by a court to act as general, limited or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions, including a conservator."

Section 2. Amend subsection (c) of Section 4505 by inserting the word "not" immediately after the word "has" and immediately before the word "nominated".

Section 3. Amend subsection (b) of Section 4506 by deleting the word "conservator" and substituting therefor the word "guardian".

Section 4. Amend Section 4506 by deleting subsection (c) thereof in its entirety and substituting the following new subsection (c):

"(c) A transfer under subsection (a) or (b) of this section may be made if (i) the personal representative, trustee or guardian considers the transfer to be in the best interest of the minor, which shall be presumed in the absence of contrary facts actually known to the personal representative, trustee, or guardian; (ii) the transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement or other governing instrument; and (iii) if the property exceeds \$50,000 in value, the custodian designated by the personal representative, trustee or guardian is approved by the Court."

Section 5. Amend Section 4506 by adding anew subsection (d) to read as follows:

"(d) If a transfer is made in conformity with the preceding provisions of this section and § 4509 of this title, the personal representative, trustee or guardian making the transfer shall have no liability to the minor therefor, including any obligation to see to the application of the proceeds of such transfer."

Section 6. Amend subsection (a) of subsection 4507 by deleting the word "conservator" and substituting therefor the word "guardian".

Section 7. Amend subsection (c) of Section 4507 by deleting the words "exceeds 10,000 in value" and inserting in lieu thereof the words "\$50,000 in value or, if the property exceeds \$50,000 in value, the custodian designated by the transferor is approved by the Court."

Section 8. Amend section 4507 by adding a new subsection (d) to read as follows:

"(d) A transfer under subsection (a) may be made (i) if the transferor considers the transfer to be in the best interest of the minor, which shall be presumed in the absence of contrary facts actually known to the transferor; and (ii) if the property exceeds \$50,000 in value, the custodian designated by the transferor is approved by the Court. If a transfer is made in conformity with the preceding provisions of this section and § 4509 of this

title, the transferor shall have no liability to the minor therefor, including any obligation to see to the application of the proceeds of such transfer."

Section 9. Amend subsection (d) of Section 4518 by deleting the word "conservator" each place it appears and substituting therefor the word "guardian."

Section 10. Amend subsection (f) of Section 4518 by deleting the word "conservator" and substituting therefor the word "guardian."

Section 11. The changes made by this act shall be effective for transfers made on or after the date of enactment.

Approved July 16, 1997

CHAPTER 197

FORMERLY

HOUSE BILL NO. 325

AN ACT TO AMEND AN ACT BEING CHAPTER 196, VOLUME 22, LAWS OF DELAWARE, AS AMENDED, ENTITLED, "AN ACT TO AUTHORIZE THE COMMISSIONERS OF LEWES TO APPOINT A BOARD OF PUBLIC WORKS FOR THE TOWN OF LEWES, WHICH SHALL ESTABLISH, CONTROL AND REGULATE AN ELECTRIC LIGHT PLANT, WATER WORKS AND A SEWER SYSTEM FOR SAID TOWN; PRESCRIBING THE POWERS AND DUTIES OF SAID BOARD AND PROVIDING FOR THE ELECTION OF THEIR SUCCESSORS" TO REQUIRE UNITED STATES CITIZENSHIP OF ALL OTHERWISE QUALIFIED VOTERS IN ORDER 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 1. Section 1, Chapter 196, Volume 22, Laws of Delaware, as amended by Section 5, Chapter 218, Volume 51, Laws of Delaware, as amended by Section 5 Chapter 281, Volume 55, Laws of Delaware, as amended by Section 2, Chapter 126, Volume 60, Laws of Delaware, as amended by Chapter 440, Volume 70, Laws of Delaware, be and the same is hereby further amended by adding the words "and who shall be a citizen of the United States" after the phrase "who shall have attained the age of eighteen (18) years," and before the words "and who shall have been a freeholder or leaseholder" appearing in the first sentence thereof.

Approved July 16, 1997

CHAPTER 198

FORMERLY

SENATE BILL NO. 167
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE NUMBER AND TERM OF OFFICE OF NEW CASTLE COUNTY COUNCIL MEMBERS.

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

Section 1. Amend §1141(a) Title 9 of the Delaware Code by striking the numerals "1998" and inserting in lieu thereof the numerals "2002".

Section 4. Amend §1141(d), Title 9, Delaware Code by striking the paragraph in its entirety and inserting in lieu thereof a new sentence which shall read as follows:

"Notwithstanding any law to the contrary, for the 2002 general election, the County Council shall reapportion the County into thirteen councilmanic districts in a manner specified by Section 1165 of this title using the 2000 United States Decennial Census. This reapportionment shall be completed on or before January 1, 2002."

Section 5. Amend §1141(e), Title 9, Delaware Code by striking the numerals "1998" and inserting in lieu thereof the numerals "2002".

Section 6. Amend §1141(f), Title 9, Delaware Code by striking the numerals "2000" and inserting in lieu thereof the numerals "2004".

Section 7. Amend §1141(g), Title 9, Delaware Code by striking the numerals "2002" and inserting in lieu thereof the numerals "2006".

Section 8. Amend §1156(d), Title 9 of the Delaware Code by striking the words "ten thirteenths of all the members of the county government" and substituting in lieu thereof the words "five sevenths of all of the members of the county government in office prior to the first Tuesday following the 2002 general election and ten thirteenths of all of the members of the county government thereafter,".

Section 9. Amend §1157, Title 9 of the Delaware Code by striking the words "ten thirteenths of the members" and substituting in lieu thereof the words "five sevenths of all of the members of the county government in office prior to the first Tuesday following the 2002 general election and ten thirteenths of all the members of the county government thereafter,".

Section 10. Amend §1166(b), Title 9, Delaware Code by inserting at the beginning of the first sentence "Commencing January 1, 2002,".

Section 11. Amend §1141(c), Title 9 of the Delaware Code by striking the numerals "1998" as found therein and replacing said numerals with the numerals "2002".

Section 12. Amend §1141(b), Title 9 of the Delaware Code by adding the following after the phrase "following the 1998 general election.":

"Notwithstanding any law to the contrary, except for the president of county council, the terms of officials of the county governing body elected in the 1998 general election and any special election held after the 1998 general election but prior to the 2002 general election shall terminate on the first Tuesday in November following the 2002 general election."

Approved July 16, 1997

CHAPTER 199

FORMERLY

SENATE BILL NO. 170
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2 AND
HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLES 10, 11, 16, 18 AND 29 RELATING TO THE DEPARTMENT OF SERVICES FOR CHILDREN YOUTH AND THEIR FAMILIES AND THE PROTECTION OF CHILDREN FROM ABUSE OR NEGLECT.

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

Section 1. This Act shall be known as the Child Abuse Prevention Act of 1997.

Section 2. Amend § 901, Title 16, Delaware Code by deleting the first paragraph thereof and inserting in lieu thereof the following:

"It is the intent of the General Assembly that the primary purpose of the child welfare policy of this State shall be to ensure the best interest and safety of the child including preserving the family unit whenever the safety of the child is not jeopardized. To that end it is the purpose of this chapter to provide for comprehensive protective services for abused and neglected children by mandating that reports of such abuse or neglect be made to the appropriate authorities and by requiring the child protection system to seek and promote the safety of children who are the subject of such reports of abuse or neglect by conducting investigations or family assessments and providing necessary services."

Section 3. Amend § 902, Title 16, Delaware Code by deleting said section in its entirety and inserting in lieu thereof the following:

"§ 902. Definitions.

As used in this chapter, the following terms mean:

- (1) 'Abuse' shall mean any physical injury to a child, by those responsible for the care, custody, and control of the child, through unjustified force as defined in 11 Del. C. § 468(1)(c), emotional abuse, torture, criminally negligent treatment, sexual abuse, exploitation, maltreatment, or mistreatment;
- (2) 'Central registry' shall mean a registry of information about persons the Division has found cause to believe, or a court has substantiated through court adjudication, have committed child abuse or neglect.
- (3) 'Child' shall mean any person who has not reached his or her eighteenth birthday;
- (4) 'Director' shall mean the director of the Division of Family Services of the Department of Services for Children, Youth and Their Families;
- (5) 'Division' shall mean the Division of Family Services of the Department of Services for Children, Youth and Their Families;
- (6) 'Family assessment and services' shall mean a case management approach by the Division of Family Services that provides for a prompt assessment of a child and the child's family and the circumstances of the reported incident (including the known history of the child and/or the alleged perpetrator), when there has been a report to the Division that the child was a victim of abuse, neglect, or at risk of maltreatment by a person responsible for that child's care, custody, or control. Family assessment and services shall be used in conjunction with the Investigation approach defined in subsection (7) of this section but may not supplant it in circumstances which require an

investigation. The family assessment response shall focus on the integrity and preservation of the family and shall assess the status of the child and the family in terms of the risk of abuse and neglect and, if necessary, plan and provide for the provision of community-based services to reduce the risk and to otherwise support the family.

(7) 'Information system' shall mean a system of maintaining information related to all reports of abuse, neglect, investigations, family assessments, services and other relevant information.

(8) 'Investigation' shall mean the collection of evidence in response to a report of abuse, neglect, or risk of maltreatment by a person responsible for that child's care, custody, or control in order to determine if a child has been abused, neglected, or is at risk of maltreatment. The Division shall develop protocols for its investigations that focus on ensuring the well-being and safety of the child. The Division may conduct an investigation in response to any report of abuse, neglect, or risk of maltreatment but shall conduct an investigation as enumerated under § 906 (b) (3) of this chapter.

(9) 'Neglect' shall mean the failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary: education as required by law; nutrition; or medical, surgical, or any other care necessary for the child's well-being.

(10) 'Report' shall mean the communication of an allegation of child abuse or neglect to the Division pursuant to § 903 or § 905 of this chapter;

(11) 'Special Investigator' shall mean a Division employee, appointed by the Secretary, who performs abuse and neglect investigations and possesses additional qualifications and authority as defined by 29 Del.C. § 9016.

(12) 'Those responsible for the care, custody, and control of the child' shall include, but not be limited to, the parents or guardian of the child, other members of the child's household, adults within the household who have responsibility for the child's well-being, persons who have temporary responsibility for the child's well being, or a custodian as that term is defined by 10 Del.C. § 901(6)."

Section 4. Amend § 905, Title 16, Delaware Code by deleting said section in its entirety and inserting in lieu thereof the following:

"§ 905. Telephone reports, central registry and information system.

(a) The Division shall establish and maintain a 24 hour state-wide toll free telephone report line operating at all times and capable of receiving reports of alleged abuse and neglect pursuant to § 904 of this chapter or from the public at large.

(b) The Division shall maintain a central registry and an information system as defined by § 902 of this Title. Reports unsubstantiated may be kept in the information system by the Division at its discretion.

(c) Although reports may be made anonymously, the Division shall in all cases, after obtaining relevant information regarding alleged abuse or neglect, request the name and address of any person making a report.

(d) Upon receipt of a report, the Division shall immediately communicate such report to its appropriate Division staff, after a check has been made with the information system to determine whether previous reports have been made regarding actual or suspected abuse or neglect of the subject child, or any reports regarding any siblings, family members or the alleged perpetrator, and such information as may be contained from such previous reports. Such relevant information as may be contained in the information system shall be also forwarded to the appropriate Division staff."

Section 5. Amend § 906, 907, 908 and 909 Title 16, Delaware Code by deleting said sections in their entirety and inserting in lieu thereof the following:

"§ 906.State response to reports of abuse or neglect.

(a). The child protection system shall seek to promote the safety of children and the integrity and preservation of their families by conducting investigations and/or family assessments in response to reports of child abuse or neglect. The system shall endeavor to coordinate community resources and provide assistance or services to children and families identified to be at risk, and to prevent and remedy child abuse and neglect.

(b). In implementing the child protection system, the Division shall:

(1) Receive and maintain reports pursuant to the provisions of §§ 903 and 905 of this chapter;

(2) Forward reports to the appropriate Division staff who shall determine, through the use of protocols developed by the Division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols for making this determination shall be developed by the Division and shall give priority to ensuring the well-being and safety of the child;

(3) The Division may investigate any report, but shall conduct an investigation involving all reports, which if true, would constitute violations against a child by those responsible for the care, custody, and control of the child pursuant to any of the following provisions of Title 11 of the Delaware Code: §603, §604, §611, §612, §613, §621, §625, §626, §631, §632, §633, §634, § 635, §636, §645, §763, §765, §766, §767, §768, §769, §770, §771, §772, §773, §774, §775, §776, § 777, §778, §779, §780, §782, §783, §783A, §791, §1100, §1101, §1102, §1107, §1108, §1109, §1110, §1111, and §1259 or an attempt to commit any such crimes;

(4) Division staff shall contact the appropriate law enforcement agency upon receipt of any report requiring an investigation under this section and shall provide such agency with a detailed description of the report received. The appropriate law enforcement agency shall assist the Division in the investigation or provide the Division, within a reasonable time, an explanation detailing the reasons why it is unable to assist. Notwithstanding any provision of the Delaware Code to the contrary, to the extent the law enforcement agency with jurisdiction over the case is unable to assist, the Division may request that the Delaware State Police exercise jurisdiction over the case and upon such request the Delaware State Police may exercise such jurisdiction;

(5) The Division shall have authority to secure a medical examination of a child, without the consent of those responsible for the care, custody, and control of the child, if the child has been reported to be a victim of abuse or neglect provided that such case is classified as an investigation pursuant to §906(b)3 of this chapter and the Director or the Director's designee gives prior authorization for such examination upon finding that such examination is necessary to protect the health and safety of the child;

(6) The investigation shall include, but need not be limited to, the nature, extent, and cause of the abuse or neglect, collection of evidence, the identity of the alleged perpetrator, the names and condition of other children and adults in the home, the home environment, the relationship of the subject child to the parents or other persons responsible for the child's care, any indication of incidents of physical violence against any other household or family member, background checks on all adults in the home, and the gathering of other pertinent information;

(7) In the family assessment and services approach, assess service needs of the family from information gathered from the family and other sources. The Division shall identify and provide services for families where it is determined that the child is at risk of abuse or neglect. The Division shall document its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect. If the family refuses to accept or avoids the proffered services, the Division may refer the case for investigation or terminate services;

(8) Commence an immediate investigation if at any time during the family assessment and services approach the Division determines that an investigation as delineated in subsection (3) of this section is required or is otherwise appropriate. The Division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(9) Conduct a family assessment and services approach on reports initially referred for an investigation, if it is determined that a complete investigation is not required. The reason for the termination of the investigative process shall be documented;

(10) Assist the child and family in obtaining services, if at any time during the investigation it is determined that the child or any member of the family needs services;

(11) Identify local services and assist with access to those services for children and families where there is risk of abuse or neglect;

(12) Update the information system at regular intervals during the course of the investigation. At the conclusion of the investigation or family assessment, the information system shall be updated to include a case finding ;

(13) When a written report is made by a person required to report under § 903 of this chapter, the Division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, which may be pertinent;

(14) Upon completion of an investigation or family assessment and services approach, if the Division suspects that the report was made maliciously or for the purpose of harassment, the Division shall refer the report and any evidence of malice or harassment to the appropriate law enforcement agency;

(15) Multidisciplinary services shall be used whenever possible in conducting the investigation or family assessment and services approach, including the services of law enforcement agencies, the medical community, and other agencies, both public and private. The Division and the Attorney General's Office shall cooperate with law enforcement agencies and the Family Court to develop training programs to increase the ability of Division personnel, court personnel, and law enforcement officers to investigate suspected cases of abuse and neglect;

(16) A person required to report under § 903 of this chapter to the Division shall be informed by the Division of the person's right to obtain information concerning the disposition of the report. Such person shall receive, from the local office, if requested, information on the general disposition of the report at the conclusion of the investigation.

(17) In any judicial proceeding involving the custody of child, the fact that a report has been made pursuant to § 903 or § 905 of this chapter shall not be admissible unless offered by the Division as a party or as a friend of the Court or if the Division is a party. However, nothing herein shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made;

(18) To protect the privacy of the family and the child named in a report, the Division shall establish guidelines concerning the disclosure of information concerning the abuse and neglect involving a child. The Division may require persons to make written requests for access to records maintained by the Division. The Division shall only release information to persons who have a legitimate public safety need for such information or a need based on the health and safety of a child subject to abuse, neglect or the risk of maltreatment and such information shall be used only for the purpose for which the information is released.

(c) In the event that a criminal prosecution for child sexual abuse or exploitation is initiated by the Department of Justice against a person employed by or associated with a facility or organization required to be licensed or whose staff personnel are required to be licensed under Delaware law whose primary concern is that of child welfare and care, the Attorney General shall notify such employer within 48 hours:

(1) Upon the return of an indictment charging such person with having committed at least 1 felony offense involving an allegation of child sexual abuse; or

(2) Upon an adjudication of guilt of such person for any misdemeanor or violation, when such offense involved sexual abuse, in any degree, of a child under age 18.

Any violations of this subsection shall be dealt with administratively by the Attorney General and the penalty provisions of § 914 of this Title shall not apply hereto.

(d). In the event that a criminal prosecution for abuse or neglect is initiated by the Department of Justice pursuant to a report under this chapter and incarceration of the person who is the subject of the report is ordered by the Court, the Attorney General's Office shall keep the Division informed of actions taken by the courts which result in the release of any such individual; provided that the Attorney General's Office is represented at such a hearing.

§ 907. Temporary emergency protective custody.

(A) A police officer or a physician who reasonably suspects that a child is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect and such person reasonably suspects the harm or threat to life may occur before the Family Court could issue a temporary protective custody order, the police officer or physician may take or retain temporary emergency protective custody of the child without the consent of the child's parents, guardian, or others legally responsible for his or her care.

(B) Any person taking a child into temporary emergency protective custody under this section shall immediately notify the Division, in the county in which the child is located, of his or her actions and make a reasonable attempt to advise the parents, guardians, or others legally responsible for the child's care. Such person shall also file, as soon as practicable but no later than twelve hours thereafter, a written statement with the Division which sets forth the identity of the child and the facts and circumstances which gave such person reasonable cause to believe that there was imminent danger of serious physical harm or threat to the life of the child. Upon notification that a child has been taken into temporary emergency protective custody, the Division shall immediately respond in accordance with § 906 of this chapter to secure the safety of the child which may include ex-parte custody relief from the Family Court if appropriate.

(C) Temporary emergency protective custody for purposes of this section shall not exceed four hours and shall cease upon the Division's response pursuant to paragraph (B).

(D) For the purposes of this section, temporary emergency protective custody shall mean temporary placement within a hospital, medical facility, or such other suitable placement; provided, however, that an abused or neglected child may not be detained in temporary custody in a secure detention facility. In no event shall an employee of the Division exercise custody under this section.

§ 908. Immunity from liability.

Anyone participating in good faith in the making of a report pursuant to this chapter, performing a medical examination without the consent of those responsible for the care, custody and control of a child pursuant to § 906(b)(5) of this chapter, or exercising emergency protective custody in compliance with § 907 of this chapter, shall have immunity from any liability, civil or criminal, that might otherwise exist and such immunity shall extend to participation in any judicial proceeding resulting from the above actions taken in good faith. This section shall not limit the liability of any health care provider for personal injury claims due to medical negligence that occurs as a result of any examination performed pursuant to this § 906(b)3 of this Title.

§ 909. Privileged communication not recognized.

No legally recognized privilege, except that between attorney and client and that between priest and penitent in a sacramental confession, shall apply to situations involving known or suspected child abuse, neglect, exploitation or abandonment and shall not constitute grounds for failure to report as required by § 903 of this chapter or to give or accept evidence in any judicial proceeding relating to child abuse or neglect."

Section 6. Amend Chapter 9, Title 16, Delaware Code by inserting as new § 910, § 911, § 912 and § 913 the following:

" § 910. Court orders to compel.

The Division shall have the authority to request from the Family Court an order to obtain access to a child or children and the residence of such children in furtherance of an investigation pursuant to 16 Del.C. § 906(b)(3) of a report of abuse, neglect, or risk of maltreatment where those responsible for the care, custody, and control of the child are not cooperating with the investigation. The Family Court shall have the authority to issue such orders based on probable cause and may enforce non-compliance of such an order pursuant to 10 Del.C. § 925(3).

§ 911. Training and information.

(1) The Division shall, on a continuing basis, undertake and maintain programs to inform all persons required to report abuse or neglect pursuant to § 903 of this chapter and the public of the nature, problem, and extent of abuse and neglect, and of the remedial and therapeutic services available to children and their families and to encourage self-reporting and the voluntary acceptance of such services.

(2) The Division shall conduct ongoing training programs to advance the purpose of this section.

(3) The Division shall continuously publicize the existence of the 24 hour report-line to those required to report abuse or neglect pursuant to § 903 of this chapter of their responsibilities and to the public the existence of the 24 hour statewide toll-free telephone number to receive reports of abuse or neglect.

§ 912. The Child Protection Accountability Commission.

(a) The Delaware Child Protection Accountability Commission is hereby established. The Commission shall consist of 16 members with the at-large members and the Chair appointed by the Governor, shall be staffed by the Division and shall be comprised of the following:

(1) 3 Division members, one of whom shall be the Director;

(2) 2 representatives from the Attorney's General Office,

(3) 2 members of the Family Court to be designated by the Chief Judge;

(4) 1 member of the House of Representatives to be designated by the Speaker of the House;

(5) 1 member of the Senate to be designated by the President Pro Tempore of the Senate;

(6) 7 at-large members with 1 person from the medical community, 2 persons from law enforcement agencies and 4 persons from the private Child Services Community.

(b) It shall be the purpose of this commission to monitor Delaware's child protection response system so that responses to cases of abuse and neglect are timely and effective so as to best ensure the health and safety of children subject to abuse. To that end, the commission shall meet on a quarterly basis and shall:

- (1) Examine policies and procedures and evaluate the effectiveness of the child protection system, specifically the respective roles of the Division, the Attorney General's Office, the Family Court, the medical community and law enforcement agencies;
- (2) Formulate guidelines based on objective criteria to be used in determining temporary custody issues pursuant to an investigation of abuse or neglect;
- (3) Review and make recommendations concerning investigative procedures and emergency responses pursuant to this chapter;
- (4) Make legislative recommendations to the Governor and General Assembly;
- (5) Access, develop and provide quality training to Division staff, Deputy Attorneys General, law enforcement officers, the medical community and Family Court personnel on the various standards, criteria and investigative technology used in these cases; and
- (6) Provide an annual summary of the Commission's work and recommendations to the Governor's Advisory Council for Children, Youth and their Families for their consideration and comment.
- (6) Prepare a written report of its activities and findings at the end of each quarterly meeting to be distributed to the Chairpersons of the House of Representatives Health and Human Development Committee and the Senate Children, Youth and Their Families Committee.

§913. Child under treatment by spiritual means not neglected.

No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for that reason alone be considered a neglected child for the purposes of this chapter.

§ 914. Penalty for violation.

Whoever knowingly violates § 903 this chapter shall be fined no more than \$ 1,000 or shall be imprisoned not more than 15 days or both."

Section 7. Amend § 9001(a), Title 29, Delaware Code by deleting after the words "do so;" and before the words "the State" the word "that" and by inserting in lieu thereof the word "while".

Section 8. Amend § 9001(a), Title 29, Delaware Code by inserting a comma after the word "unit" and by deleting the words "whenever feasible" as they appear before the words "protect and safeguard".

Section 9. Amend § 9001(b), Title 29, Delaware Code by deleting the words "within the least restrictive environment possible" and inserting after the words "involvement of their family" the words "within the least restrictive environment possible but consistent with the child's health and safety;"

Section 10. Amend § 9003(3)(b), Title 29, Delaware Code by deleting the word "that" after the word "however" and inserting in lieu thereof the following:

"the Division's highest priority in cases of abuse and neglect where an investigation is required pursuant to 16 Del.C. § 906 shall be the health and safety of the child and"

Section 11. Amend Chapter 90, Title 29, Delaware Code by renumbering current § 9016, § 9017, and § 9018 as § 9018, and § 9019, respectively and by inserting as new § 9016 the following:

"§ 9016. Appointment of special investigators; powers and duties.

(a) The Secretary may appoint up to 3 qualified persons to be special investigators for the Division of Family Services. Such investigators shall hold office at the pleasure of the Secretary. Any person appointed pursuant to this section shall have a minimum of 10 years experience as a 'police officer,' as that term is defined in 11 Del.C. § 1911(a), significant investigatory experience while working as a police officer, shall be in good standing with the previous or present law enforcement agency where such person is or was employed and such other qualifications deemed appropriate by the Secretary.

(b) Special investigators appointed under this section may conduct investigations of child abuse, neglect, or risk of maltreatment anywhere in this State as directed by the Director of the Division of Family Services and shall have the power to make arrests and serve writs anywhere in this State. Special investigators shall have statewide powers as enumerated under 11 Del.C. § 1911 and such other powers as conferred by law on police officers, sheriffs, constables, and other law enforcement personnel. Notwithstanding the above, special investigators pursuant to this section shall not have the authority to take custody of a child unless pursuant to an order from the Family Court or in conjunction with the law enforcement agency charged with jurisdiction over the case. To the extent possible, special investigators pursuant to this section shall consult with the police agency of jurisdiction and the Director or the Director's designee prior to making an arrest and shall do so in all cases after making any such arrest.

(c) The salary of special investigators shall be fixed by the Secretary within the appropriations made to the Department.

(d) Special investigators will assist in the training of other Division staff."

Section 12. Amend § 8502(3)(b), Title 11, Delaware Code by deleting the word "and" after the word "Correction;" and deleting the "." after the word "services" and by inserting in lieu thereof"; and" and inserting as new § 8502(3)(b)8. the following:

"8. The Division of Family Services."

Section 13. Amend § 8502(6), Title 11, Delaware Code by inserting after the word "police officer," and before the words "the Attorney General" the words "special investigators pursuant to 29 Del.C. § 9016,"

Section 14. Amend § 1009(a), Title 10, Delaware Code, by inserting after the word "neglected" the words "abused as those terms are defined by 16 Del.C. § 902(1)," and by inserting at the end of § 1009(a) the following:

" In declaring a child to be dependent, neglected, or abused pursuant to this section, the Court shall give priority to ensuring the well-being and safety of the child."

Section 15. Amend Chapter 85, Title 11 Delaware Code by inserting as new § 8563 the following:

"8563. Child Abuse Registry Check.

(a) Definitions.

(1) 'Person seeking employment' means any person applying for any employment that affords direct access to children receiving care at a child care facility or a person applying for a license to operate a child care facility.

(2) 'Child Care Facility' means any child care facility which is required to be licensed by the Department of Services for Children, Youth and their Families.

(3) 'Direct Access' means the opportunity to have personal contact with children receiving care during the course of one's assigned duties.

(b) No employer who operates a child care facility shall hire any person seeking employment without requesting and receiving a Child Abuse Registry check for such person. For such purposes of this subsection, the Child Abuse Registry check shall relate to substantiated cases of child abuse or neglect after August 1994. The results shall be obtained from the Child Abuse Registry, as established by 16 Del. C. § 905.

(c) Any employer who is required to request a Child Abuse Registry check under this section shall obtain a statement signed by the person seeking employment wherein the person authorizes a full release for the employer to obtain the information provided pursuant to such a check.

(d) Notwithstanding the provisions of this section, when exigent circumstances exist which require an employer to fill a position in order to maintain the required level of service, the employer may hire a person seeking employment on a conditional basis after the employer has requested a Child Abuse Registry check. The employment of the person pursuant to this subsection shall be conditional and contingent upon the receipt of the Child Abuse Registry check by the employer. Any person hired pursuant to this subsection shall be informed in writing, and shall acknowledge in writing, that his or her employment is conditional, and contingent upon receipt of the Child Abuse Registry check.

(e) The Department of Services for Children, Youth, and Their Families shall promulgate regulations giving guidance for a procedure to notify employers of any substantiated matters indicated in the Child Abuse Registry check.

(f) Any employer who operates a child care facility and who hires a person seeking employment without requesting and receiving a Child Abuse Registry check for such person shall be subject to a civil penalty of not less than \$1,000.00 nor more than \$5,000.00 for each violation."

Section 16. Amend Chapter 33, Title 18, Delaware Code by inserting as new § 3339 the following:

"§ 3339. Child abuse or neglect - Individual Coverage.

No individual policy, contract, or certificate issued thereunder, of health insurance which provides medical coverage for a child and which (1) covers a child who resides in this State, or (2) is delivered or issued for delivery within the State, shall limit medical insurance coverage for any child referred by the Division of Family Services or law enforcement agency for suspected child abuse or neglect; including requiring referral by a primary physician."

Section 17. Amend Chapter 35, Title 18, Delaware Code by inserting as new § 3556 the following:

"§ 3556. Child abuse or neglect - Group Coverage.

No group or blanket policy, contract, or certificate issued thereunder, of health insurance which provides medical coverage for a child and which (1) covers a child who resides in this State, or (2) is delivered or issued for delivery within the State shall limit medical insurance coverage for any child referred by the Division of Family Services or law enforcement agency for suspected child abuse or neglect; including requiring referral by a primary physician."

Approved July 17, 1997

CHAPTER 200

FORMERLY

SENATE BILL NO. 132
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2 AND
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 AND TITLE 19 OF THE DELAWARE CODE RELATING TO EMPLOYMENT PRACTICES AND QUALITY IN HIRING.

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

Section 1. Amend Chapter 7, Title 19 of the Delaware Code by designating the current Section 708 as Section 709 and substituting a new Section 708 to read as follows:

“§708. SPECIAL EMPLOYMENT PRACTICES RELATING TO
HEALTH CARE AND CHILD CARE FACILITIES

(a) Definitions

(1) ‘Person seeking employment’ means any person applying for employment in a health care facility or child care facility that affords direct access to persons receiving care at such a facility, or a person applying for licensure to operate a child care facility.

(2) ‘Health Care Facility’ means any custodial or residential facility where health, nutritional, or personal care is provided for persons, including nursing homes, hospitals, home health care agencies, and adult day care facilities.

(3) ‘Child Care Facility’ means any child care facility which is required to be licensed by the Department of Services for Children, Youth, and their Families.

(4) ‘Direct Access’ means the opportunity to have personal contact with persons receiving care during the course of one’s assigned duties.

(b) Service Letter

(1) No employer who operates a health care facility and/or child care facility, or provides health, nutritional, or personal care in such a facility, shall hire any person seeking employment without obtaining one or more service letters regarding that person, provided such person has been previously employed. The service letter(s) obtained must include a service letter from the person’s current or most recent previous employer. In addition, if a person seeking employment was employed in a health care facility and/or child care facility within the past five (5) years, the employer shall also obtain a service letter from such employer(s). If an the person seeking employment has not been previously employed, or was self-employed, then the employer must require the person to provide letters of reference from two adults who are familiar with the person, but who are not relatives of the person.

(2) For purposes of this subsection, the required ‘service letter’ shall be a form provided by the Department of Labor. The form shall be signed by the current or previous employer and shall contain information about the type of work performed by the employee; the duration of the employment; the nature of the employee’s separation from employment; and any reasonably substantiated incidents involving violence, threat of violence, abuse, or neglect, by the person seeking employment toward any other person, including any disciplinary action taken as a result of such conduct.

(3) Any employer who is required to obtain a service letter for the purpose stated above shall obtain a statement, signed by the person seeking employment wherein the person authorizes a full release for the employer to obtain any and all information pertaining to the facts of his/her current or previous employment.

(4) Any employer who is required to obtain a service letter for the purpose stated above shall obtain a statement, signed by the person seeking employment, wherein the person attests that the information given in the application represents a full and complete disclosure of his/her current and previous employment, and that all information contained in the employment application is true and complete to the best of the knowledge and belief of the person seeking employment. In addition, the application shall contain a written acknowledgment by the person that he/she understands that failure to provide a full and complete disclosure of all information required under this section is a violation of subsection (9) of this section, and that such failure shall result in civil penalties of not less than \$1,000 nor more than \$5,000 for such violation. Full and complete disclosure by a person seeking employment includes listing all current and previous employers contemplated in (b)(1) of this section. If the person seeking employment was employed by a temporary agency, he or she shall list on the employment application the temporary agency and all employers for which he or she did temporary work pursuant to such employment. Any employer who does not obtain such signed statements from such person shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation.

(5) Any employer who receives a written request for a service letter from any other employer for the purpose stated above shall provide that service letter. The service letter shall be provided within ten (10) business days from the date the request is received. Any employer who fails or refuses to provide such service letter, or who fails to make a full and complete disclosure of information, as required, shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for such violation.

(6) Notwithstanding the provisions of subsection (1), when exigent circumstances exist, and an employer covered under (b)(1) of this section must fill a position in order to maintain the required level of service, the employer may hire a person seeking employment on a conditional basis pending the receipt of the required service letter(s). The continued employment of such person pursuant to this subsection shall be contingent upon the receipt of the required service letter(s). In addition, the person hired pursuant to this subsection shall be informed, in writing, and shall acknowledge, in writing, that his/her continued employment is contingent upon the receipt of the required service letter(s).

(7) An employer covered under (b)(1) of this section shall make a good faith attempt to locate the previous employer(s) identified in the employment application of the person seeking employment and to obtain the service letter(s) from each such employer. The burden of proof to demonstrate a good faith attempt shall rest with the employer. Any such employer who hires a person seeking employment without obtaining the required service letter(s) and/or who has not made a good faith attempt to obtain such service letter(s) shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation.

(8) Any individual who falsifies such service letter, or who fails to make a full and complete disclosure of all required information on the service letter shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation.

(9) Any individual who fails to make a full and complete disclosure of past employment information on the employment application, shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation.

(10) An employer or any person acting on behalf of an employer who discloses information about a current or former employee pursuant to (b)(2) of this section is immune from civil liability for such disclosure and its consequences and may not be made the subject of any legal action for libel, slander or defamation by the current or former employee. Further, notwithstanding any provisions to the contrary, no employer or person seeking employment who has made a good faith effort to comply with the requirements of this section shall be deemed to be liable for any violation of said provisions.

(11) The Department of Labor shall be the only party which can seek enforcement of a civil penalty under this section.

(c) Temporary agencies Any temporary agency responsible for providing temporary employees to a health care facility or child care facility, when such employees qualify as

'persons seeking employment' for purposes of (a)(1) of this section, is considered an employer and is responsible for complying with the requirements of this section."

Section 2. Amend Chapter 85 of Title 11 of the Delaware Code by adding thereto a new section to be designated as §8563, to read as follows:

"§8563. CHILD ABUSE REGISTRY CHECK

(a) Definitions

(1) 'Person seeking employment' means any person applying for any employment in a health care facility or child care facility that affords direct access to persons receiving care at such a facility, or a person applying for license to operate a child care facility.

(2) 'Health Care Facility' means any custodial or residential facility where health, nutritional, or personal care is provided for persons, including nursing homes, hospitals, home health care facilities, and adult day care facilities.

(3) 'Child Care Facility' means any child care facility which is required to be licensed by the Department of Services for Children, Youth, and their Families.

(4) 'Direct Access' means the opportunity to have personal contact with persons receiving care during the course of one's assigned duties.

(b) No employer who operates a health care facility or child care facility shall hire any person seeking employment without requesting and receiving a Child Abuse Registry check for such person. For purposes of this subsection, the Child Abuse Registry check shall relate to substantiated cases of child abuse or neglect reported after August 1, 1994. The results shall be obtained from the Child Abuse Registry, as established by 16 Del. C. §905.

(c) Any employer who is required to request a Child Abuse Registry check under this section shall obtain a statement signed by the person seeking employment wherein the person authorizes a full release for the employer to obtain the information provided pursuant to such a check.

(d) Notwithstanding the provisions of this section, when exigent circumstances exist which require an employer to fill a position in order to maintain the required or desired level of service, the employer may hire a person seeking employment on a conditional basis after the employer has requested a Child Abuse Registry check. The employment of the person pursuant to this subsection shall be conditional and contingent upon the receipt of the Child Abuse Registry check by the employer. Any person hired pursuant to this subsection shall be informed in writing, and shall acknowledge in writing, that his or her employment is conditional, and contingent upon receipt of the Child Abuse Registry check.

(e) The Department of Services for Children, Youth, and their Families shall promulgate regulations giving guidance for a procedure to notify employers of any relevant matters indicated in the Child Abuse Registry check.

(f) Costs associated with providing a Child Abuse Registry check shall be borne by the State.

(g) Any employer who hires a person seeking employment without requesting and receiving a Child Abuse Registry check for such person shall be subject to a civil penalty or not less than \$1,000.00 nor more than \$5,000.00 for each violation."

Section 3. If any of the 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.

Section 4. The Department of Labor shall promulgate regulations providing guidance to employers and applicants regarding the implementation of this Act.

Section 5. This Act shall become effective on January 1, 1998 with the exception of portions of this Act which give administrative agencies and/or bodies the authority to promulgate rules and regulation, which shall become effective immediately upon enactment.

Approved July 17, 1997

CHAPTER 201

FORMERLY

HOUSE BILL NO. 385
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 85, TITLE 11 OF THE DELAWARE CODE RELATING TO EMPLOYMENT PRACTICES, QUALITY IN HIRING, ADULT ABUSE REGISTRY, AND CHILD CARE AND HEALTH CARE FACILITIES.

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

Section 1. Amend Chapter 85 of Title 11 of the Delaware Code by adding thereto a new section to read as follows:

"§8564. Adult Abuse Registry Check

(a) Definitions

(1) 'Person seeking Employment' means any person applying for employment in a health care facility or child care facility that affords direct access to persons receiving care at such a facility, or a person applying for licensure to operate a child care facility.

(2) 'Health Care Facility' means any custodial or residential facility where health, nutritional, or personal care is provided for persons, including nursing homes, hospitals, home health care agencies, and adult day care facilities.

(3) 'Child Care Facility' means any child care facility which is required to be licensed by the Department of Services for Children, Youth and Their Families.

(4) 'Direct Access' means the opportunity to have personal contact with persons receiving care during the course of one's assigned duties.

(b) No employer who operates a health care facility or child care facility shall hire any person seeking employment without requesting and receiving an Adult Abuse Registry check for such person. For purposes of this subsection, the Adult Abuse Registry check shall relate to substantiated cases of adult abuse or neglect. The results shall be obtained from the Ombudsman's Office in the Department of Health and Social Services.

(c) Any employer who is required to request an Adult Abuse Registry check under this section shall obtain a statement signed by the person seeking employment wherein the person authorizes a full release for the employer to obtain the information provided pursuant to such a check.

(d) Notwithstanding the provisions of this section, when exigent circumstances exist which require an employer to fill a position in order to maintain the required or desired level of service, the employer may hire a person seeking employment on a conditional basis after the employer has requested an Adult Abuse Registry check. The employment of the person pursuant to this subsection shall be conditional and contingent upon the receipt of the Adult Abuse Registry check by the employer. Any person hired pursuant to this subsection shall be informed in writing, and shall acknowledge in writing, that his or her employment is conditional, and contingent upon receipt of the Adult Abuse Registry check.

(e) The Delaware Department of Health and Social Services shall promulgate regulations giving guidance for a procedure to notify employers of any relevant matters indicated in the Adult Abuse Registry Check.

(f) Cost associated with providing an Adult Abuse Registry check shall be borne by the State.

(g) Any employer who hires a person seeking employment without requesting and receiving an Adult Abuse Registry Check for such person shall be subject to a civil penalty or not less than \$1,000.00 nor more than \$5,000.00 for each violation."

Section 2. If any of the 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.

Section 3. The Department of Labor shall promulgate regulations providing guidance to employers and applicants regarding the implementation of this Act.

Section 4. This Act shall become effective on January 1, 1998 with the exception of portions of this Act which give administrative agencies and/or bodies the authority to promulgate rules and regulation, which shall become effective immediately upon enactment.

Approved July 17, 1997

CHAPTER 202

FORMERLY

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

AN ACT TO AMEND CHAPTER 13, TITLE 18 OF THE DELAWARE CODE RELATING TO INVESTMENTS OF INSURERS.

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

Section 1. Amend §1302(e) Title 18, Delaware Code by striking such subsection in its entirety and substituting in lieu thereof a new subsection (e) to read as follows:

“(e) An insurer shall not invest in:

- (1) Corporate obligations under §1308 (c)(5) of this title;
- (2) Bonds, notes or other evidences of indebtedness secured by second mortgages or deeds of trust under §1323(a) of this title;
- (3) Participations under §1323(e) of this title;
- (4) Secured obligations of institutions under §1331 of this title; or
- (5) Production payments under §1332 of this title;

Unless such insurer possesses unimpaired capital and surplus (contributed and assigned) of not less than \$7,500,000 (as shown by the insurer's annual statement as of December 31 next preceding the date of acquisition), which amount shall be invested in investments permitted under this chapter other than those specified in this subsection or §1320 (miscellaneous investments) of this title.”

Section 2. Amend Section 1302(d) by striking such subsection in its entirety and adding a new subsection “(d)” to read as follows:

“(d) Unless otherwise specified, an investment limitation computed on the basis of an insurer's admitted assets or capital and surplus shall relate to the amount required to be shown on the statutory balance sheet of the insurer most recently required to be filed with the commissioner or as shown by a current financial statement resulting from merger of another insurer, bulk reinsurance, or change in capitalization. For purposes of computing any limitation based upon admitted assets, the insurer shall deduct from the amount of its admitted assets the amount of the liability recorded on its statutory balance sheet for:

1. The return of acceptable collateral received in a reverse repurchase transaction or a securities lending transaction;
2. Cash received in a dollar roll transaction; and
3. The amount reported as borrowed money in the most recently filed financial statement to the extent not included in Paragraphs (1) and (2) of this subsection.”

Section 3. Further Amend Section 1303, Title 18, Delaware Code, by adding a new subsection “(f)” to read as follows:

“(f) For purposes of the investment limitations of this chapter, investments made by an insurer shall include investments made by that insurer's investment subsidiary.”

Section 4. Amend Section 1308, Title 18, Delaware Code by re-designating the existing Section 1308 as subsection "(c)" of section 1308 and striking the introductory clause of this section and substituting in lieu thereof a new introductory clause to read as follows:

"(c) An insurer may also invest any of its funds in obligations other than those permitted in subsections (a) or (b) of this section or those eligible for investment under §1323 (real estate mortgages) of this title if they are issued, assumed or guaranteed by any solvent institution created or existing under the laws of the United States or Canada or of any state, district, province or territory thereof and are qualified under any of the following:"

Section 5. Further amend Section 1308, Title 18, Delaware Code by adding a new subsection "(b)" to read as follows:

"(b) An insurer may also invest any of its funds in any medium or lower grade obligations of any institution created or existing under the laws of the United States or Canada or of any state, district, province or territory thereof, provided, however, that:

(1) Without prior approval of the commissioner, no insurer shall invest any of its funds in any medium grade or lower grade obligation of any institution, if, after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by the insurer would exceed 20 percent of its admitted assets.

(2) Without the prior approval of the commissioner, no insurer shall invest any of its funds in any lower grade obligation of any institution if, after giving effect to any such acquisition, the aggregate amount of all lower grade obligations then held by the insurer would exceed ten percent of its admitted assets provided that: no more than three percent of its admitted assets consists of obligations rated five or six by the Securities Valuation Office. In addition, without the Commissioner's prior approval, no insurers shall acquire any obligation rated six by the Securities Valuation Office and no more than one percent of its admitted assets may consist of obligations rated six by the Securities Valuation Office.

(3) Attaining the limit of any one category referred to in paragraph (2) of this Section shall not preclude an insurer from investing any of its funds in obligations in other categories subject to the specific and multi-category limits. Nothing contained in this Section shall prohibit an insurer from investing any of its funds in any obligation which it has committed to acquire if the insurer would have been permitted to invest any of its funds in that obligation pursuant to this Section on that date on which such insurer committed to make such investment. For the purposes of determining limitations contained in this chapter, an insurer shall give appropriate recognition to any commitments to acquire investments. Notwithstanding the foregoing, an insurer may invest any of its funds in an obligation of an institution in which such insurer already has one or more investments, if such investment is made in order to protect an investment previously made in the obligations of such institution, provided that such investment shall not exceed one-half of one percent of the insurer's admitted assets."

Section 6. Further Amend Section 1308, Title 18, Delaware Code by adding a new subsection "(a)" to read as follows:

"(a) An insurer may invest any of its funds in obligations rated 1 or 2 by the SVO if they are issued, assumed or guaranteed by any solvent institution created or existing under the laws of the United States or Canada or of any state, district, province or territory thereof."

Section 7. Amend Section 1309(a), Title 18, Delaware Code by striking sub-section (2) thereof in its entirety and substituting in lieu thereof a new sub-section (2) to read as indicated hereinbelow and adding new sub-sections (7), (8) and (9) to read as indicated hereinbelow.:

(2) "Institution" includes corporations, joint-stock associations, investment partnerships, business joint ventures and business trusts or similar entities.

(7) "Medium grade obligations" means obligations rated three by the Securities Valuation Office of the National Association of Insurance Commissioners.

(8) "Lower grade obligations" means obligations rated four, five or six by the Securities Valuation Office of the National Association of Insurance Commissioners.

(9) "SVO" means the Securities Valuation Office of the NAIC or any successor office established by the NAIC."

Section 8. Amend Section 1310, Title 18, Delaware Code by striking that section in its entirety and substituting in lieu thereof a new section to read as follows:

"§1310. Preferred or Guaranteed Stocks. An insurer may invest in preferred or guaranteed stocks or shares of any solvent institution existing under the laws of the United States or of Canada, or of any state or province thereof, if all of the prior obligations and prior preferred stocks, if any, of such institution at the date of acquisition of the investment by the insurer are eligible as investments under this chapter and are rated 1 or 2 by the SVO or if the net earnings of such institution available for its fixed charges during either of the last 2 years have been, and during each of the last 5 years have averaged, not less than one and one-half times the sum of its average annual fixed charges, if any, its average annual maximum contingent interest, if any, and its average annual preferred dividend requirements. For the purposes of this section such computation shall refer to the fiscal years immediately preceding the date of acquisition of the investment by the insurer, and the term "preferred dividend requirement" shall be deemed to mean cumulative or noncumulative dividends, whether paid or not."

Section 9. Amend subsection (a) of Section 1321, Title 18, Delaware Code by striking such subsection in its entirety and substituting a new subsection to read as follows:

"§1321. Investments in Foreign Countries

(a) An insurer transacting insurance in a foreign country may invest funds required to meet its obligations in such country and in conformity with the laws thereof in the same kinds of securities and investments of or in such country as the insurer is authorized to invest in or acquire under other provisions of this chapter. Except as provided in the foregoing sentence and in subsection (b) of this section, an insurer may not invest more than 10% of its assets in securities or investments of or in foreign countries other than Canada nor invest more than an aggregate of 5% of its assets in securities or investments of or in a single foreign jurisdiction which has a sovereign debt rating of SVO 1 or 3% of its assets as to any other foreign jurisdiction."

Section 10. Amend Section 1330, Title 18, Delaware Code, by striking the words "under subdivision (2) or (4) of §1308" and inserting in lieu thereof the words "under §1308(a) or under subdivisions (2) or (4) of §1308(c)".

Section 11. Amend Section 1331, Title 18, Delaware Code, by striking the words "under subdivision (2), (4) or (5) of §1308" and inserting in lieu thereof the words "under §1308(a) or under subdivisions (2), (4) or (5) of §1308(c)".

Section 12. Amend Section 1332, Title 18, Delaware Code, by striking the words "under §1308(1)" in their entirety and inserting in lieu thereof the words "under §1308(a) or under subdivision (1) of §1308(c)".

Approved July 17, 1997

CHAPTER 203
FORMERLY
HOUSE SUBSTITUTE NO. 1

FOR
HOUSE BILL NO. 352

AN ACT TO AMEND TITLE 11, DELAWARE CODE REGARDING REGISTRATION AND
COMMUNITY NOTIFICATION OF SEX OFFENDERS.

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

Section 1. Amend Section 4120, Title 11, Delaware Code by amending subsection (a), first paragraph by inserting the following after "June 27, 1994".

"The Delaware State Police through the State Bureau of Identification shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation."

Section 2. Amend Section 4120, Title 11, Delaware Code, by amending subsection (c) by inserting after "(5) a statement of the legal responsibilities of the registrant" the following:

"(6) documentation of any treatment received for the mental abnormality or personality disorder of the person. For purposes of this act, the term 'mental abnormality' means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that make s the person a menace to the health and safety of other persons. For purposes of this act, the term 'personality disorder' shall have the definition as contained in 42 United States Code Chapter 136.

Section 3. Amend Section 4120, Title 11, Delaware Code, by inserting the following as subsection (k):

"(k)(1) For a person required to register under this section, on each anniversary of the person's initial registration date during the period in which the person is required to register under this section the following applies:

(i) The Delaware State Police shall mail a non-forwardable verification form to the last reported address of the person.

(ii) The person shall mail the verification form to the Delaware State Police within 10 days after receipt of the form.

(iii) The verification form shall be signed by the person, and state that the person still resides at the address last reported to the Delaware State Police.

(iv) If the person fails to mail the verification form to the Delaware State Police within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed the residence address.

(2) The provisions of subsection (k)(1) shall be applied to a person required to register under this section, except that such person must verify the registration every 90 days after the date of the initial release or commencement of parole."

Section 4. Amend Delaware Code, Title 11, Section 4120, by amending Subsection (a) by adding ", 783 and 783A" after "779" and before "of this title" in both places that "779" is found in subsection a.

Section 5. Amend Title 11, Section 4120 by amending subsection (a) by deleting in the third paragraph the phrase starting "provided, however" through "such obligations".

Approved July 17, 1997

CHAPTER 204

FORMERLY

HOUSE BILL NO. 346

AN ACT TO AMEND TITLE 11, DELAWARE CODE, RELATING TO THE CRIMINAL JUSTICE INFORMATION SYSTEM.

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

Section 1. Amend Section 8602, Title 11, Delaware Code, by renumbering the existing subsections 4 through 6 as subsection 5 through 7, and adding the following as subsection 4:

“(4) A ‘Governmental Agency’ shall mean any agency of the Government of the United States or the State of Delaware or any political sub-division thereof. It does not include a private individual, corporation or other non-governmental entity.”

Section 2. Amend Section 8610, Title 11, Delaware Code, by adding the following section:

“Access to the Criminal Justice Information System, including computerized criminal history, shall be available to governmental agencies (as defined by this statute) provided that the requesting agency meets the following conditions:

(1) In order to be eligible to obtain information from CJIS, an agency must offer written evidence that the public interest in dissemination or access outweighs the security and privacy interests of the person or persons upon whom access is sought, and that access is germane to the mission of the agency.

(2) The agency shall submit to an application procedure as established by the Board of Managers. Said procedure shall identify the specific information being sought.

(3) Approval of the agency’s application, which may be in whole, in part, or as modified by the Board, shall require a two-thirds majority of the entire Board of Managers.

(4) Upon approval of the agency’s application, the agency shall enter into a User’s Agreement as prescribed in Chapter 85, Section 8514 of Title 11.

(5) The agency shall bear all costs associated with CJIS access, once granted.

This section does not pertain to access to police complaint information contained in CJIS collected as a result of the requirements as specified in Chapter 85, Section 8507(a)(4) of this title. Such access shall remain within the discretion of the Director of the State Bureau of Identification.”

Approved July 17, 1997

CHAPTER 205

FORMERLY

HOUSE BILL NO. 333

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE REGARDING THE STATE BUREAU OF IDENTIFICATION.

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

Section 1. Amend Title 11, Delaware Code by amending Section 8502 as follows by inserting the renumbering the subsection (4) through (9) as (5) through (11) and adding the following sections a numbered:

"(4) 'Governmental Agency' shall mean any agency of the government of the United States or the State of Delaware or any political subdivision thereof. It does not include a private individual, any private corporate entity or other non-governmental entity.

(11) 'Criminal Justice Information System' shall mean the computer hardware, software, and communications network managed, operated, and/or maintained for the Delaware Criminal Justice Information System."

Section 2. Amend Title 11, Delaware Code by enacting a new Section 8513A entitled Governmental Agency Access to the Criminal Justice Information System (CJIS).

"§ 8513A. Governmental Agency Access to the Criminal Justice Information System (CJIS).

Access to the Criminal Justice Information System, including computerized criminal history, shall be available to governmental agencies (as defined by this statute) provided that the requesting agency meets the following conditions:

(1) In order to be eligible to obtain information from CJIS, an agency must offer written evidence that the public interest in dissemination or access outweighs the security and privacy interests of the person or persons upon whom access is sought, and that access is germane to he mission of the agency.

(2) The agency shall submit to an application procedure as established by the Board of Managers. Said procedure shall identify the specific information being sought.

(3) Approval of the agency's application, which may be in whole, in part, or as modified by the Board, shall require a two-thirds majority of the entire Board of Managers.

(4) Upon approval of the agency's application, the agency shall enter into a User's Agreement as prescribed in Chapter 85, Section 8514 of Title 11.

(5) The agency shall bear all costs associated with CJIS access, once granted. This section does not pertain to access to police complaint information contained in CJIS collected as a result of the requirements as specified in Chapter 85, Section 8507(a)(4) of this title. Such access shall remain within the discretion of the Director of the State Bureau of Identification."

Approved July 17, 1997

CHAPTER 206

FORMERLY

HOUSE BILL NO. 323

AN ACT TO AMEND CHAPTER 22 OF TITLE 23 OF THE DELAWARE CODE RELATING
TO THE OPERATION OF PERSONAL WATERCRAFT.

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

Section 1. Amend §2212(b), Title 23, Delaware Code, by striking the phrase "in the evening from one-half hour after sunset to one-half hour before sunrise" and substituting in lieu thereof the phrase "between sunset and sunrise and at times of restricted visibility".

Approved July 17, 1997

CHAPTER 207

FORMERLY

HOUSE BILL NO. 263
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 3 AND
SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 20 OF THE DELAWARE CODE RELATING TO CIVIL
DEFENSE AND EMERGENCY MANAGEMENT.

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

Section 1. Amend Title 20 of the Delaware Code by deleting Chapters 31 and 35 thereof
in their entirety and by inserting in lieu thereof the following:

"CHAPTER 31. EMERGENCY MANAGEMENT

SUBCHAPTER I. GENERAL PROVISIONS

3101. Declaration of policy and purpose.

3102. Definitions.

SUBCHAPTER II. DELAWARE EMERGENCY MANAGEMENT AGENCY

3105. Creation.

3106. Organization.

3107. Powers and duties.

3108. Radiological emergency management program.

SUBCHAPTER III. THE GOVERNOR AND EMERGENCY MANAGEMENT

3115. General authority of Governor.

3116. Powers.

3117. Activation of emergency or disaster response.

SUBCHAPTER IV. MISCELLANEOUS PROVISIONS

3121. Orders, rules and regulations.

3122. Enforcement.

3123. Authority to accept services, gifts, grants and loans.

3124. Political activity.

3125. Penalties.

3126. Laws suspended during emergencies or disasters.

3127. Conflict with other laws.

3128. Destruction of property, looting or injury of persons during State of Emergency, penalty,
liability for conduct of another.

3129. Immunity from civil liability.

3130. Construction of chapter.

SUBCHAPTER I. GENERAL PROVISIONS.

§ 3101. Declaration of policy and purpose.

Because of the existing possibility of the occurrence of emergencies or disasters, the purpose of this chapter is to:

- (a) Ensure that this State will be adequately prepared to respond and recover from such emergencies or disasters;
- (b) Provide for the common defense and to protect the public peace, health, and safety;
- (c) Protect the lives and property of the people of this State and reduce their vulnerability to harm in emergency and disaster situations;
- (d) Authorize and provide for coordination of activities relating to emergency management;
- (e) Confer upon the Governor, upon state agencies, and authorized representatives of this State, the broad emergency powers provided in this chapter;
- (f) Provide for the rendering of mutual aid among the political subdivisions of this State and with other states and with the federal government with respect to emergency management.

§ 3102. Definitions.

As used in this chapter:

(a) 'Disaster' means a catastrophic condition caused by a man-made event (including, but not limited to, industrial, nuclear or transportation accident, explosion, conflagration, power failure, act of domestic terrorism, natural resource shortage or other condition, resulting from man-made causes, such as hazardous materials spills and other injurious environmental contamination), natural event (including, but not limited to, any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mud slide, snowstorm, drought, fire, explosion) or war-caused event (following an attack upon the United States caused by use of bombs, missiles, shellfire, nuclear, radiological, chemical or biological means, or other weapons or overt paramilitary actions, or other conditions such as sabotage) which results in substantial damage to property, the environment, and/or hardship, suffering, injury or possible loss of life.

(b) 'Emergency' means any situation which requires efforts and capabilities to save lives, protect property, public health, and safety, or to lessen or avert the threat of a disaster in Delaware.

(c) 'Emergency management' means the mitigation, preparedness, response, and recovery functions necessary to save lives and to protect property, public health, and safety or to lessen or avert the threat of a disaster in any part of the State, other than functions for which military forces or other federal agencies are primarily responsible. These functions include, without limitation, fire-fighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological response, chemical response or other technological response, evacuation of persons from hazardous areas, emergency welfare services, emergency transportation, protection, temporary restoration of public utility services, national security and other functions related to infrastructure, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions. In so defining emergency management, full recognition shall be given to Public Law 93-288, as amended, 'The Robert T. Stafford Disaster Relief and Emergency Assistance Act'; Public Law 100-408, as amended, 'The Price Anderson Act'; § 4 Public Law 875 -- 81st Congress, as amended.

(d) 'Political subdivision' means any town, city or county within the State.

(c) 'State of Emergency' means an emergency proclaimed pursuant to an Emergency Order by the Governor. All Emergency Orders issued under this chapter shall indicate the nature of the emergency or disaster, the area or areas threatened, and the conditions which have brought it about and may limit the Order to a geographic area or specific resources. Such an Emergency Order may be issued in writing subsequent to its effect so long as a written log recording the dates and times of such Order is maintained by DEMA. Emergency Orders shall be filed with the Secretary of State.

(f) 'Mitigation' means any action before or after a response event taken to reduce or eliminate the long-term risk to human life and/or property from natural hazards or any cost effective measure which is intended to reduce the potential for damage to a facility from a disaster event.

(g) 'Response' means any action taken to reduce or eliminate the immediate or short-term risk to human life and/or property from any hazard.

Notwithstanding the substitution of the phrase 'emergency management' for the phrase 'civil defense,' by 58 Del. Laws, c. 558, § 4, the powers of DEMA shall not in any way be restricted by reason of its new designation and the term 'civil defense' may be used interchangeably with the term 'emergency management' wherever it may appear in the Delaware Code.

SUBCHAPTER II. DELAWARE EMERGENCY MANAGEMENT AGENCY.

§ 3105. Creation.

To assure the prompt, proper, and effective discharge of basic state responsibilities relating to emergency management, there is hereby formally created the Delaware Emergency Management Agency of the Department of Public Safety (hereinafter also referred to as 'DEMA').

§ 3106. Organization.

The Delaware Emergency Management Agency of the Department of Public Safety, within the executive branch of the state government, shall consist of and be organized substantially as follows:

(a) Director and Deputy Principal Assistant. The Director and the Deputy Principal Assistant ('Deputy') shall be appointed by the Secretary of Public Safety with the written approval of the Governor. The Director and the Deputy shall be exempt from the merit system as set forth in Chapter 59 of Title 29. The Director, as head of the agency, shall supervise, on a full-time basis, all fiscal, planning, administrative, operational, and other functions of DEMA as assigned by law or the Secretary. The Director and Deputy shall not hold any other state office and may be removed from office by the Secretary, with or without cause, with the written approval of the Governor. The Director, subject to the direction and control of the Governor, shall be the executive head of DEMA and shall be responsible to the Secretary of Public Safety for carrying out the program for emergency management of this State. During an emergency or disaster, the Governor may delegate such powers as he or she may see fit to the Secretary of Public Safety or the Director to coordinate the activities of the State that serve to prevent or alleviate the ill effects of an imminent or actual emergency or disaster and maintain liaison with emergency support agencies and organizations of other states and of the federal government and shall have such additional authority, duties, and responsibilities authorized by this chapter.

(b) Staff. The Director, with the approval of the Secretary of Public Safety, may employ such personnel, within limitations of appropriations for that purpose, as may be deemed necessary to carry out the purposes of this chapter.

(c) Facilities and equipment. The Director and other personnel of DEMA shall be provided with appropriate office space in a facility and area identified with low vulnerability to natural and technological hazards, furniture, equipment, supplies, stationery, and services in the same manner as provided for personnel of other state agencies.

§ 3107. Powers and duties.

DEMA is authorized and directed to:

(a) Prepare and maintain a comprehensive plan and program for the emergency management of the State, such plan to be integrated into and coordinated with the emergency management plans of the federal government and of other states and political subdivisions of this State to the fullest possible extent ;

(b) Establish, equip, and staff a State Emergency Operations Center;

(c) Carry out all obligations and duties associated with state emergency or disaster response and recovery plans and execute all duties and responsibilities to secure the maximum state and federal emergency management assistance and emergency or disaster recovery assistance;

(d) Apply for, accept, and expend federal, public, or private funds, grants, gifts, or other forms of financial assistance in order to defray the costs of DEMA directly associated with implementing and maintaining emergency management capabilities including, but not limited to, expenses connected with retaining personnel and with acquiring and maintaining equipment, supplies, and other material to carry out DEMA's obligations and responsibilities under the plan. All grants or payments of money by the federal government, or by any other public or private source, pursuant to any contract, agreement or otherwise, to the Department of Public Safety for emergency management by DEMA shall be appropriated to DEMA for the designated purpose for which the money was paid and received, and no other. All such money shall be payable to the State Treasurer. The Treasurer shall credit the deposit to the individual appropriation accounts for the designated use;

(e) Enter into and perform contracts or agreements with any public or private source; procure by contract or agent such consulting, research, technical, and other services as are necessary for DEMA to carry out its responsibilities under the plan; and to accept and expend funds paid by private or public sources in consideration for the performance of obligations under such contracts or agreements;

(f) Provide technical advice and assistance to state agencies, political subdivisions, and other organizations in the preparation of emergency management plans or components thereof and to periodically review such plans and suggest or require revisions;

(g) Establish and implement or assist state agencies, political subdivisions or organizations in the development of emergency management training and of public information programs in advance of actual emergencies or disasters to ensure adequately trained personnel and an informed public in times of need;

(h) Supply appropriate state and local agencies, officials, and the general public with precautionary notices, watches and warnings relating to actual or potential emergencies or disasters and provide a flow of official information and instructions of the general public before, during and after an emergency or disaster;

(i) Provide direction and control of state emergency or disaster operations;

(j) Determine the need for, maintain information regarding, and procure materials, supplies, equipment, facilities, and services necessary for, emergency management;

(k) Make or request copies of studies, surveys, or reports of the industries, resources, and facilities within this State as are necessary to carry out the purposes of this chapter;

(l) Prepare, for issuance by the Governor, orders, proclamations and regulations as necessary or appropriate in responding to emergencies or disasters, and maintain a memorialized log thereof;

(m) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for emergency management;

(n) Administer grant programs for eligible applicants for emergency management;

(o) Accept and coordinate assistance provided by federal agencies in major disasters in accordance with the provisions of the Federal Disaster Relief Act of 1974 (Public Law 93-288, 42 U.S.C. § 5121 et seq.), or any amendment or re-enactment thereof;

(p) Respond to emergencies or disasters relating to atomic energy operations or radioactive objects or materials;

(q) Provide, from its own stockpiles or other sources, emergency or disaster operational equipment, materials, and supplies required and available for essential supplementation of those owned, acquired, and used by state, county and local departments and agencies for emergency and disaster operations;

(r) For the period during which a State of Emergency is declared by the Governor, to incur or authorize other state agencies or local governments to incur obligations to purchase or to purchase immediately such materials and supplies as may be necessary to protect the health and safety of persons and property and provide emergency or disaster assistance to victims of a disaster. Such obligations and purchases shall be exempt from bidding provisions required by Chapter 69 of Title 29; and

§ 3108. Radiological emergency management program.

(a) In addition to the powers and duties of DEMA set forth in § 3107 of this chapter, DEMA shall develop, establish, and maintain a radiological emergency management program in accordance with relevant regulations and guidelines promulgated by federal agencies. The purpose of the program is to comply with applicable federal regulations and to implement all necessary and appropriate protective or remedial measures on behalf of the State with respect to a radiological incident, or threatened radiological incident, resulting from the operation of commercial nuclear generating facilities, acts of terrorism, or transport of nuclear by-products. DEMA shall serve as the single point of contact for interaction between the affected facilities and other state agencies and departments, counties, municipalities, and the federal government.

(b) All grants or payments of money by the federal government, or by any other public or private source, pursuant to any contract, agreement or otherwise, to the Department of Public Safety for radiological emergency management shall be appropriated to DEMA for the designated purpose, and no other, for which the money was paid and received. All such money shall be payable to the State Treasurer. The Treasurer shall credit the deposit to a special fund to be known and designated as the 'Delaware Radiological Emergency Management Program Account,' and any money received for the use of DEMA in connection with its duties under the Delaware Radiological Emergency Management Program shall be paid out of the special account by the State Treasurer upon warrants executed by the Secretary, Department of Public Safety, for the designated use, without any further authority from the General Assembly;

(c) On behalf of DEMA, the Secretary of the Department of Public shall cause to be prepared, and shall submit to the Budget Director and the Joint Finance Committee, in accordance with Chapters 63 and 65 of Title 29, a detailed budgetary plan which:

(1) Depicts all anticipated expenses for the ensuing fiscal year associated with the duties of the State, political subdivisions and other organizations in the Delaware Radiological Emergency Management Program or under any contract or agreement in connection therewith;

(2) Provides an accurate statement of all funds, grants, gifts, or other forms of financial assistance to be paid or furnished to DEMA for the ensuing fiscal year by the federal government or any other public or private source; and

(3) Describes the designated use of any funds, grants, gifts, or other forms of financial assistance received by the State as well as any other relevant restrictions regarding the expenditure of such moneys.

SUBCHAPTER III. THE GOVERNOR AND EMERGENCY MANAGEMENT

§ 3115. General authority of the Governor.

(a) The Governor shall be responsible for addressing the dangers to life, health, environment, property, or public peace within the State presented by emergencies or disasters, and to this end shall have general direction and control of DEMA and shall be responsible for carrying out this chapter. In the event of an emergency or disaster beyond local control, the Governor may assume direct operational control over all or any part of the emergency management functions within the State.

(b) In performing the duties of the Governor under this chapter, the Governor may issue, amend and rescind all necessary executive orders, emergency orders, proclamations and regulations, which shall have the force and effect of law.

(c) In addition to the powers conferred upon the Governor by this chapter, a State of Emergency may be proclaimed by emergency order of the Governor upon a finding that an emergency or disaster has occurred or that such occurrence or threat of that occurrence is imminent. The State of Emergency shall continue until the Governor finds that the threat or danger has passed or the emergency or disaster has been dealt with to the extent that conditions necessitating a State of Emergency no longer exist and terminates the State of Emergency by subsequent order. All orders issued under this chapter shall indicate the nature of the emergency or disaster, the geographical area or areas threatened, and the conditions which have brought the emergency or disaster about or which make possible termination of the State of Emergency. An order terminating a state of emergency shall describe the reasons for termination, and shall be disseminated as promptly as is practicable by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the emergency or disaster prevent or impede, shall be promptly logged with DEMA. Emergency action ordered by the Governor in accordance with his or her constitutional and statutory authority shall not be invalidated because of any failure to comply with the technical requirements for the logging or filing of emergency orders.

§ 3116. Powers.

(a) In addition to any other powers conferred upon the Governor by law, the Governor may:

(1) Delegate to the Secretary of Public Safety, the Director of DEMA, or such other person any authority vested under this chapter and provide for the subdelegation of any such authority;

(2) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster;

(3) Utilize all available resources of the state government as reasonably necessary to cope with the emergency or disaster;

(4) Transfer the personnel, functions, and/or responsibilities of state agencies or units for the purpose of performing or facilitating emergency or disaster services;

(5) Request voluntary restrictions or conservation of water use by public or private users of water in the State. Mandatory restrictions may be imposed by the Governor by emergency order after declaration of a State of Emergency. Unless the Governor issues an emergency order finding that it is essential that mandatory conservation measures be implemented without delay, before any mandatory water conservation measure shall be enforceable without a State of Emergency, the Governor shall hold a public hearing on the issue of said mandatory measure. If conservation measures are ordered without a State of Emergency, a hearing shall be held within 14 days upon 7 days notice. Notice of the hearing shall be published at least 7 days before the hearing in no less than 2 Delaware newspapers of general circulation. A hearing officer, who shall be appointed by the Governor, shall preside over any hearings required by this subsection, and shall make a written report and recommendation about the evidence presented at the hearing to the Governor;

(6) Request federal assistance as deemed necessary;

(7) On behalf of this State, enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide basis or local political subdivision basis or with a neighboring state or province or a foreign county, as deemed necessary;

(8) Cooperate with the President, heads of armed forces, federal agencies regarding emergency management issues, particularly in matters pertaining to national security;

(9) Take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with this chapter;

(10) Employ such measures and make such recommendations to state or local health agencies, authorities, or boards as may be reasonably necessary for the purpose of securing compliance with this chapter or with the findings or recommendations of such health entities by reason of conditions arising from emergencies or disasters.

(11) With or without emergency orders, require the Delaware National Guard to provide services which may protect life and property from any effects from an actual or threatened emergency or disaster.

(b) During an Emergency or Disaster, the Governor may:

(1) Subject to any applicable requirements for compensation, utilize any private, public, or quasi-public property if necessary to cope with the emergency or disaster;

(2) Assign and make available for duty the employees, property, or equipment of the subdivision relating to fire fighting, engineering, rescue, health, medical and related services, police, similar items or services for emergency purposes and within or outside of the physical limits;

(3) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State if this action is necessary for the preservation of life;

(4) Prescribe routes, modes of transportation, and destinations throughout the State of Delaware in connection with evacuation;

(5) Control ingress, and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(6) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives, combustibles, and hazardous materials;

(7) Notwithstanding any other provision of law, through the use of state agencies or instrumentalities thereof, to clear or remove from publicly or privately owned land or water, debris and wreckage which may threaten public health or safety, the environment, or public or private property;

(8) Establish curfews;

(9) Take appropriate measures as described in the Energy Emergency Contingency Plan in the event of an energy crisis such as an actual or impending acute shortage in useable energy resources, whether resulting from natural disasters, disruptions in fuel supplies, national defense circumstances, international trade obstructions, or other causes;

(10) Request federal emergency or disaster declarations;

(11) Upon a declaration of a major disaster or during an emergency, designate in a FEMA/State Agreement the Governor's Authorized Representative ("GAR"), who shall administer federal disaster assistance programs on behalf of the State and local governments

and other grant or loan recipients, and a State Coordinating Officer ("SCO"), who shall coordinate state and local assistance efforts with those of the federal government;

(12) Take such other actions as she/he reasonably believes necessary to help maintain life, health, property, or public peace.

§3117. Activation of emergency or disaster response

The response and recovery aspects of the state emergency or disaster plans shall be initiated by an emergency order or memorialized in the DEMA log of such proclamation of a State of Emergency by the Governor, or at the discretion of the DEMA Director in consultation with the Secretary of the Department of Public Safety.

SUBCHAPTER IV. MISCELLANEOUS PROVISIONS.

§ 3121. Orders, rules and regulations.

(a) Other state agencies designated or appointed by the Governor may make, amend, and rescind orders, rules, and regulations necessary for emergency management purposes and for supplementing the carrying out of this chapter, but not inconsistent with any orders, rules or regulations promulgated by the Governor or by any state agency exercising a power delegated by the Governor.

(b) All orders, rules, and regulations promulgated by the Governor or other agency authorized by this chapter to make orders, rules, and regulations shall have the full force and effect of law, when issued by the Governor or any state agency or when logged and memorialized by the DEMA director in accordance with this chapter. All existing laws, ordinances, rules, and regulations inconsistent with this chapter shall be suspended during the period of time of the emergency or disaster and to the extent that such conflict exists.

(c) In order to attain uniformity so far as practicable throughout the nation in measures taken to aid emergency management, all action taken under this chapter and all orders, rules, and regulations made pursuant thereto shall be taken or made with due consideration to the orders, rules, regulations, actions, recommendations, and requests of federal authorities relevant thereto and, to the extent permitted by law or practical, shall be consistent with such orders, rules, regulations, actions, recommendations, and requests.

§ 3122. Enforcement.

The law enforcement authorities of this State and of the political subdivisions of this State shall enforce the orders, rules, and regulations issued pursuant to this chapter.

§ 3123. Authority to accept services, gifts, grants and loans.

(a) Whenever the federal government, and agency or any person shall offer to this State, or through this State to any political subdivision of this State, services, equipment, supplies, materials, or funds by way of gift, grant or loan for purposes of emergency management, this State, acting through the Governor, or such political subdivision, acting with the consent of the Governor and through such political subdivision's executive officer or governing body, may authorize any officer of this State or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of this State or such political subdivision and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

§ 3124. Political activity.

No emergency management organization established under the authority of this chapter shall participate in any form of political activity nor shall it be employed directly or indirectly for political purposes.

§ 3125. Penalties.

Except wherein specified penalties are prescribed in this chapter, whoever violates this chapter or an emergency order issued pursuant to this chapter may be fined of not less than \$50 nor more than \$500 or imprisoned up to six months for each violation.

§ 3126. Laws suspended during emergencies or disasters.

In the case of a declaration of a State of Emergency by the Governor, state agencies may implement their emergency or disaster assignments without regard to procedures required by other laws (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies, and materials and expenditures of public funds.

§ 3127. Conflict with other laws.

(a) Whenever the restrictions of any other statute, local ordinance, or regulations are consistent with but more restrictive than the restrictions imposed pursuant to this chapter, such statute, local ordinance, or regulations shall govern.

(b) During a State of Emergency, whenever the restrictions imposed pursuant to this chapter are inconsistent and in conflict with those required by any other statute, local ordinance or regulations, the provisions of the Emergency Order imposed pursuant to this chapter shall govern.

(c) Nothing contained in this Act shall be construed to infringe in any way upon the powers of the fire officers-in-charge as defined in 16 Del. C. §6701A, or any successor statute.

§ 3128. Destruction of property, looting, or injury of persons during State of Emergency; penalty; liability for conduct of another.

(a) During a State of Emergency, whoever maliciously destroys or damages any real or personal property or maliciously injures another shall be guilty of a felony.

(b) Whoever violates this section shall be guilty of a class C felony.

(c) Any person over 16 years old who violates this section shall be prosecuted as an adult.

(d) A person is guilty of an offense under this section committed by another person when:

(1) Acting with the state of mind that is sufficient for commission of the offense, such person causes an innocent or irresponsible person to engage in conduct constituting the offense; or

(2) Intending to promote or facilitate the commission of the offense she/he:

a. Solicits, requests, commands, importunes, or otherwise attempts to cause the other person to commit it; or

b. Aids, counsels, agrees or attempts to aid the other person in planning or committing it; or

c. Having a legal duty to prevent the commission of the offense, fails to make a proper effort to do so.

(e) In any prosecution for an offense under this section in which the criminal liability of the accused is based upon the conduct of another person pursuant to this section, it is no defense that:

(1) The other person is not guilty of the offense in question because of irresponsibility or other legal incapacity or exemption or because of unawareness of the criminal nature of the conduct in question or of the accused's criminal purpose or because of other factors precluding the mental state required for the commission of the offense; or

(2) The other person has not been prosecuted for or convicted of any offense based on the conduct in question or has previously been acquitted thereof or has been convicted of a

different offense or in a different degree or has legal immunity from prosecution for the conduct in question.

§ 3129. Immunity from civil liability.

Neither the State, nor any county in the State, nor any municipal corporation of the State, nor any other political subdivision of the State, nor any agency of any of them, nor the agents, employees, or representatives of any of them, engaged in emergency or disaster relief operations and activities in connection with any emergency or disaster pursuant to this chapter, nor any person, firm, corporation, or other entity performing work and/or furnishing material pursuant to a contract (oral or written) with the State or with any county in the State, or with any municipal corporation of the State, or with any other political subdivision of the State or with any agency of any of them, entered into as a result of the declaration by the Governor of an Emergency Order or entered into as a part of efforts to comply with this chapter, shall be liable for the death of or any injury to persons, or damage to property, as a result of such relief operations and activities and/or the performance of or attempts to perform such contract, unless such death, injury, or damage was intentional on the part of, or was caused by the willful or wanton disregard of the rights of others, by the State, or by the county, or by the municipal corporation, or by the other political subdivision, as the case may be, or by any agency of any of them, or by the agents, employees, or representatives of any of them or by such person, firm, corporation, or other entity engaged in such emergency or disaster relief operations and activities and/or the performance and attempted performance of such contract, as the case may be. These provisions shall not affect the right of any person to receive statutory benefits to which he/she would otherwise be entitled in the absence of this section or under the Workmen's Compensation Act (Chapter 23 of Title 19) or under any pension law, or the right of any such person to receive any benefits or compensation under any act of Congress.

§ 3130. Construction of chapter.

This chapter is intended to protect the health, property, environment, and safety of the people of Delaware and shall be liberally construed to validate any emergency or disaster action undertaken by the State in good faith for that purpose. Without limiting the general intent of this section, any emergency order shall be interpreted as to provide the State with the maximum opportunity to obtain federal emergency or disaster relief assistance for the State."

Section 2. This Act is intended to simplify and make more uniform and effective the State's ability to take preventive and remedial action to alleviate the harm to the public from threatened or actual emergencies or disasters. To that end, the Act's repeal of sections of the Code which specifically identify types of emergency orders the Governor may issue to protect the public shall not be construed as eliminating such authority. Rather, the Act is intended to provide relevant state authorities the power to issue such emergency orders, without limitation, as are necessary to address the particular circumstances facing the State at the time of any threatened or actual emergency or disaster.

Approved July 17, 1997

CHAPTER 208

FORMERLY

HOUSE BILL NO. 242
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29, CHAPTER 82, AND TITLE 16, CHAPTERS 63 AND 68, OF THE DELAWARE CODE RELATING TO THE STATE EMERGENCY RESPONSE COMMISSION.

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

Section 1. Amend Chapter 68, Title 16 of the Delaware Code by deleting Section 6803 thereof in its entirety.

Section 2. Amend Chapter 82, Title 29, Section 8224(2) of the Delaware Code by deleting the words "Commission on the Transportation of Hazardous Materials" as it appears therein and replacing it with the words "State Emergency Response Commission."

Section 3. Amend Chapter 82, Title 29, Section 8226(a) of the Delaware Code by deleting the first sentence thereof and substituting in lieu thereof the following: "A State Emergency Response Commission is hereby established in compliance with Title III of the Federal Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. Chapter 116, Emergency Planning and Community Right-to-Know) [42 U.S.C. Section 11001]."

Section 4. Amend Chapter 82, Title 29, Section 8226(c) of the Delaware Code by deleting the first two sentences thereof.

Section 5. Amend Chapter 82, Title 29 of the Delaware Code by adding thereto a new section 8232 to read as follows:

"Section 8232. State Emergency Response Commission; other personnel.

Notwithstanding any inconsistent provisions of any public, private or special law, any person who is a bona fide member of, or who is appointed by the State Emergency Response Commission under the authority of Section 301(c) [42 U.S.C. Section 11001] of Title III, Superfund Amendment and Reauthorization Act of 1986 (SARA), to serve on a local emergency planning committee who, in good faith, assists in the development or review of local plans to respond to hazardous materials incidents in this State is not liable for civil damages as a result of any act or omission in the development, review or implementation of such plans unless the act or omission constitutes gross negligence or willful misconduct."

Section 6. Amend Chapter 63, Title 16 of the Delaware Code by deleting the existing text under §6301 and substituting in lieu thereof the following:

"All references to 'State Emergency Response Commission' or 'Commission' within this Chapter shall refer to the State Emergency Response Commission established under Chapter 82, Title 29 of the Delaware Code in compliance with Title III of the Federal Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. Chapter 116, Emergency Planning and Community Right-to-Know) [42 U.S.C. Section 11001]."

Approved July 17, 1997

CHAPTER 209

FORMERLY

HOUSE BILL NO. 199
AS AMENDED BY SENATE AMENDMENT NOS. 1 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:

Section 1. Amend Subsection 4177(d), Title 21 of the Delaware Code by striking the phrase "occurring within 5 years from a prior offense" as it appears in paragraphs (2) and (3) of that subsection.

Section 2. Amend Subsection 4177(d), Title 21 of the Delaware Code by striking the second sentence of paragraph (4) in its entirety.

Section 3. Amend Subsection 4177B(a), Title 21 of the Delaware Code by striking paragraph (1) in its entirety and substituting in lieu thereof the following:

"(1) Has never had a previous or prior conviction or offense as defined in subsection (e)(1) of this section."

Section 4. Amend Subsection 4177B(a), Title 21 of the Delaware Code by striking the phrase "§ 4177(d)(3)" as it appears in paragraph (6) of that subsection and substituting in lieu thereof the phrase "§ 4177(d)(5)".

Section 5. Amend Subsection 4177B(e), Title 21 of the Delaware Code by striking the entire subsection and substituting in lieu thereof the following:

"(e)(1) For purposes of §§ 2742, 4177 and 4177B of this title, the following shall constitute a prior or previous conviction or offense:

a. A conviction pursuant to §§ 4175(b) or 4177 of this title, or a similar statute of any state, local jurisdiction, any federal or military reservation or the District of Columbia;

b. 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, whether such conviction was pursuant to a provision of this Code or the law of any state, local jurisdiction, any federal or military reservation or the District of Columbia;

c. Participation in a course of instruction or program of rehabilitation or education pursuant to § 4175(b), § 4177 or § 4177B of this title, or a similar statute of any state, local jurisdiction, any federal or military reservation or the District of Columbia, regardless of the existence or validity of any accompanying attendant plea or adjudication of guilt;

d. A conditional adjudication of guilt, any court order or any agreement sanctioned by a court requiring or permitting a person to apply for, enroll in or otherwise accept first offender treatment or any other diversionary program under this section or a similar statute of any state, local jurisdiction, any federal or military reservation or the District of Columbia.

(2) Time Limitations.

For the purpose of determining the applicability of enhanced penalties pursuant to § 4177 of this title, the time limitations on use of prior or previous convictions or offenses as defined by this subsection shall be:

a. For sentencing pursuant to § 4177(d)(2) of this title, the second offense must have occurred within five years of a prior offense;

b. For sentencing pursuant to § 4177(d)(3) of this title, the third offense must have occurred within five years of the first offense to be calculated for sentencing;

c. For sentencing pursuant to § 4177(d)(4) of this title there shall be no time limitation and all prior or previous convictions or offenses as defined in paragraph (1) of this subsection shall be considered for sentencing under § 4177(d)(4);

d. For any subsection that does not have a time limitation prescribed, all prior or previous convictions or offenses as defined in paragraph (1) of this subsection shall be considered.

(3) Computation of Time Limitations.

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)(c) or (1)(d) of this subsection, the date of the driving incident which caused the adjudication or program participation shall be the date of the prior or previous offense.

(4) Separate and Distinct Offenses. For the purpose of determining the applicability of enhanced penalties pursuant to § 4177 of this title, prior or previous convictions or offenses used to determine eligibility for such enhanced penalties must be separate and distinct offenses, that is, each must be successive to the other with some period of time having elapsed between sentencing or adjudication for an earlier offense or conviction and the commission of the offense resulting in a subsequent conviction.

(5) Challenges to Use of Prior Offenses. 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 that person first successfully challenges the prior or previous conviction in the court in which the conviction arose and provides written notice of the specific nature of the challenge in the present proceeding to the prosecution at least 20 days before trial."

Approved July 17, 1997

CHAPTER 210

FORMERLY

HOUSE BILL NO. 207
AS AMENDED BY SENATE AMENDMENT NO. 2

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 1, Section 101, Subsection (30), Title 4 of the Delaware Code, by striking said section in its entirety and by substituting in lieu thereof the following:

"(30) 'Restaurant' means any establishment which is regularly used and kept open principally for the purpose of serving complete meals to persons for consideration, and which has seating at tables for 35 or more persons, and suitable kitchen facilities connected therewith for cooking an assortment of foods under the charge of a chef or cook."

Section 2. Amend Chapter 5, Section 512, Title 4 of the Delaware Code, by adding a new subsection (h), as follows:

"(h) An establishment licensed as a restaurant shall not be required to use the word 'restaurant' in its tradename, menus, advertisements or signage unless the Commission specifically finds that the public may be confused as to its status as a restaurant."

Section 3. This Act shall become effective immediately upon its enactment, and shall apply to all establishments already licensed as restaurants by the Delaware Alcoholic Beverage Control Commission as well as all establishments licensed as restaurants by the Delaware Alcoholic Beverage Control Commission in the future.

Approved July 17, 1997

CHAPTER 211

FORMERLY

HOUSE BILL NO. 132
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 4 AND TITLE 30 OF THE DELAWARE CODE RELATING TO LICENSING, FEES AND TAXES ON THE MANUFACTURE AND SALE OF ALCOHOLIC BEVERAGES AND CIDER.

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 § 512C.(a), Title 4, Delaware Code, by adding to the end thereof the words "and cider".

Section 2. Amend § 512C.(b)(1), Title 4, Delaware Code, by inserting between the words "beer" and "is manufactured" the words "or cider".

Section 3. Amend § 512C.(b)(2), Title 4, Delaware Code, by striking said paragraph in its entirety.

Section 4. Amend § 554(j), Title 4, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(j) For a biennial license to 'manufacture' and to 'sell' beer and cider, the license fee shall be based upon annual production and shall be computed as follows: \$1,000 for a brewery or microbrewery manufacturing not more than 25,000 barrels of beer and cider per year; \$2,000 for a brewery manufacturing more than 25,000 but not more than 50,000 barrels of beer and cider per year; \$4,000 for a brewery manufacturing more than 50,000 but not more than 100,000 barrels of beer and cider per year; and \$6,000 for a brewery manufacturing more than 100,000 barrels of beer and cider per year."

Section 5. Amend § 581, Title 4, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

"§581. Rates of tax.

(a) All persons required to be licensed under the provisions of this title as an importer shall, upon the purchase or receipt of alcoholic beverages, pay a tax thereon at the rates set forth in subsection (d) hereof.

(b) All persons licensed under the provisions of this title to manufacture alcoholic beverages or to act as an importer pursuant to the provisions of sections 512A., 512B., or 512C. of this title shall pay a tax on all alcoholic beverages sold to customers in this State at the rates set forth in subsection (d) hereof. This subsection shall not apply to sales to customers who are (1) importers of alcoholic beverages subject to licensing under this Title, (2) distributors of alcoholic beverages licensed by a State other than Delaware where the alcoholic beverages are sold for resale in such other State, or (3) in the case of sales of beer, an instrumentality of the United States Armed Forces.

(c) Except as provided in subsections (a) or (b), any person who imports alcoholic beverages for consumption in this State shall pay to the Department of Finance the tax on such imports at the rates set forth in subsection (d).

(d) The tax payable under this section shall be as follows:

(1) For each barrel of beer, \$4.85.

(2) For each gallon of cider, \$.16.

(3) For each gallon of wine, \$.97.

(4) For each gallon of spirits containing 25 percent or less of ethyl alcohol by volume, \$2.50.

(5) For each gallon of spirits containing more than 25 percent ethyl alcohol by volume, \$3.75.

(6) For each gallon of alcohol per gallon of ethyl alcohol contained, \$4.85 except that the tax of \$4.85 shall not apply to the purchase of alcohol by pharmacists, physicians, dentists, veterinarians, wholesale druggists, manufacturing plants where the alcohol is used in scientific work, for the manufacture of pharmaceutical products, or for use in the manufacture or compounding of preparations unfit for beverage purposes.

(e) The Commission shall make and publish such rules and regulations with respect to the collection and payment of the taxes imposed by this section as it deems proper, and all such rules and regulations that are not inconsistent with the provisions of this title shall have the force and effect of law."

Section 6. Amend § 2901(2)(b)(iii), Title 30, Delaware Code by striking the reference to "§ 581(a)" and substituting in lieu thereof a reference to "§ 581".

Section 7. Amend § 2909(c), Title 30, Delaware Code by inserting between the words "beer" and "or wine" the following: ", cider,".

Section 8. This Act shall be effective for all purchases, receipts, and manufacture of alcoholic beverages after a date 30 days after its enactment into law.

Approved July 17, 1997

CHAPTER 212

FORMERLY

HOUSE BILL NO. 303

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO A STATE REVOLVING LOAN PROGRAM FOR DRINKING WATER FACILITIES AND OTHER QUALIFYING PROJECTS.

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

Section 1. Amend §7903(a), Chapter 79, Title 29, Delaware Code by inserting a new subsection (15) to read as follows:

“(15) The Secretary is empowered to administer a state revolving loan program in accordance with requirements set forth in the Federal Safe Drinking Water Act.

a. Delaware Safe Drinking Water Revolving Fund:

There is hereby established a ‘Delaware Safe Drinking Water Revolving Fund’ as contemplated by and to be administered pursuant to the Federal Safe Drinking Water Act. All federal capitalization grants received pursuant to the Federal Safe Drinking Water Act, all required matching state funds, and all loan repayments received by the State pursuant to any loan agreement made under the Delaware Safe Drinking Water Revolving Fund, shall be credited to the Delaware Safe Drinking Water Revolving Fund. In addition, all proceeds of obligations issued by the State and supported by a pledge or other interest in the funds in the Delaware Safe Drinking Water Revolving Fund, shall be held in or for such Fund. The Delaware Safe Drinking Water Revolving Fund shall be deemed to be a special fund and shall be approved by the Governor for the following purposes:

1. to accept and retain the funds and revenues specified herein;
2. to make loans to eligible persons for qualifying purposes under the Federal Safe Drinking Water Act;
3. to buy or refinance debt obligations of eligible persons for qualifying purposes under the Federal Safe Drinking Water Act;
4. to guarantee or purchase insurance for obligations of eligible persons for qualifying purposes under the Safe Drinking Water Act;
5. to be a source of revenue or security for the payment of principal and interest on revenue bonds of the State if the proceeds of the sale of such bonds will be deposited in the Delaware Safe Drinking Water Revolving Fund;
6. to earn interest on amounts on deposit in such fund;
7. to establish all necessary interest bearing accounts for deposit of loan repayments;
8. to finance the reasonable costs incurred by the State in the administration of the Delaware Safe Drinking Water Revolving Fund as permitted under the Federal Safe Drinking Water Act;
9. to accomplish any other allowable purpose under the Federal Safe Drinking Water Act;

The Department is designated as the administering agency of the Delaware Safe Drinking Water Revolving Fund and shall have such powers necessary to administer such

fund including, but not limited to, the powers to enter into capitalization grant agreements with the Environmental Protection Agency, the power to accept capitalization grant awards made under the Federal Safe Drinking Water Act and the power to recommend the approval of loans from the fund to the Cabinet Committee on State Planning Issues in accordance with the requirements of the Federal Safe Drinking Water Act, and 29 Del.C. Chapter 61, or any successor statute. The Department shall coordinate implementation of the Delaware Safe Drinking Water Revolving Fund with the Delaware Department of Natural Resources and Environmental Control who shall be responsible for financial administration of the loan portion of the Drinking Water State Revolving Fund. The Department shall take all actions necessary to secure for the State the benefits of the Federal Safe Drinking Water Act.

b. Standards and Procedures:

Before making any loan from the Delaware Safe Drinking Water Revolving Fund, the Department shall specify:

1. standards for the eligibility of borrowers and the type of projects to be financed with loans;
2. procedures for the preparation, review and approval of the 'project priority' list which must contain those projects for which financial assistance is sought;
3. procedures for submitting applications for financial assistance and procedures for Department approval of such applications;
4. procedures for completing an environmental review of projects otherwise qualifying under this subsection which shall be sufficiently consistent with the provisions for environmental review established under applicable state and federal requirements;
5. conditions for financial assistance;
6. other relevant criteria, standards and procedures;
7. standards and procedures specified under this paragraph shall provide for a final approval by the Cabinet Committee on State Planning Issues of any loan from the Delaware Safe Drinking Water Revolving Fund and the 'project priority' list as required by 29 Del.C. Chapter 61, or any successor statute."

Approved July 21, 1997

CHAPTER 213

FORMERLY

HOUSE BILL NO. 220
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO LINE-OF-DUTY DEATH BENEFITS.

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

Section 1. Amend §6602(1), Title 18 of the Delaware Code, by adding the following language to the beginning of the first sentence thereof: "For claims submitted prior to July 1, 1997," and by adding the following new sentence immediately after the first sentence:

"For claims submitted on July 1, 1997 and thereafter, pay to the beneficiary or beneficiaries as designated or determined pursuant to §6603(a) hereof of every covered person who dies in the line of duty, an amount totaling \$150,000 payable in annual installments with the maximum amount payable in any 1 calendar year being \$30,000."

Section 2. Amend §6603(a), Title 18 of the Delaware Code, by deleting the word "dependent" wherever the same appears therein, including within any numbered paragraph.

Approved July 21, 1997

CHAPTER 214

FORMERLY

HOUSE BILL NO. 262
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9 OF TITLE 7 OF THE DELAWARE CODE RELATING
TO FOOD FISH DEALER REPORTING.

BE IT 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 §906, Title 7 of the Delaware Code, by adding thereto a new
paragraph to read as follows:

“(68) ‘Food fish dealer’ shall mean:

- a. any person licensed under §§2902, 2903, 2904, 2905 or 2908 of Title 30 who
receives food fish from a commercial finfisherman;
- b. any commercial finfisherman who trades, barter and/or sells food fish to any
person licensed under §2906 of Title 30; or
- c. any commercial finfisherman who trades, barter and/or sells food fish to any
person whose principle place of business is located outside this State.”

Section 2. Amend Chapter 9, Title 7 of the Delaware Code, by adding thereto a new
section to read as follows:

“§940. Food fish dealer permits.

(a) If a fishery management plan, approved by the Secretary of the U.S.
Department of Commerce or Atlantic States Marine Fisheries Commission, requires the
commercial landings of a food fish species to be managed with a quota, said food fish
species, if landed in this State by a commercial finfisherman, shall not be purchased, sold,
traded and/or bartered by a food fish dealer without a food fish dealer permit. The
Department shall not charge a fee for a food fish dealer permit.

(b) All food fish dealer permit holders shall maintain log books, supplied by the
Department, for those food fish species that have management plans which require
commercial landings to be monitored for purposes of a quota. Food fish dealer permit
holders shall forward copies of their log book entries to the Department as prescribed by
the Department. The log books shall record the following:

(1) The commercial food fishing license number of the commercial
finfisherman who landed the food fish; and

(2) the number and/or weight, by species, of food fish purchased, traded
and/or bartered from each commercial finfisherman.

(c) The Department may adopt, amend, modify or repeal rules and regulations to
effectuate the policy and purpose of this section.”

Section 3. This Act shall become effective 120 days after the date of enactment.

Approved July 21, 1997

CHAPTER 215

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 57

AN ACT TO AMEND TITLE 2 OF THE DELAWARE CODE RELATING TO THE
LIABILITY OF THE DELAWARE TRANSPORTATION AUTHORITY.

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

Section 1. Amend § 1329 of Title 2 of the Delaware Code relating to the liability of the Delaware Transportation Authority by denominating the existing section as subsection "(a)", and creating a new subsection "(b)" thereof, to read as follows:

"(b) For fiscal years beginning July 1, 1997 and thereafter, the annual budget of the Delaware Transit Corporation shall include funding for an insurance program as described in subsection (a) of this section. This insurance program may be either a combination of self-insurance and commercially procured insurance, or entirely commercially procured insurance, but in any event shall provide a minimum coverage of \$300,000 for any and all claims arising out of a single occurrence."

Approved July 21, 1997

CHAPTER 216

FORMERLY

SENATE BILL NO. 162
AS AMENDED BY SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NOS. 2, 3, 4 AND 5

AN ACT TO AMEND TITLES 7, 10, 13, 16, 18, 21, 29 and 30 OF THE DELAWARE CODE RELATING TO PATERNITY AND CHILD SUPPORT OBLIGATIONS AND THE DIVISION OF CHILD SUPPORT ENFORCEMENT.

BE IT 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 13, Delaware Code by adding a new Chapter 22 to read as follows:

"Chapter 22. Division of Child Support Enforcement.

§2201. Designation of Title IV-D Agency.

The Division of Child Support Enforcement is hereby established within the Department of Health and Social Services. Said Division shall constitute the IV-D agency authorized under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.). In addition to the powers and duties described in this Chapter, the Division of Child Support Enforcement shall have the power to perform and be responsible for the performance of all duties and functions heretofore vested in the Division of Child Support Enforcement under 29 Del. C. §7930 and the Bureau of Child Support Enforcement pursuant to Executive Order No. 76, dated June 30, 1975.

§2202. Powers and Duties.

The Division of Child Support Enforcement may:

- (a) accept, transfer, and expend funds, made available by the federal or state government or by another public or private source for the purpose of carrying out this chapter;
- (b) adopt rules, regulations and procedures for the provision of child support services;
- (c) initiate legal and administrative actions necessary to implement this chapter; and
- (d) enter into contracts or agreements necessary to implement this chapter.

§2203. Title IV-D Services.

(a) The Division of Child Support Enforcement may provide all services required or authorized by Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), including, parent locator services, determination of paternity, establishment of child support and medical support obligations, review and adjustment of child support orders, enforcement of child support, spousal support, and medical support orders, and collection and disbursement of child support payments.

(b) The Division of Child Support Enforcement may enter into agreements or contracts with federal, state or other public or private entities or individuals for the purpose of carrying out its duties and responsibilities under federal and state law.

§2204. Support Payments.

(a) In compliance with federal and state law, the Division of Child Support Enforcement is authorized to receive and disburse support payments made on behalf of each obligee who is a recipient of public assistance, who signs an application to the Division for child

support services pursuant to Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), or who receives child support pursuant to an income withholding order issued by the Court or Division pursuant to §513 of this Title.

(b) In all cases in which the Division is authorized pursuant to subsection (a) to receive and disburse support payments, the Division may administratively change the payee to the Division. Such change shall not occur until the Division has provided prior notice of the change to all parties under the support order and offered an opportunity for any party to contest the change in payee. The Division shall establish procedures for a party to challenge the administrative change in payee.

(c) A child support obligor shall have no right of reimbursement from the Division of Child Support Enforcement for any child support payment received and disbursed by the Division to an obligee who is not a recipient of public assistance.

§2205. Administrative Authority.

(a) In all cases enforced under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651, et seq.), the Division of Child Support Enforcement is authorized to take the following actions, for the purpose of establishing paternity, or establishing, modifying or enforcing a support order, without the necessity of obtaining a Court order:

(1) Order genetic testing for the purpose of establishing paternity;

(2) Request, and obtain access to, information on the employment, residential address, social security number, compensation and benefits of any employee or contractor of an entity in the State, including for-profit, nonprofit, and governmental employers, and any member of a labor organization;

(3) Request, and obtain access to, information contained in the records of State and local government agencies, regarding a putative father, an obligor, or an obligee, which includes, but is not limited to, the following:

(i) State income tax returns and all other state income tax information including, but not limited to, documents or records provided in support of a tax return by an employer, financial institution, or other holder or source of income;

(ii) Division of Motor Vehicles information including, but not limited to, proper name spelling, physical description, date of birth, location, date of last contact with the Division of Motor Vehicles, license expiration date, vehicle registration, violations, and warrants;

(iii) Public housing authority records;

(iv) Vital statistics records and information including, but not limited to, birth, marriage, divorce and death records;

(v) Criminal history record information including, but not limited to, arrest, conviction, incarceration, parole, and employment information;

(vi) Credit bureau information including, but not limited to, credit history, location, and dates of credit application;

(vii) Deed or title registry records; and

(viii) Any other information deemed necessary by the Division to assist in administering the child support program.

(4) Request, and obtain access to, information contained in the records of financial institutions, with respect to individuals who owe or are owed support (or against or with respect to whom a support obligation is sought);

(5) Issue an administrative subpoena to any individual, state or local government agency, private company, institution, or other entity seeking financial or other information needed to establish paternity, or to establish, modify or enforce a support order;

(6) Issue an administrative subpoena, pursuant to subsection (5), seeking the name, social security number, residential address, employer, and employment address of any parent or custodian that appears in the customer records of a public utility or a cable television company;

(7) Order income withholding pursuant to §513(b)(12) of this Title; and

(8) Institute collection procedures pursuant to §2207 of this Title.

(b) Any individual, state or local government agency, private company, institution, or other entity providing information in response to a request by the Division or an administrative subpoena issued by the Division shall be immune from any civil or criminal liability based on such compliance unless the individual, state or local government agency, private company, institution or other entity knowingly provided false information.

(c) If any individual, private company, institution, or other entity fails to comply with an administrative subpoena issued by the Division of Child Support Enforcement, the Division may compel compliance with said subpoena by filing a motion to compel in the Family Court, which shall have jurisdiction to hear such actions. The Family Court may order costs, attorney's fees and/or a civil fine not to exceed \$1,000 if the motion to compel is granted.

(d) Upon request, the Division of Child Support Enforcement shall make available information, as provided in this section, for use by federal and state agencies conducting activities pursuant to Title IV-D of the Social Security Act (42 U.S. C. Sec. 651 et seq.).

(e) Information obtained by the Division of Child Support Enforcement under this Section shall be used only for purposes related to the child support program administered pursuant to Title IV-D of the Social Security Act (42 U.S. C. Sec. 651 et seq.).

§2206. Confidentiality of Records.

(a) Except as provided by subsection (b) of this section, all files and records of services provided under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), including information related to a custodial parent, noncustodial parent, child, and an alleged, putative, or presumed father, are confidential and for purposes of the Freedom of Information Act, 29 Del. C. 100, these files and records are specifically exempted from public disclosure.

(b) The Division of Child Support Enforcement may use or release information from the files and records for purposes directly connected with the administration of the child support program, including the release of information to other State agencies operated pursuant to Title IV-D of the Social Security Act. The Division may also release information from its files and records to a consumer reporting agency in accordance with §2217 of this Title.

§2207. Enforcement by the Division of Child Support Enforcement.

The Division of Child Support Enforcement is hereby authorized to initiate enforcement of any child or spousal support order, issued by a Court or administrative agency of this or any other State or jurisdiction, that is being enforced pursuant to Title IV, Part D of the Social Security Act (42 U.S.C. Sec. 651 et seq.). Said enforcement shall include, but not be limited to, income withholding initiated pursuant to §513 of this Title; administratively adding an amount to be paid toward arrears in addition to any current support amount ordered; demand letters; initiation of contempt proceedings; use of state and federal income tax refund intercept programs; use of attachment, levy and garnishment; use of a private collection agency or

contractor; and any other civil remedy available for the enforcement of judgments or for the enforcement of support orders.

§2208. State Directory of New Hires.

(a) General. There is hereby established within the Division of Child Support Enforcement an automated directory (to be known as the 'State Directory of New Hires') which shall contain information supplied by employers pursuant to §1154(d) of Title 30.

(b) Entry of Information into Data Base. Within 5 business days of receipt of a report supplied by an employer pursuant to section 1156A of Title 30, information included in the report shall be entered into the data base maintained by the State Directory of New Hires.

(c) Information Comparisons. The State Directory of New Hires shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to §1156A of Title 30 and the social security numbers appearing in the records of the State case registry. When an information comparison reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the Division of Child Support Enforcement with the name, address, and social security number of the employee to whom the social security number is assigned, and the name, address, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986, to the employer.

(d) Provision of Information to the National Directory of New Hires. Within 3 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires established pursuant to subsection (i) of section 453 of Title IV, Part D, of the Social Security Act (42 U.S.C. Sec. 453 (i)). On a quarterly basis, the State Directory of New Hires shall also furnish to the National Directory of New Hires extracts of the reports required under paragraph (6) of subsection (a) of section 303 of the Social Security Act to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as prescribed by federal regulation.

(e) Uses of New Hire Information. The State Directory of New Hires shall make the specified information available to the following entities for the purposes described below.

(1) The State Directory of New Hires shall provide information derived from the comparison conducted pursuant to subsection (c) of this section to the Division of Child Support Enforcement which shall use the information to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.

(2) The State Directory of New Hires shall grant access to information provided by employers pursuant to §1156A of Title 30 to the State agency responsible for administering a program specified in 42 U.S.C. §1137(b) for purposes of verifying eligibility for the program.

(3) The State Directory of New Hires shall grant access to information provided by employers pursuant to §1156A of Title 30 to the State Division of Unemployment Insurance for the purpose of administering the State's unemployment insurance services program and the State Division of Industrial Affairs for the purpose of administering the workers compensation program.

§2209. Notice of Income Withholding.

Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires pursuant to subsection (b) of §2208 of this chapter, the Division shall transmit a notice to the employer of an employee whose child

support obligation is subject to enforcement by the Division directing the employer to withhold from the income of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation or retroactive support) of the employee, unless the employee's income is not subject to withholding under §513(b)(1) of this Title.

§2210. Administrative Enforcement in Interstate Cases.

(a) The Division of Child Support Enforcement may request the child support agency of a State or jurisdiction outside of Delaware established pursuant to Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), to enforce a child or spousal support order entered by a tribunal in Delaware or in another State or jurisdiction. Such a request shall constitute a certification by the Division of the amount of arrears and retroactive support, of the existence of a child support lien, and of compliance with all procedural due process requirements applicable to the case.

(b) The Division of Child Support Enforcement may request the child support agency of a State or jurisdiction outside of Delaware established pursuant to Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), to enforce and recognize a child support lien. Such a request shall constitute a certification by the Division of the amount of arrears, and retroactive support of the existence of a child support lien, and of compliance with all procedural due process requirements applicable to the case.

(c) The Division of Child Support Enforcement shall establish procedures to respond to a request for enforcement from a child support agency of a State or jurisdiction outside of Delaware established pursuant to Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), without the necessity of registering the order or lien with the Court. Such a request shall constitute a certification by the requesting State of the amount of arrears, and retroactive support of the existence of a child support lien, and of compliance with all procedural due process requirements applicable to the case.

§2211. Maintenance of Records.

The Division of Child Support Enforcement shall maintain such records as may be required by federal and state law.

§2212. Financial Institution Data Matches.

(a) The Division of Child Support Enforcement shall enter into agreements with financial institutions doing business within this State to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution shall:

(1) Provide once for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an Account at such institution and who owes past-due support, as previously identified to each financial institution by the State by name and Social Security number or other taxpayer identification number; and

(2) In response to a notice of a lien or levy, encumber or surrender, as the case may be, once each calendar quarter, assets, less applicable fees and penalties, held by such institution in an Account of any noncustodial parent who is subject to a child support lien pursuant to §2215 of this Title.

(b) The Division of Child Support Enforcement shall pay a reasonable fee to a financial institution for conducting the data match provided for in this subsection, not to exceed the actual costs incurred by such financial institution.

(c) In cases where there is a support arrearage and the noncustodial parent is subject to a child support lien pursuant to §2215 of this Title, the Division of Child Support Enforcement may, without the necessity of obtaining an order from any other judicial or

administrative tribunal, secure assets in such noncustodial parent's Account, less applicable fees and penalties, to satisfy the arrearage by attaching and seizing such assets of the obligor held in financial institutions. The Division shall recognize and enforce the authority of State agencies of other States whereby the Division will enforce the child support liens on behalf of such State agencies in accordance with the procedures set forth in this section.

(d) If the Division obtains a financial record of an individual from a financial institution pursuant to subsection (a) of this section, the Division may disclose such financial record only for purposes of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

(e) For purposes of this section, "financial institution" has the meaning given such term by section 42 U.S.C. §669a(d)(1). The term "Account" means a demand deposit account, checking or NOW account, savings account, time deposit account, or money-market mutual fund account.

(f) Each financial institution doing business within this State shall enter into an agreement with the Division of Child Support Enforcement to develop and operate, in coordination with the Division, the financial institution data match system described in this section. Those institutions which are not automated or compatible must identify themselves to the Division of Child Support Enforcement within 180 days of passage of the legislation. The Division will work with these institutions to develop a data exchange process that is not unduly burdensome to the institution or the Division.

(g) A financial institution shall not be liable under any State law to any person or government agency for:

- (1) Any disclosure of information to the Division of Child Support Enforcement under §2212 of this Title; or
- (2) Encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the Division of Child Support Enforcement as provided in Title 13; or
- (3) Any other action or omission taken in good faith to comply substantially with the requirements of §2212 of this Title.

§2213. Parent Locator Information from Interstate Networks.

(a) The Division of Child Support Enforcement (the "Division") shall have access to locator information contained in data systems used by the State for purposes, which include but are not limited to, motor vehicle and law enforcement.

(b) Upon request, the Division shall make available locator information, as provided in subsection (a) of this section, for use by federal and state agencies conducting activities pursuant to Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.). The Division may respond to a request for information, made under this section, by any appropriate method including, but not limited to, paper, facsimile, telephone, magnetic tape, or other electronic means.

(c) Locator information obtained by the Division, as provided in subsection (a) of this section, shall be used only for the purposes of, and to the extent necessary for, the administration of activities authorized by Part D of Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.). No entity or individual, who complies with the provisions of this section, shall be liable in any civil or criminal action or proceeding brought by a putative father, an obligor, or an obligee on account of such compliance.

(d) The Director of the Division shall be responsible for the preparation of policy, procedures, and directives as may be required to implement this Section.

§2214. Collection and Use of Social Security Numbers.

(a) The Division of Child Support Enforcement shall have access to the Social Security number of:

- (1) Any applicant for a license as that has been defined in this section;
- (2) Any applicant for a marriage license;
- (3) Any individual who is subject to a divorce decree, support order or judgment, paternity order, or an acknowledgment of paternity filed in this State pursuant to Section 804 of Title 13 or Sections 3105 and 3121 of Title 16;
- (4) Any individual who has died; and
- (5) Any individual who is a petitioner or respondent in a paternity or child support proceeding filed in this State or in an interstate action in which this State serves as the initiating or responding jurisdiction.

(b) Social Security numbers collected pursuant to subsection (a) of this section shall be maintained in the records of the collecting agency. In the case of individuals who have died, the Social Security number also shall appear on the face of the death certificate.

(c) As used in this section, the term 'license' means a commercial drivers license or license to operate a motor vehicle issued or renewed under Chapter 26 or 27 of Title 21, and a license, permit, certificate, approval, registration or other similar form of permission or authorization to practice or engage in any profession, occupation or business, issued or renewed by the Division of Revenue under Chapter 23, 25, 27 or 29 of Title 30, or by any commission, board or agency under the authority of the Division of Professional Regulation which is named in §8810 of Title 29 (but not including any license issued on behalf of a non-profit applicant by the Gaming Control Board as set forth in Chapter 15 of Title 28).

(d) Upon request, the Division of Child Support Enforcement shall make available locator information, as provided in subsection (a) of this section, for use by federal and state agencies conducting activities pursuant to Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.). The Division may respond to a request for information, made under this section, by any appropriate method including, but not limited to, paper, facsimile, telephone, magnetic tape, or other electronic means.

(e) If a tribunal or agency also uses an identifying number other than the Social Security number, the tribunal or agency must so advise parties or applicants.

(f) The Director of the Division of Child Support Enforcement shall be responsible for the preparation of policy, procedures, and directives as may be required to implement this section.

§2215. Child Support Liens.

(a) A child support installment or payment which is past due, shall, as of the date on which it was due, be a lien in favor of the obligee in an amount sufficient to satisfy the arrearage, whether the amount due is a fixed sum or is accruing periodically. Such child support lien shall arise by operation of law, without the necessity of obtaining a judicial determination of the arrearage or an order creating the lien, and such lien shall incorporate any unpaid child support which shall accrue while the lien is in effect.

(b) From the time it is perfected as provided in this Section, the child support lien arising under subsection (a) of this Section shall bind all real and personal property, and any interest in property, whether legal or equitable, of the obligor. An interest in property acquired by the obligor after the child support lien arises shall be subject to such lien, subject to the limitations described in subsection (1) of this section.

(c) A child support lien may be enforced as provided in this Chapter or as otherwise provided by law.

(d) The remedies provided by this Chapter do not affect the availability of other remedies provided by law to enforce liens and judgments.

(e) A child support lien of another State must be recognized and given full faith and credit by a tribunal in this State, without the necessity of a prior judicial notice or hearing.

(f) The IV-D agency, party, or entity requesting enforcement in Delaware of a child support lien arising in another State shall certify that the obligor is delinquent under a support order. In order to perfect the child support lien against real and personal property in this State, the IV-D agency, party, or entity seeking enforcement must comply with the notice requirements of this Section.

(g) 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 arrears or retroactive support to be placed upon the obligor's distributive share of a decedent's estate by filing notice of a child support lien 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 arrears or retroactive support as of a specified date. 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 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 the personal representative's bond to the Director, as the payee of the child support obligation;

(2) Cause a lien for 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 of a child support lien 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 as of a specified date. 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 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 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 of a child support lien 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 as of a specified date. The notice shall also instruct the party to whom it is directed to deliver a copy of the notice to the party's 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 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 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; and

(4) Cause a lien for arrears or retroactive support to be placed upon any workers' compensation benefits payable to the obligor by filing notice of a child support lien 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 as of a specified date. 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 §2363 of Title 19. 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. This paragraph shall not apply to periodic workers' compensation payments from which child support is paid by income attachment under §513(b) of this Title.

(5) Notwithstanding the provision of §§4733 and 4735 of Title 10 to the contrary, cause a lien for arrears or retroactive support to be perfected against real property by filing a child support lien notice with the Prothonotary in the county where the lien is sought to be filed. Upon the filing of the child support lien notice, the Prothonotary shall date and index the child support lien as a judgment and mail the obligor a copy of the notice by certified or registered mail. The filing of the child support lien notice shall constitute notice to all persons who are charged with notice of matters filed in such office;

(6) Cause a lien for arrears or retroactive support to be perfected against accounts held by a financial institution by serving a notice of child support lien and notice of levy on said institution. Within 20 days after the date it receives the notice, the institution shall satisfy the lien by paying the amount of the lien to the Director of the Division of Child Support Enforcement, as payee of the child support order, with any goods, chattels, rights, credits, money or effects of the obligor in the institution's custody, possession, or control;

(7) Cause a lien for arrears, or retroactive support to be perfected against designated nonexempt personal property of the obligor by filing a child support lien notice with the Prothonotary. The child support lien notice shall describe the designated personal property against which it is perfected. Personal property subject to the child support lien includes, but is not limited to, lump sum payments from a state or local agency, including but not limited to,

unemployment compensation and other benefits, and public and private retirement funds, subject to §514 of the Retirement Income Security Act of 1974.

(h) For the purposes of this section, a child support lien notice must contain:

- (1) The docket number or case number and identity of the court or administrative agency that entered the child support order;
- (2) The name, address, and if known, the social security number of the obligor;
- (3) The name and address, unless protected from disclosure by a court or administrative order or finding, of the obligee;
- (4) The amount of arrears or retroactive support as of a specified date;
- (5) The name, address and phone number of the public entity or individual to contact for the obligor's current payment record and past-due arrearage; and
- (6) The name and address of the person or agency to whom the payment of arrears and retroactive support shall be made.

(i) The Division of Child Support Enforcement shall send timely written notice to the obligor by first class mail of action taken to perfect a child support lien, execute a levy or seize the property. The notice shall specify the amount due, the steps to be followed to release the property so placed under lien, levied upon or seized and the time period within which to respond to such notice and shall include the name of the court or administrative agency which entered the child support order.

(1) The obligor may request an administrative review by filing a written request with the Division of Child Support Enforcement within 20 days from the date the notice of child support lien was mailed. If the obligor files a timely written request for an administrative review, the Division shall conduct the review within a reasonable time of such request and shall not dispose of the subject property before the review is complete. The only issues to be addressed at the review hearing are whether the obligor is the person named in the child support order from which the lien arises and whether any child support payment or installment is past due. The records of the Division of Child Support Enforcement shall be presumptive of the amount arrears and of the obligor's payment history. Except as otherwise provided herein, all hearings under this section shall be in accordance with the provision of the Administrative Procedures Act, Chapter 101 of Title 29.

(2) The obligor may appeal a decision entered after an administrative hearing under this section to the Family Court. The appeal shall be filed within 30 days of the day the notice of decision was mailed. The appeal shall a de novo review by to the Family Court and shall be as provided in §§10102(4) and 10142 through 10145 of Title 29.

(j) The records of the Division of Child Support Enforcement, including records transmitted electronically, shall be presumptive evidence of the amount of any lien for arrears or retroactive support. Any person, firm or corporation, including an insurance carrier or a financial institution, 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.

(k) The Division of Child Support Enforcement may file notice of a lien or release of a lien or may transmit accounting information regarding an obligor's arrears and retroactive support by any means, including electronic means.

(l) Except as provided in subsection (2) below, a child support lien shall expire upon the termination of a current child support obligation and payment in full of any arrears and

retroactive support, or upon release of the lien by the Division of Child Support Enforcement in the case of an order being enforced under Title IV-D of the Social Security Act (42 U.S.C. §651 et seq.), or by the obligee in a non-IV-D case.

(1) When all arrears and retroactive child support has been paid in full, the Division of Child Support Enforcement, or the obligee in a non-IV-D case, shall enter satisfaction of such lien or judgment on the record in the office where the same is entered.

(2) The duration of a child support lien shall be ten (10) years from the date on which the notice of lien is properly served on the holder of property, provided, however, that such lien may be renewed for another ten (10) years by complying with §4711 of Title 10. Expiration of the child support lien shall not terminate the underlying child support order or judgment or liquidate any past due support or retroactive support.

(m) In any case where there has been a refusal or neglect to pay child support, regardless of whether a levy has been made, the Division of Child Support Enforcement, in addition to any other remedies, may file a civil action to enforce the child support lien. The filing of a civil action shall not preclude the Division of Child Support Enforcement from enforcing the child support order through the use of any administrative procedures permitted by federal or state law.

(n) The remedies provided in this section shall be in addition to any other remedies for the enforcement of a support order.

(o) In the case of a motor vehicle, a child support lien does not attach until the lien is noted on the certificate of Title for such vehicle.

§2217. Credit Bureau Reporting.

Information regarding the amount of arrearages owed by an obligor shall be reported by the Division of Child Support Enforcement, at such intervals as it determines, to consumer reporting agencies, as that term is defined in 15 U.S.C. §1681a(f), or be made available by the Division of Child Support Enforcement to any consumer reporting agency upon request, subject to the following:

(a) The amount of arrearages are not less than \$500.

(b) The information shall be made available only after the obligor owing the arrearages has been notified of the proposed action and given a period of 20 days to contest the accuracy of the information.

(c) A fee for furnishing the information in an amount not exceeding the actual cost thereof may be imposed on the requesting consumer reporting agency by the Division of Child Support Enforcement.

§2218. Requests for information.

(a) 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 §513(b)(6) of this Title, 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 the Director's designee for the purpose of establishing paternity or establishing, modifying or enforcing a child support order. Relevant employment and income information includes: the address of the employer; whether the named person is a current or past employee or contractor of the employer, or whether the named person has or has not been employed or hired as a contractor to the knowledge of the labor organization; the full name of the employee, contractor, or member; the last known residential address of the employee, contractor or member; the date of birth of the employee, contractor or member; the social security number of the employee, contractor, or member; all income, as that term is defined in §513(b)(5) of this Title, paid to the

employee, contractor, or member in the prior and current calendar year and the current rate of pay and benefits provided to the employee, member or contractor; 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.

(b) An employer or labor organization shall be immune from any liability for providing information pursuant to this subsection.

(c) Any employer or labor organization with fails or refuses to provide the information described in this section within 15 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 §§281-284 of Title 11.

§2219. Obligation of parties to provide information.

Each party shall receive written notice, which may be contained in the support judgment or order, that he or she is required to keep the Court informed of his or her current residential address, drivers license number, telephone number, employer, employer address, and employer telephone number.

§2220. Definitions.

Unless a different meaning is plainly required by the context, words and phrases used in this Chapter shall have the same meaning as those defined in §401(b) of this Title."

Section 2. Amend §516 Chapter 5, Title 13, Delaware Code, by striking the existing subsection (f) and inserting in lieu thereof the following:

"(f) When an arrearage has accrued for ninety (90) days under a support order, and the existing support order does not include payment on arrears, the amount of the order shall, by operation of law, be increased by 10 percent of the current support order or \$5.00, whichever is greater. The remedy specified for recovery of arrearages shall be in addition to and not in substitution for remedies available elsewhere for the enforcement of a support order."

Section 3. Amend the descriptive heading for §511, Chapter 5, Title 13 of the Delaware Code by striking the period "." at the end of the descriptive heading and substituting in lieu thereof the phrase "; obtaining jurisdiction over respondent."

Section 4. Amend §511, Chapter 5, Title 13 of the Delaware Code by redesignating the existing language in §511 as subsection "(a)" and by adding a new subsection "(b)" to read as follows:

"(b) Jurisdiction may be acquired over respondent in any of the following ways:

(1) By issuance of summons by the Clerk of the Family Court, and service thereof by the sheriff or other person authorized to make service of process upon respondent, by delivering a copy of the summons, petition and any affidavit to respondent personally or by delivering copies thereof to an agent authorized by appointment or by law to receive service of process;

(2) By appearance of respondent, either personally or by executing and filing an appearance document in a form approved by the Court, with or without issuance of summons;

(3) By appearance of counsel for respondent, with or without issuance of summons;

(4) Under a court rule not inconsistent with this section;

(5) As may be otherwise provided by law."

Section 5. Amend the descriptive heading for §810, of Title 13 of the Delaware Code by adding between the phrase "Civil action;" and the phrase "procedure." the phrase "obtaining jurisdiction over respondent;"

Section 6. Amend §810(a), Chapter 8, Title 13 of the Delaware Code by adding the following new subparagraph "(1)" to read as follows:

"(1) Jurisdiction may be acquired over respondent in any of the following ways:

a. By issuance of summons by the Clerk of the Family Court, and service

thereof by the sheriff or other person authorized to make service of process upon respondent, by delivering a copy of the summons, petition and any affidavit to respondent personally or by delivering copies thereof to an agent authorized by appointment or by law to receive service of process;

b. By appearance of respondent, either personally or by executing and filing an appearance document in a form approved by the Court, with or without issuance of summons;

c. By appearance of counsel for respondent, with or without issuance of summons;

d. Under a court rule not inconsistent with this section;

e. As may be otherwise provided by law."

Section 7. Amend Chapter 11, Title 30, Delaware Code by adding a new section 1156A to read as follows:

"§1156A. Employer to report new hires.

(a) Every employer required to deduct and withhold tax under this chapter shall, within 20 days after the date the employer hires the employee, notify the State Directory of New Hires established pursuant to §2208 of Title 13 of the hiring of the employee; provided, however, that:

(1) An employer that transmits reports magnetically or electronically shall so notify the State Directory by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart; and

(2) An employer that has employees in this State and at least one other State and that transmits reports magnetically or electronically may comply with the requirements of this subsection by designating either this State or another State in which the employer has employees, as the State to which the employer will transmit the report required under this section, providing written notification to the Secretary of the federal Department of Health and Human Services of such designation and transmitting the report to such State.

(b) Such report shall include the name, address, and social security number of the newly hired employee and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986, to the employer.

(c) Each report shall be made on a W-4 form or, at the option of the employer, an equivalent form, and may be transmitted to the State Directory of New Hires by first class mail, magnetically, or electronically.

(d) An employer who fails or refuses to report the hiring of a new employee as required by this Section shall be punished by a fine of \$25.00 for each such failure or refusal. An employer or employee who conspires not to report the hiring of an employee and required by this Section, or to supply a false or incomplete report as required by this Section, shall be punished by a fine of \$500.00 for each offense. A fine under this section may not be suspended. If the

employer is a corporation, criminal liability shall be established pursuant to §§281-284 of Title 11. Family Court shall have jurisdiction over violations of this Section.

(e) For purposes of this section, the following terms shall have the following meanings:

(1) 'Business day' means a day on which State offices are open for regular business.

(2) 'Employee' means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986 and does not include an employee of a federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to the federal law with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(3) 'Employer' has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1986 and includes any entity and any labor organization. The term 'labor organization' has the meaning given such term in section (2)(5) of the National Labor Relations Act and includes any entity (also know as a "Hiring Hall") which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer."

Section 8. Amend subsection 513(a)(4), Chapter 5, Title 13 of the Delaware Code by adding the following after the phrase "to pay directly the cost of health insurance coverage for a child", the phrase "provided, however, that any new or modified order entered in any case brought under Title IV-D of the Social Security Act (42 U.S.C. sec. 651, et seq) shall require either or both parents to provide health insurance coverage for the child or children who are the subjects of the child support;"

Section 9. Amend subsection 513(a)(4)a, Chapter 5, Title 13 of the Delaware Code by adding a new subparagraph "4" to read as follows:

"4. Where an obligor has been ordered to provide health insurance coverage for a child in a case enforced pursuant to Title IV-D of the Social Security Act (42 U.S.C. sec. 651, et seq.), receipt by an employer or successive employer or notice from the Court of the Division of Child Support Enforcement of an order of a Court or administrative agency requiring the obligor to provide health insurance coverage shall operate to enroll the child in the obligor's health insurance plan without regard to any enrollment season restrictions, unless the obligor contests the notice by filing a petition in opposition thereto in the Family Court not later than 10 days after issuance of the notice. The Court or the Division of Child Support Enforcement shall send a copy of the notice to the obligor at the same time it sends notice to the employer."

Section 10. Amend subsection 513(a)(4)a 2, Chapter 5, Title 13 of the Delaware Code by adding after the period the sentence "The Court or administrative order providing for enrollment of the child shall constitute the application for enrollment."

Section 11. Amend subsection 513(a)(4)d 1, Chapter 5, Title 13 of the Delaware Code by adding the word "or" after the semicolon(;) at the end of subparagraph A, deleting subparagraph B in its entirety, and redesignating the current subparagraph "C" as subparagraph "B".

Section 12. Amend subsection 4002(b)(2), Chapter 40, Title 18 of the Delaware Code by adding between the phrase "by the child's other parent" and the phrase "or by a state agency" a comma (,) and the following: "the Family Court,".

Section 13. Amend sub-paragraph (1) of paragraph (b) of §401, Title 13, Delaware Code by striking (1) in its entirety and substituting in lieu thereof the following:

"(1) 'Support order' means a judgment, decree or order, whether temporary, final or subject to modification, for the benefit of a child, a spouse or former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may

include related costs and fees, interest, income withholding, attorney's fees and other relief."

Section 14. Amend §401(b)(2), Title 13, Delaware Code by adding after the word "state" a comma and the following words: "as that term is defined in subsection 601(19) of this Title".

Section 15. Amend §401(b)(5), Title 13, Delaware Code by striking the paragraph in its entirety and substituting in lieu thereof the following:

"(5) 'Child' means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is alleged to be the beneficiary of a support order directed to the parent."

Section 16. Amend §401(b)(6), Title 13, Delaware Code by striking the paragraph in its entirety and substituting in lieu thereof the following:

"(6) 'Obligor' means an individual, or the estate of a decedent:

- a. Who owes or is alleged to owe a duty of support;
- b. Who is alleged but has not been adjudicated to be a parent of a child; or
- c. Who is liable under a support order."

Section 17. Amend §401(b)(7) Title 13, Delaware Code by striking the paragraph in its entirety and substituting in lieu thereof the following:

"(7) 'Obligee' means:

- a. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;
- b. A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or
- c. An individual seeking a judgment determining parentage of the individual's child."

Section 18. Amend paragraph (a) of §404, Title 13, Delaware Code by striking the first sentence and substituting in lieu thereof the following sentence: "Upon the commencement of the income withholding, the obligor shall be notified that the withholding has commenced and of the procedures to follow if the obligor desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact."

Section 19. Amend paragraph (a) of §404, Title 13, Delaware Code by striking in the last sentence the words "equivalent of the filing of a verified notice for the purpose of" and substituting in lieu thereof the phrase "basis for".

Section 20. Amend paragraph (d) of §405, Title 13, Delaware code by adding at the end of the first sentence, before the period, the phrase ", or by any other device specified in subsection (f) of §635 of this Title."

Section 21. Amend §406, Title 13, Delaware Code by adding at the end thereof the following sentence: "In cases brought under Title IV, Part D, of the Social Security Act (42 U.S.C. Sec. 651, et seq.), the Division may order income withholding in accordance with Section 513(b)(12) of this Title, without the necessity of obtaining an order from the Court or any other administrative tribunal."

Section 22. Amend paragraph (a) of §408, Title 13, Delaware Code by striking in the first sentence the phrase "Bureau of Child Support Enforcement" and substituting in lieu thereof the phrase "State disbursement unit".

Section 23. Amend paragraph (a) of §408, Title 13, Delaware Code by striking in the second sentence the word "Bureau" and substituting in lieu thereof the phrase "State disbursement unit".

Section 24. Amend §410, Title 13, Delaware Code by striking in the third sentence the phrase "Bureau of Child Support Enforcement" and substituting in lieu thereof the phrase "State disbursement unit".

Section 25. Amend paragraph (a) of §411, Title 13, Delaware Code by striking the phrase "(b) and (c)" and substituting in lieu thereof the phrase "(b), (c), and (d)".

Section 26. Amend §411, Title 13, Delaware Code by adding a new subsection (d) as follows:

"(d) An employer who receives an income withholding order or notice issued by another State shall apply the income withholding law of the State of the obligor's principal place of employment in determining:

- (1) The employer's fee for processing the income withholder order;
- (2) The maximum amount permitted to be withheld from the obligor's income;
- (3) The time periods within which the employer must implement the income withholding order and forward the child support payment;
- (4) The priorities for withholding and allocating income for multiple child support obligees;
- (5) Any withholding terms or conditions not specified in the order."

Section 27. Amend Chapter 4, Title 13, Delaware Code by adding a new section 412 to read as follows:

"§412. Employer liability.

An employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for a conduct in compliance with the notice."

Section 28. Amend §509, Title 13, Delaware Code by adding the following sentence: "For the purposes of this chapter, the term 'business day' means a day on which State offices are open for regular business."

Section 29. Amend §513(b)(3), Title 13, Delaware Code by striking the word "wages" and substituting in lieu thereof the word "income".

Section 30. Amend §513(b)(3), Title 13, Delaware Code by striking in the first sentence the words "filing of the verified notice" and substituting in lieu thereof the phrase "commencement of the withholding that the withholding has commenced and of the procedures to follow if the obligor desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact".

Section 31. Amend §513(b)(3), Title 13, Delaware Code by adding after the first sentence, as amended, the following new sentence: "The notice shall include the information provided to the obligor's employer pursuant to federal law."

Section 32. Amend §513(b)(3), Title 13, Delaware Code by striking in the second sentence the word "filing" and substituting in lieu thereof the word "notification".

Section 33. Amend §513(b)(3), Title 13, Delaware Code by striking in the fourth sentence the words "verified notice" and substituting in lieu thereof the word "notification".

Section 34. Amend §513(b)(3), Title 13, Delaware Code by striking in the fifth sentence the phrase "either schedule a hearing or immediately issue the attachment" and substituting in lieu thereof the phrase "schedule a hearing, order the termination of the attachment or permit the attachment to continue".

Section 35. Amend §513(b)(3), Title 13, Delaware Code by striking in the sixth sentence the words "filing of the verified notice" and substituting in lieu thereof the word "notification".

Section 36. Amend §513(b)(3), Title 13, Delaware Code by striking the last sentence.

Section 37. Amend §513(b)(5), Title 13, Delaware Code by adding in the first sentence, after the word "any" and before the phrase "form of payment" the word "periodic".

Section 39. Amend §513(b)(5), Title 13, Delaware Code by striking the phrase "made by the obligor's employer" and substituting in lieu thereof the word "due".

Section 40. Amend §513(b)(6), Title 13, Delaware Code by adding after the word "Employer" and before the word "includes" the phrase "has the meaning given such term in section 4301(d) of the Internal Revenue Code of 1986, and includes any governmental entity and any labor organization, as defined in section 2(5) of the National Labor Relations Act, and".

Section 40. Amend §513(b)(8), Title 13, Delaware Code by adding in the first sentence, after the word "sum" a comma and the following words: "which may include a fee, established by the State, to be paid to the employer, unless waived by the employer.".

Section 41. Amend §513(b)(8), Title 13, Delaware Code by striking in the first sentence the word "wages" and substituting in lieu thereof the word "income".

Section 42. Amend §513(b)(8) Title 13, Delaware Code by adding at the end of the first sentence, before the period, a semicolon and the following words: "provided, however, that when an employer receives an income withholding order issued by another State, the employer shall apply the law of the State of the obligor's principal place of employment in determining the factors enumerated in paragraph (d) of §411 of this Title."

Section 43. Amend §513(b)(8), Title 13, Delaware Code by striking in the second sentence the words "14 days from the date of its receipt from the employer" and substituting in lieu thereof the words "7 days after the first pay day following receipt of the wage attachment."

Section 44. Amend §513(b)(12), Title 13, Delaware Code by adding after the first sentence the following new subparagraphs:

"a. In any case enforced under Title IV, Part D, of the Social Security Act (42 U.S.C. Sec. 651, et seq.), and notwithstanding the provisions of the Administrative Procedures Act, Chapter 101 of Title 29, the Division is hereby authorized:

(1) To order income withholding in accordance with this chapter, without the necessity of obtaining an order from any other judicial or administrative tribunal, and shall recognize and enforce the authority of State IV-D agencies of other States to do the same.

(2) To execute an income withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.

b. In cases in which support is subject to an assignment pursuant to part A of Title XIX of the Social Security Act or to a requirement to pay through the State disbursement unit, upon providing notice to the obligor and obligee, the Division may direct the obligor or other payer to change the payee to the appropriate governmental entity."

Section 45. Amend subsection (b) of §513, Title 13, Delaware Code by adding thereto a new paragraph (14) as follows:

"(14) An employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice."

Section 46. Amend paragraph (a) of §516, Title 13, Delaware Code by striking the word "wages" and substituting in lieu thereof the word "income".

Section 47. Amend paragraph (a) of §516, Title 13, Delaware Code by adding thereto the following new sentence: "In any case enforced under Title IV, Part D, of the Social Security Act (42 U.S.C. Sec. 651, et seq.), the income of a person with a support obligation imposed by a support order issued (or modified) in this state before October 1, 1996, if not otherwise subject to withholding under sec. 513 of this chapter, shall, by operation of law become subject to withholding as provided in sec. 513 of this Title if arrearages occur, without the need for a hearing."

Section 48. Amend paragraph (c) of §516, Title 13, Delaware Code by striking the word "wages" in both instances where it occurs and substituting in lieu thereof the word "income".

Section 49. Amend paragraph (c) of §516, Title 13, Delaware Code by striking in the first sentence the word "wages" and substituting in lieu thereof the word "income".

Section 50. Amend §516, Title 13, Delaware Code by adding a new paragraph (h) to read as follows:

"(h) If the defendant has violated the terms of an order for support, and owes arrears, the Court may order the defendant to pay such support in accordance with a plan approved by the Court or the Division. If the defendant is subject to such a plan, and is not incapacitated, the Court may order an unemployed or under-employed defendant to participate in such work activities as may be available under a program operated by a State or private agency as the Court or the Division deems appropriate. In any case in which the Court orders the defendant to participate in work activities, the Court may also order the temporary decrease of support, mediation assistance, job training, peer support, or any other program or intervention it deems necessary to assist the defendant in obtaining or maintaining appropriate employment."

Section 51. Amend §513(f), Chapter 5, Title 13 of the Delaware Code by deleting the existing subsection "(f)" in its entirety and substituting in lieu thereof a new subsection "(f)" to read as follows:

"(f) Each party to a support order shall report any change in his or her current residential address, drivers' license number, telephone number, employer, employer's address, and employer's telephone number to the Family Court, and to 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. §651, et seq.), within five (5) days of when the change occurs. Notice for purposes of enforcing or modifying a child support order shall mean: (a) mailed notice to the last known residential address provided to the Family Court by the party; or (b) upon a showing of diligent efforts to locate a party, mailed notice to the last known employment address provided to the Family Court by the party; provided, however, that where the respondent is a IV-D client as defined by regulation of the Secretary of the Department of Health and Social Services, the Division of Child Support Enforcement shall be the appropriate agent for the receipt of any such notice."

Section 52. Amend §513, Chapter 5, Title 13 of the Delaware Code by adding a new subsection "(g)" to read as follows:

"(g) Every child support order entered under this Chapter or under Chapter 4 or 6 of this Title shall include the name, residential address, social security number, date of birth, drivers' license number, telephone number, employer, employer address, and employer telephone number of each party."

Section 53. Amend §812 Chapter 8, Title 13 of the Delaware Code by adding a new subsection "(e)" to read as follows:

"(e) Every judgment and order determining the existence of the parent-and-child relationship shall include the name, residential address, social security number, date of birth, drivers' license number, telephone number, employer, employer address, and employer telephone number of each party."

Section 54. Amend §1518, Chapter 15, Title 13 of the Delaware Code by adding a new subsection "(h)" to read as follows:

"(h) Every decree granting a petition for divorce or annulment shall include the social security number of each party."

Section 55. Amend §8810, Chapter 88, Title 29 of the Delaware Code by adding a new subsection "(m)" to read as follows:

"(m) The social security number of the applicant shall be included on the application for issuance or renewal of any license, permit, certificate, approval, registration or other similar form of permission or authorization to practice or engage in any profession, occupation, or business of any commission, board or agency named in this section (but not including any license issued on behalf of a non-profit applicant by the Gaming Control Board as set forth in Chapter 15 of Title 28)."

Section 56. Amend §2101, Chapter 21, Title 30 of the Delaware Code by adding at the end thereof the following new sentence: "The social security number of the applicant shall be included on the application for issuance or renewal of any license under this Part."

Section 57. Amend §2711(b), Chapter 27, Title 21 of the Delaware Code by inserting between the word "name," and the phrase "date of birth," as the same appear therein, the phrase "social security number,".

Section 58. Amend §122(a), Chapter 1, Title 13 of the Delaware code by inserting between the phrase "race," and the phrase "birth date" as the same appear in the second sentence of said subsection the following: "social security number,".

Section 59. Amend §3108(a), Chapter 31, Title 16 of the Delaware Code by deleting the period "(.)" at the end of said subsection and inserting in lieu thereof a semi-colon "(:)" and the following: "provided, however, that every death certificate shall include the social security number of the decedent."

Section 60. Amend §520, Chapter 5, Title 13 of the Delaware Code, entitled "Drivers', professional, occupational and business licenses", by redesignating said section as §2216, Chapter 22, Title 13 of the Delaware Code, entitled "Drivers', professional, occupational and business licenses."

Section 61. Amend redesignated §2216, Chapter 22, Title 13 of the Delaware Code by inserting between the words "business" and "licenses" as the same appear in the caption of said section the following: "and recreational".

Section 62. Amend the redesignated §2216(a), Title 13 of the Delaware Code by adding after the phrase "under Chapter 26 or 27 of Title 21," as the same appears therein the following: "a hunting, fishing or trapping license issued or renewed under Chapter 5 of Title 7;"

Section 63. Amend redesignated §2216(f), Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue" and the phrase "and the Director of the Division of Professional Regulation" as the same appear in the first sentence of said subsection the following: "the Director of the Division of Fish and Wildlife,".

Section 64. Amend redesignated Section 2216(b), Title 13 of the Delaware Code by adding between the phrase "the Division of Revenue" and the phrase "and the Division of

Professional Regulation," as the same appear in the fourth sentence of said subsection a comma (,) and the following: "the Division of Fish and Wildlife".

Section 65. Amend redesignated Section 2216(c), Title 13 of the Delaware Code by adding between the phrase "the Division of Revenue" and the phrase "or by any commission, board or agency" as the same appear in the first sentence of said subsection a comma (,) and the following: "the Division of Fish and Wildlife".

Section 66. Amend redesignated Section 2216(d), Title 13 of the Delaware Code by adding between the phrase "the Division of Revenue" and the phrase "or by any commission board or agency" as the same appear in the first sentence of said subsection a comma (,) and the following: "the Division of Fish and Wildlife".

Section 67. Amend redesignated Section 2216(e), Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue" and the phrase "and/or the Director of the Division of Professional Regulation" as the same appear in the second sentence of said subsection a comma (,) and the following: "the Director of the Division of Fish and Wildlife".

Section 68. Amend redesignated Section 2216(g), Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue" and the phrase "and/or the Director of the Division of Professional Regulation" as the same appear in the first sentence of said subsection a comma (,) and the following: "the Director of the Division of Fish and Wildlife".

Section 69. Amend redesignated Section 2216(g), Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue" and the phrase "and/or the Director of the Division of Professional Regulation" as the same appear in the second sentence of said subsection a comma (,) and the following: "the Director of the Division of Fish and Wildlife".

Section 70. Amend redesignated Section 2216(g), Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue" and the phrase "and/or the Director of the Division of Professional Regulation" as the same appear in the third sentence of said subsection a comma (,) and the following: "the Director of the Division of Fish and Wildlife".

Section 71. Amend redesignated Section 2216(g), Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue" and the phrase "and/or the Director of the Division of Professional Regulation" as the same appear in the fourth sentence of said subsection a comma (,) and the following: "the Director of the Division of Fish and Wildlife".

Section 72. Amend redesignated Section 2216(g), Title 13 of the Delaware Code by adding between the phrase "the Division of Revenue" and the phrase "or the Division of Professional Regulation" as same appear at the end of the fourth sentence of said subsection a comma (,) and the following: "the Division of Fish and Wildlife".

Section 73. Amend redesignated Section 2216(i), Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue" and the phrase "or the Director of the Division of Professional Regulation" a comma (,) and the following: "the Division of Fish and Wildlife".

Section 74. Amend redesignated Section 2216(m), Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue" and the phrase "or the Director of the Division of Professional Regulation" a comma (,) and the following: "the Director of the Division of Fish and Wildlife".

Section 75. Amend Section 516(g), Chapter 5, Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue" and the phrase "and/or the Director

of the Division of Professional Regulation" as same appear in the third sentence of said subsection a comma (,) and the following: "the Director of the Division of Fish and Wildlife".

Section 76. Amend Section 516(g), Chapter 5, Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue," and the phrase "and the Director of the Division of Professional Regulation" as same appear in the fourth sentence of said subsection the following: "the Director of the Division of Fish and Wildlife,".

Section 77. Amend Section 516(g), Chapter 5, Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue" and the phrase "and/or the Director of the Division of Professional Regulation" as same appear in the fifth sentence of said subsection a comma (,) and the following: "the Director of the Division of Fish and Wildlife".

Section 78. Amend Section 516(g), Chapter 5, Title 13 of the Delaware Code by adding between the phrase "the Director of the Division of Revenue" and the phrase "and/or the Director of the Division of Professional Regulation" as the same appear in the sixth sentence of said subsection a comma (,) and the following: "the Director of the Division of Fish and Wildlife".

Section 79. Amend Section 516(g), Chapter 5, Title 13 of the Delaware Code by adding between the phrase "the Division of Revenue," and the phrase "or the Division of Professional Regulation." as same appear at the end of the sixth sentence of said subsection the following: "the Division of Fish and Wildlife,".

Section 80. Amend Section 512, Chapter 5, Title 7 of the Delaware Code by adding a new subsection "(d)" to read as follows:

"(d) The provisions of §516(g) and §2216 of Title 13 shall supersede any provisions of this Chapter to the contrary with respect to any matter involving any applicant or licensee under §516(g) or §2216 of Title 13. Any provisions hereof to the contrary notwithstanding, upon receipt of notification from the Family Court pursuant to §516(g) of Title 13 or notice from the Director of the Division of Child Support Enforcement pursuant to §2216 of Title 13 regarding an applicant or licensee, the Department shall: (i) forthwith deny the issuance or renewal of any license under this Chapter, or suspend the same, and (ii) furnish in writing the name and address of such applicant or licensee to all persons authorized to issue licenses under this Chapter."

Section 81. Amend subsection 516(g), Chapter 5, Title 13 of the Delaware Code by striking the phrase "\$520" each time it appears in said subsection and substituting each time in lieu thereof the following: "\$2216".

Section 82. Amend subsection 2707(b)(12), Chapter 27, Title 21 of the Delaware Code by striking the phrase "\$520" as the same appears therein and substituting in lieu thereof the following: "\$2216".

Section 83. Amend section 2717, Chapter 27, Title 21 of the Delaware Code by striking the phrase "\$520" as the same appears therein and substituting in lieu thereof the following: "\$2216".

Section 84. Amend subsection 2732(d), Chapter 27, Title 21 of the Delaware Code by striking the phrase "\$520" each time it appears in said subsection and substituting each time in lieu thereof the following: "\$2216".

Section 85. Amend section 2734, Chapter 27, Title 21 of the Delaware Code by striking the phrase "\$520" as the same appears therein and substituting in lieu thereof the following: "\$2216".

Section 86. Amend subsection 2905(c), Chapter 29, Title 21 of the Delaware code by striking the phrase "\$520" as the same appears therein and substituting in lieu thereof the following: "\$2216".

Section 87. Amend subsection 3912(c), Chapter 39, Title 18 of the Delaware Code by striking the phrase "\$520" as the same appears therein and substituting in lieu thereof the following: "\$2216".

Section 88. Amend subsection 3904(c), Chapter 39, Title 18 of the Delaware Code by striking the phrase “§520” as the same appears therein and substituting in lieu thereof the following “§2216”.

Section 89. Amend subsection 8810(1), Chapter 88, Title 29 of the Delaware Code by striking the phrase “§520” each time it appears in said subsection and substituting each time in lieu thereof the following: “§2216”.

Section 90. Amend section 2101, Chapter 21, Title 30 of the Delaware Code by striking the phrase “§520” each time it appears in said section and substituting each time in lieu thereof the following: “§2216”.

Section 91. Amend §804(a)(6), Chapter 8, Title 13 of the Delaware Code by deleting the comma (,) as the same appears after the phrase “by order of the court” in the first sentence of said subsection and substituting in lieu thereof the following: “or the Division of Child Support Enforcement,”.

Section 92. Amend §811, Chapter 8, Title 13 of the Delaware Code by striking the phrase “court-ordered” from the title of said section and substituting in lieu thereof the following: “court or agency-ordered”.

Section 93. Amend §811(a), Chapter 8, Title 13 of the Delaware Code by deleting the comma (,) as the same appears after the phrase “under this chapter” in the first sentence of said subsection and substituting in lieu thereof the following: “or by the Division of Child Support Enforcement,”.

Section 94. Amend §804(a)(5)d, Chapter 8, Title 13 of the Delaware Code by striking the phrase “presumptive effect” and substituting in lieu thereof the following: “legal effects”.

Section 95. Amend §804(a)(5)e, Chapter 8, Title 13 of the Delaware Code by adding between the phrase “statement of the “ and the phrase “rights and responsibilities” the following: “alternatives to, legal consequences of any,”; and by deleting the word “and” as it appears at the end of said subparagraph.

Section 96. Amend §804(a)(5)f, Chapter 8, Title 13 of the Delaware Code by deleting the word “or” at the end of said subparagraph and substituting in lieu thereof the following: “and”.

Section 97. Amend §804(a)(5), Chapter 8, Title 13 of the Delaware Code by adding a new subparagraph (g) to said subsection to read as follows:

“g. The acknowledgment of both the putative father and the mother that they have been notified, orally and in writing, of each of the items listed in subparagraphs a through f of this subsection before signing the acknowledgment of paternity; or”.

Section 102. Amend §3121(d)(6), Chapter 31, Title 16 of the Delaware Code by striking the period (.) at the end of said subsection and substituting in lieu thereof a semicolon (;) to be followed by the word “and”.

Section 103. Amend §3121(d), Chapter 31, Title 16 of the Delaware Code by adding a new subsection “(7)” to read as follows:

“(7) The acknowledgment of both the putative father and the mother that they have been notified, orally and in writing of each of the items listed in subparagraphs (1) through (6) of this subsection before signing the acknowledgment of paternity.”

Section 104. Amend §3105, Chapter 31, Title 16 of the Delaware Code by re-designating the current subsection “(c)” as subsection “(d)” and by adding a new subsection “(c)” to read as follows:

“(c) The central Office and each branch Office of Vital Statistics shall offer voluntary paternity acknowledgment services, as described in subsections 3121(c) and (d) of this Title, to the mother and putative father of a child born to unmarried parents.”

Section 105. Amend §812(a), Chapter 8, Title 13 of the Delaware Code by striking the phrase "§3121" and substituting in lieu thereof the following: "§§3105 or 3121".

Section 106. Amend §803(4), Chapter 8, Title 13 of the Delaware Code by striking the phrase "§3121" and substituting in lieu thereof the following: "§§3105 or 3121".

Section 107. Amend §804(c), Chapter 8, Title 13 of the Delaware Code by striking the existing subsection "(c)" in its entirety and substituting in lieu thereof a new subsection "(c)" to read as follows:

"(c) An acknowledgment of paternity made and filed pursuant to subsection (a)(5) of this section or sections 3105 or 3121 of Title 16 shall be final, binding, conclusive, and determinative of the child's paternity for all purposes, unless timely rescinded in the manner provided in subsection (c)(1) of this section.

(1) An acknowledgment of paternity made and filed pursuant to subsection (a)(5) of this section or sections 3105 or 3121 of Title 16 may be rescinded by a parent only: (i) by written notice of a claim or defense of nonpaternity made in an action in which the signatory is a party and in which the paternity or nonpaternity of the child is an element of the claim for relief or a defense, but only if such action has been filed in the Family Court within 60 days of the date the acknowledgment of paternity was signed by the parents; or (ii) by written rescission filed with the Office of Vital Statistics and accompanied by the rescinding parent's affidavit showing mailing of a copy of the rescission to the other parent at his or her address as shown on the acknowledgment, within 60 days of the date the acknowledgment of paternity was signed by the parents.

(2) Commencing 60 days from the date on which an acknowledgment of paternity was signed by the parents, the acknowledgment of paternity shall thereafter be final, binding, conclusive, and determinative of the child's paternity for all purposes; provided, however, and subject to the provisions of subsection 812(a) of this Title, an acknowledgment of paternity may be set aside only by order of the court upon a finding of fraud, duress, or material mistake of fact upon a petition brought by either parent in the Family Court. The burden of proof shall be upon the parent bringing such action challenging the acknowledgment of paternity. The legal rights and responsibilities, including child support obligations, of any signatory arising from the acknowledgment of paternity shall not be suspended during the pendency of the challenge, except upon order of the Family Court for good cause shown.

(3) If a party was under 18 years of age on the date that party signed the acknowledgment of paternity, the acknowledgment of paternity shall be final, binding, conclusive and determinative of the child's paternity for all purposes, as described in subsection (c)(2) of this section, commencing 60 days from the date such person has reached 18 years of age, unless timely rescinded in the manner provided in subsection (c)(1) of this section within 60 days from the date such person has reached 18 years of age.

(4) Subject to the provisions of subsections (c)(1), (2) and (3) of this section, the acknowledgment of paternity shall provide the basis for the entry of a child support order without any further proceedings to establish paternity.

(5) Notwithstanding the provisions of this chapter, neither the child nor any person who has not properly filed an acknowledgment of paternity pursuant to this section shall be subject to the final, binding, conclusive and determinative paternity designation created herein.

(6) Notwithstanding the provisions of this chapter and in the event the Family Court determines that a person other than one who acknowledged paternity pursuant to this section is the natural father of the child or children, the Family Court shall declare the prior acknowledgment of paternity void."

Section 108. Amend §809, Chapter 8, Title 13 of the Delaware Code by re-designating the current subsection "(c)" as subsection "(d)" and by adding a new subsection "(c)" to read as follows:

"(c) Upon motion, the court may enter an interim child support order if:

- (1) The respondent has executed an acknowledgment of paternity as provided in §§803(4) or (5) of this Title;
- (2) The respondent has been determined by or pursuant to law to be the child's parent;
- (3) The results of any blood, tissue or other genetic testing ordered under this Chapter, by the Division of Child Support Enforcement, or by a court or administrative agency of another state, or voluntarily submitted to by the parties, and performed by a laboratory meeting the requirements of §804(a)(6) of this title, establish at least a 99% probability of the respondent's paternity of the child; or
- (4) There is other clear and convincing evidence that the respondent is the child's parent."

Section 109. Amend §810, Chapter 8, Title 13 of the Delaware Code by re-designating the current subsections "(h)" and "(i)" and "j" subsection "(i)" and by adding a new subsection "(h)" to read as follows:

"(h) Copies of bills for testing for parentage and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and incurred and that the charges were reasonable, necessary and customary."

Section 110. Amend subsection 601(7), Chapter 6, Title 13 of the Delaware Code by striking the present subsection (7) in its entirety and substituting in lieu thereof the following new subsection (7):

"(7) 'Initiating state' means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this Chapter or a law or procedure substantially similar to this Chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act."

Section 111. Amend subsection 601(16), Chapter 13 of the Delaware Code by striking the present subsection (16) in its entirety and substituting in lieu thereof the following new subsection (16):

"(16) 'Responding state' means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this Chapter or a law or procedure substantially similar to this Chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act."

Section 112. Amend subsection 601(19), Chapter 6, Title 13 of the Delaware Code by striking the present subsection (19) in its entirety and substituting in lieu thereof the following new subsection (19):

"(19) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes:

- (i) An Indian tribe; and
- (ii) A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this Chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act."

Section 113. Amend the descriptive heading for Section 602, Chapter 6, Title 13 of the Delaware Code by striking the word "this" from the caption of said Section.

Section 114. Amend the descriptive heading for Part A, Subchapter II, Chapter 6, Title 13 of the Delaware Code by striking the phrase "Part A." and substituting in lieu thereof the following: "Part 1."

Section 115. Amend the descriptive heading for Part B, Subchapter II, Chapter 6, Title 13 of the Delaware Code by striking the phrase "Part B." and substituting in lieu thereof the following: "Part 2."

Section 116. Amend the descriptive heading for Section 612, Chapter 6, Title 13 of the Delaware Code by striking the word "this" from the caption of said section.

Section 117. Amend subsection 614(a), Chapter 6, Title 13 of the Delaware Code by striking subparagraph (2) of said subsection in its entirety and substituting in lieu thereof the following new subparagraph (2) to read as follows:

"(2) Until all of the parties who are individuals have filed written consents with the tribunal of this State for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction."

Section 118. Amend subsection 614(b), Chapter 6, Title 13 of the Delaware Code by inserting after the phrase "pursuant to" and before the phrase "a law substantially similar to this chapter" the following: "this chapter or".

Section 119. Amend subsection 614(c), Chapter 6, Title 13 of the Delaware Code by striking the phrase "child support order" and substituting in lieu thereof the phrase "child-support order"; and by inserting after the phrase "pursuant to" and before the phrase "a law substantially similar to this Chapter" the following: "this chapter or".

Section 120. Amend subsection 614(d), Chapter 6, Title 13 of the Delaware Code by inserting after the phrase "pursuant to" and before the phrase "a law substantially similar to this chapter" the following: "this chapter or".

Section 121. Amend subsection 614(f), Chapter 6, Title 13 of the Delaware Code by striking the phrase "spousal support order" each time it appears in said subsection and substituting each time in lieu thereof the following: "spousal-support order".

Section 122. Amend subsection 615(c), Chapter 6, Title 13 of the Delaware Code by striking the phrase "spousal support order" each time it appears in said subsection and substituting each time in lieu thereof the following: "spousal-support order".

Section 123. Amend the descriptive heading for Part C, Subchapter II, Chapter 6, Title 13 of the Delaware code by striking the existing descriptive heading in its entirety and substituting in lieu thereof a new descriptive heading to read as follows:

"Part 3. Reconciliation of multiple orders."

Section 124. Amend Section 616, Chapter 6, Title 13 of the Delaware Code by striking the existing Section 616 in its entirety and substituting in lieu thereof a new Section 616 to read as follows:

"§616. Recognition of controlling child-support order.

(a) If a proceeding is brought under this Chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

(b) If a proceeding is brought under this Chapter and two or more child-support orders have been issued by tribunals of this State or another state with regard to the same obligor and child, a tribunal of this State shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and must be so recognized.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this Chapter, an order issued by a tribunal in the current home state of the child controls and must be so recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and must be so recognized.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under this Chapter, the tribunal of this State having jurisdiction over the parties shall issue a child support order, which controls and must be so recognized.

(c) If two or more child-support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this State, a party may request a tribunal of this State to determine which order controls and must be so recognized under subsection (b). The request must be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(d) The tribunal that issued the controlling order under subsection (a), (b), or (c) is the tribunal that has continuing, exclusive jurisdiction under Section 614 of this Title..

(e) A tribunal of this State which determines by order the identity of the controlling order under subsection (b)(1) or (2) or which issues a new controlling order under subsection (b)(3) shall state in that order the basis upon which the tribunal made its determination.

(f) Within 30 days after issuance of the order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order."

Section 125. Amend the descriptive heading for Section 617, Chapter 6, Title 13 of the Delaware Code by striking the phrase "child support orders" and substituting in lieu thereof the following: "child-support orders".

Section 126. Amend §617, Chapter 6, Title 13 of the Delaware Code by striking the phrase "child support orders" and substituting in lieu thereof the following: "child-support orders".

Section 127. Amend the descriptive heading for subsection 620, Chapter 6, Title 13 of the Delaware Code by striking the word "this" from the descriptive heading.

Section 128. Amend subsection 620(b)(4), Chapter 6, Title 13 of the Delaware Code by striking the phrase "part B" and substituting in lieu thereof the following: "part 2".

Section 129. Amend subsection 620(b)(7), Chapter 6, Title 13 of the Delaware Code by striking the phrase "part A" and substituting in lieu thereof the following: "part 1".

Section 130. Amend the descriptive heading for subsection 622, Chapter 6, Title 13 of the Delaware Code by striking the word "this" from the descriptive heading.

Section 131. Amend Section 623, Chapter 6, Title 13 of the Delaware Code by redesignating the existing Section 623 as subsection "(a)" and by adding a new subsection "(b)" to read as follows:

"(b) If a responding State has not enacted this Chapter or a law or procedure substantially similar to this Chapter, a tribunal of this State may issue a certificate or other document and make findings required by the law of the responding State. If the responding State is a foreign jurisdiction, the tribunal may specify the amount of support

sought and provide other documents necessary to satisfy the requirements of the responding State."

Section 132. Amend subsection 624(a), Chapter 6, Title 13 of the Delaware Code by striking in its entirety the phrase "by first class mail" as the same appears therein.

Section 133. Amend subsection 624(b)(1), Chapter 6, Title 13 of the Delaware Code by striking the phrase "child support order" and substituting in lieu thereof the following: "child-support order".

Section 134. Amend subsection 624(c), Chapter 6, Title 13 of the Delaware Code by striking in its entirety the phrase "by first class mail" as the same appears therein.

Section 135. Amend section 625, Chapter 6, Title 13 of the Delaware Code by striking in its entirety the phrase "by first class mail" as the same appears therein.

Section 136. Amend subsection 626(b)(4), Chapter 6, Title 13 of the Delaware Code by striking in its entirety the phrase "by first class mail" as the same appears therein.

Section 137. Amend subsection 626(b)(5), Chapter 6, Title 13 of the Delaware Code by striking in its entirety the phrase "by first class mail" as the same appears therein.

Section 138. Amend the descriptive heading for Section 629, Chapter 6, Title 13 of the Delaware Code by striking the existing descriptive heading in its entirety and substituting in lieu thereof the following new descriptive heading:

"§629. Duties of Division of Child Support Enforcement."

Section 139. Amend §635(c), Chapter 6, Title 13 of the Delaware Code by striking the phrase "child support payments" and substituting in lieu thereof the following: "child-support payments".

Section 140. Amend subsection 640(b), Chapter 6, Title 13 of the Delaware Code by striking the phrase "child support order" and substituting in lieu thereof the following: "child-support order".

Section 141. Amend the descriptive heading for Subchapter V, Chapter 6, Title 13 of the Delaware Code by striking the word "Direct" as the same appears therein.

Section 142. Amend Section 650, Chapter 6, Title 13 of the Delaware Code by striking the existing section 650 in its entirety and substituting in lieu thereof a new Section 650 to read as follows:

"§650. Employer's receipt of income-withholding order of another state.

An income-withholding order issued in another state may be sent to the person or entity defined as the obligor's employer under the income-withholding law of this State without first filing a petition or comparable pleading or registering the order with a tribunal of this State."

Section 143. Amend Chapter 6, Title 13 of the Delaware Code by redesignating the current §651, as "§656" and by adding the following new sections 651, 652, 653, 654, and 655 to read as follows:

"§651. Employer's compliance with income-withholding order of another state.

(a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this State.

(c) Except as otherwise provided in subsection (d) of this Section and Section 652 of this Title, the employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order which specify:

- (1) The duration and amount of periodic payments of current child-support, stated as a sum certain;
- (2) The person or agency designated to receive payments and the address to which the payments are to be forwarded;
- (3) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;
- (4) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and
- (5) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

- (1) The employer's fee for processing an income-withholding order;
- (2) The maximum amount permitted to be withheld from the obligor's income;
- (3) The times within which the employer must implement the withholding order and forward the child support payment.

§652. Compliance with multiple income-withholding orders.

If an obligor's employer receives multiple income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

§653. Immunity from civil liability.

An employer who complies with an income-withholding order issued in another state in accordance with this Chapter is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

§654. Penalties for noncompliance.

An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this State.

§655. Contest by obligor.

(a) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this State in the same manner as if the order had been issued by a tribunal of this State. Section 663 of this Title (Choice of Law) applies to the contest.

(b) The obligor shall give notice of the contest to:

- (1) A support enforcement agency providing services to the obligee;
- (2) Each employer that has directly received an income-withholding order; and

- (3) The person or agency designated to receive payments in the income-withholding order or if no person or agency is designated, to the obligee."

Section 144. Amend the descriptive heading for Part A, subchapter VI, Chapter 6, Title 13 of the Delaware Code by striking the phrase "Part A." from the descriptive heading and substituting in lieu thereof the following: "Part 1."

Section 145. Amend the descriptive heading for Part B, Subchapter VI, Chapter 6, Title 13 of the Delaware Code by striking the phrase "Part B." from the descriptive heading and substituting in lieu thereof the following: "Part 2."

Section 146. Amend subsection 664(a), Chapter 6, Title 13 of the Delaware Code by striking in its entirety the second sentence of subsection, which begins with the phrase "Notice must" and ends with the phrase "law of this State."

Section 147. Amend subsection 664(b)(2), Chapter 6, Title 13 of the Delaware Code by striking in its entirety the phrase "the date of mailing or personal service of the" as the same appears therein.

Section 148. Amend subsection 665(a), Chapter 6, Title 13 of the Delaware Code by striking in its entirety the phrase "the date of mailing or personal service of" as the same appears therein.

Section 149. Amend subsection 665(c), Chapter 6, Title 13 of the Delaware Code by striking the phrase "by first class mail" in its entirety.

Section 150. Amend the descriptive heading for Part C, Subchapter VI, Chapter 6, Title 13 of the Delaware Code by striking the phrase "Part C." from the descriptive heading and substituting in lieu thereof the following: "Part 3."; and by striking the phrase "Child Support Order" from the descriptive heading and substituting in lieu thereof the following: "Child-Support Order."

Section 151. Amend the descriptive heading for Section 668, Chapter 6, Title 13 of the Delaware Code by striking the phrase "child support order" and substituting in lieu thereof the following: "child-support order".

Section 152. Amend Section 668, Chapter 6, Title 13 of the Delaware Code by striking the phrase "child support order" as the same appears in the first sentence of said section and substituting in lieu thereof the following: "child-support order"; and by striking the phrase "part A of this subchapter" as the same appears in the first sentence of said subsection and substituting in lieu thereof the following: "part 1".

Section 153. Amend section 669, Chapter 6, Title 13 of the Delaware code by striking the phrase "child support order" each place the same appears in said section and substituting in lieu thereof in each place the following: "child-support order."

Section 154. Amend section 670, Chapter 6,
title 13 of the Delaware Code by striking the existing section 670 in its entirety and substituting in lieu thereof a new section 670 to read as follows:

"§670. Modification Of Child-Support Order Of Another State.

(a) After a child-support order issued in another state has been registered in this State, the responding tribunal of this State may modify that order only if Section 672 does not apply and after notice and hearing it finds that:

- (1) The following requirements are met:

- (i) The child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) A petitioner who is a nonresident of this State seeks modification; and

(iii) The respondent is subject to the personal jurisdiction of the tribunal of this State; or

(2) The child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this State and all of the parties who are individuals have filed written consents in the issuing tribunal for a tribunal of this State to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this chapter, the consent otherwise required of an individual residing in this State is not required for the tribunal to assume jurisdiction to modify the child-support order.

(b) Modification of a registered child-support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this State and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this State may not modify any aspect of a child-support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child-support orders for the same obligor and child, the order that controls and must be so recognized under Section 616 establishes the aspects of the support order which are nonmodifiable.

(d) On issuance of an order modifying a child-support order issued in another state, a tribunal of this State becomes the tribunal having continuing, exclusive jurisdiction."

Section 155. Amend section 671, Chapter 6, Title 13 of the Delaware Code by striking the phrase "child-support order" and substituting in lieu thereof the following: "child-support order"; and by inserting between the phrase "assumed jurisdiction pursuant to" and the phrase "a law substantially similar" as the same appear in the first sentence thereof the following: "this chapter or".

Section 156. Amend Chapter 6, Title 13 of the Delaware Code by adding the following new sections 672 and 673 to read as follows:

"§672. Jurisdiction to modify child-support order of another state when individual parties reside in this State.

(a) If all of the individual parties who are individuals reside in this State and the child does not reside in the issuing state, a tribunal of this State has jurisdiction to enforce and to modify the issuing state's child-support order in a proceeding to register that order.

(b) A tribunal of this State exercising jurisdiction under this Section shall apply the provisions of Subchapters I and II, this chapter, and the procedural and substantive law of this State to the enforcement or modification. Subchapters III, IV, V, VII, and VIII do not apply.

"§673. Notice to issuing tribunal of modification.

Within 30 days after issuance of a modified child-support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction."

Section 157. Amend subsection 675(a), Chapter 6, Title 13 of the Delaware Code by *inserting* between the phrase "under this chapter or a law" where it appears for the first time and the phrase "substantially similar" as the same appears therein the following "or procedure".

Section 158. Amend §922(a), Title 10 of the Delaware Code by adding a new paragraph (21) as follows:

"(21) Offenses involving the reporting of new hires under §1156A of Title 30.

Section 159. Amend §7930, Title 29 of the Delaware Code by striking said section in its entirety."

Section 160. Amend §519, Title 13 of the Delaware Code by striking said section in its entirety.

Section 161. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Approved July 21, 1997

CHAPTER 217

FORMERLY

HOUSE BILL NO. 257
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 5 AND 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 § 1133, Title 30, Delaware Code, by adding to said section a new subsection (d) to read as follows:

"(d) Real estate investment trusts. An entity that is a real estate investment trust, as defined in § 856 of the Internal Revenue Code of 1986 (26 U.S.C. § 856), as amended, shall not be subject to tax under this chapter."

Section 2. Amend § 1149, Title 30 of the Delaware Code, by striking said section in its entirety.

Section 3. Amend § 1903(a)(1), Title 30 of the Delaware Code, by deleting the phrase "for which foreign tax credit is provided" as it appears in sub-paragraph (1) of said paragraph and substituting in lieu thereof the phrase "on which a foreign tax is paid, deemed paid, or accrued".

Section 4. Amend § 1903(a)(3), Title 30 of the Delaware Code, by striking the word "thereof" as it appears at the end of sub-paragraph (3) and substituting in lieu thereof the following: "thereof. Expenses incurred in connection with such gains and losses shall not be considered in computing the entire net income of the corporation".

Section 5. Amend § 1903(b), Title 30 of the Delaware Code, by inserting after the word "property" as it appears in paragraph (3) of said subsection the phrase ", and expenses incurred in connection with dispositions resulting in such gains and losses,".

Section 6. Amend § 1903(b), Title 30 of the Delaware Code, by inserting after the word "purposes" as it appears in paragraph (4) of said subsection the phrase ", and expenses incurred in connection with dispositions resulting in such gains and losses,".

Section 7. Amend § 1905, Title 30 of the Delaware Code, by adding to said section a new subsection (4) to read as follows:

"(4) Tentative tax declarations and payments are not required for returns for taxable periods of less than 92 calendar days."

Section 8. Amend § 2012(a), Title 30 of the Delaware Code, by inserting after the word "fee" and before the word "imposed" as they appear in said subsection the punctuation and phrase ", other than those set forth in § 2902(c)(4) and § 2905(h) of this title,".

Section 9. Amend § 2301(a), Title 30 of the Delaware Code, by inserting after the word "property" and before the word "under" as they appear in paragraph (6) of said subsection the phrase "located in this State".

Section 10. Amend § 2301(e), Title 30 of the Delaware Code, by inserting in paragraph (6) of said subsection after the first occurrence of the phrase "commercial unit" and before the semicolon immediately following such phrase, the phrase "located in this State".

Section 11. Amend § 1104(c), Title 5, Delaware Code, by deleting from the end of paragraph (4) thereof the words and punctuation “, 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 § 1101(i) of this title for the current and preceding income years”, and substituting in lieu thereof the words and punctuation “; provided, however, that this subparagraph (4) shall not apply in the case of any banking organization, trust company or federal savings bank not headquartered in this State but maintaining branches in this State if such banking organization, trust company or federal savings bank not headquartered in this State but maintaining branches in this State, or any predecessor thereof, had taxable income (as defined in § 1101(a) or § 1101(b) of this title) of \$200,000 or more for any of the three taxable years immediately preceding the taxable year involved”.

Section 12. Amend § 1104(c) of Title 5, Delaware Code, by adding at the end thereof a new paragraph (5), to read as follows:

“(5) Notwithstanding paragraphs (1)-(3) of this subsection, no addition to the tax with respect to any underpayment of estimated tax or any installment shall be imposed, 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 § 1101(i) of this title for the current and preceding income years.”

Section 13. Sections 1 through 10 of this Act are intended to clarify existing law and as such are deemed effective coincident with the effectiveness of the provisions they amend. Sections 11 and 12 shall be effective with respect to estimated tax payments on liabilities for tax years commencing after December 31, 1997. Sections 14 and 15 of this Act shall be effective for qualified facilities placed in service after the date on which this Act is enacted into law.

Section 14. Amend § 2011(a), Title 30, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following new subsection (a) to read as follows:

“(a) Any taxpayer (other than a public utility as defined in Chapter 1 of Title 26, unless such public utility is a provider of telecommunications services as described in §2010(3)(i) of this title) that during any consecutive twelve month period: (i) has placed in service a qualified facility in which such taxpayer has during such period made a qualified investment in an amount equal to or exceeding \$200,000; and (ii) employs 5 or more qualified employees during such period shall (except as otherwise provided in subsection (c) of this section) be allowed a credit against the tax imposed by Chapter 19 of this title for the taxable year in which all conditions set forth in this subsection shall be met and for any of the 9 following taxable years in which such facility is a qualified facility with respect to the taxpayer on the last business day thereof. The amount of such credit for any such year shall be the amount determined under subsection (b) of this section.

Section 15. Amend § 2011(b), Title 30, Delaware Code, by striking paragraph (1) of said subsection and substitute in lieu thereof a new paragraph (1) to read as follows:

“(1) Four hundred dollars multiplied by that number that is the greater of:

(A) the difference between: (i) the number of qualified employees employed by the taxpayer on a date one year after the date on which the qualified facility is placed in service; and (ii) the sum of the number of qualified employees, if any, that were employed by the taxpayer and by any related person on the day immediately preceding the date on which such qualified facility is placed in service by the taxpayer; and

(B) the difference between: (i) the number of qualified employees employed by the taxpayer on a date one year after the date on which occurs the event described in § 2011(a)(ii) of this title; and (ii) the sum of the number of qualified employees, if any, that were employed by the taxpayer and by any related person on the day immediately preceding the date on which occurs the event described in § 2011(a)(ii) of this title; provided in either case that no credit shall be allowable under this paragraph with respect to any qualified employee,

except to the extent that the qualified investment in such qualified facility equals or exceeds \$40,000 per qualified employee; and provided further that no credit shall be allowable under this paragraph with respect to any qualified employee to the extent a credit was claimed by the taxpayer or any related person under this paragraph for such qualified employee with respect to any other qualified facility placed in service in the same or a prior taxable year; plus".

Approved July 23, 1997

CHAPTER 218
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 322

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO
EDUCATION.

BE IT 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 14 of the Delaware Code, by adding thereto a new
section to read:

"§ 4122. Parent's failure to attend school conference with superintendent; subpoena to
compel attendance.

(a) 'Parent' as used in this section means natural parent, adoptive parent, any
person legally charged with the care or custody of a student under 18 years of age, or any
person who has assumed responsibility for the care of a student under 18 years of age.

(b) When a parent fails to attend, participate or respond to a public school or
charter school superintendent's request for a conference to discuss matters involving
alleged violations of school rules or regulations by the parent's child, the public school or
charter school superintendent or the superintendent's designee may request that the
Justice of the Peace Court issue a subpoena to compel the presence of the parent at a
conference with the superintendent.

(c) Prior to the issuance of a subpoena to compel the presence of a parent, the
superintendent or a designee must provide evidence that he or she has:

1. made a reasonable attempt to schedule the conference at a time that does
not conflict with the employment hours of the parent; and

2. sent written notice of the conference by regular United States mail to
the address of record of the parent, which notice shall include the reason for the
conference and a statement that failure to schedule or attend the conference may
result in the issuance of a subpoena.

(d) After verifying that the superintendent or a designee has sent the required
notice, the Justice of the Peace Court may, in its discretion, issue a subpoena pursuant to
Justice of the Peace Civil Rule 18 which shall compel the presence of the parent at a
conference with the superintendent.

(e) If a parent fails to obey a subpoena properly served under this section, the
superintendent may file a motion for an order holding the parent in contempt of court.
The Justice of the Peace Court shall have jurisdiction over this matter. A parent found
guilty of contempt for failure to appear at a conference after receiving a subpoena may be
ordered by the Court to attend school with the student, attend family counseling, and/or
comply with such other conditions as the Court may order.

(f) Proceedings against a parent of a suspended or expelled child may also be
filed pursuant to 14 Del. C. § 2709 for each day that the child is absent beyond the period
of suspension or expulsion without a valid excuse as a result of the parent's failure to

attend or schedule a conference after having received notification of the suspension or expulsion."

Section 2. Amend § 4112, Title 14 of the Delaware Code, by striking § 4112 in its entirety and by substituting in lieu thereof the following:

"§ 4112. Reporting school crimes.

(a) **Definitions.** The following words, terms, and phrases when used in this section shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

1. 'Crime' includes a felony, misdemeanor, or violation defined in the Delaware Code, as well as behavior by a person under 18 years of age which would be considered a felony, misdemeanor or violation if it had been committed by an adult.

2. 'Non-instructional designee' means a school employee whose primary job duty does not include teaching students.

3. 'Notification' means direct contact by telephone, in person, or by certified mail, unless otherwise designated.

4. 'Parent' includes natural parent, adoptive parent, or any person, agency, or institution that has temporary or permanent custody or guardianship over a student under 18 years of age.

5. 'Parent conference' includes a meeting by telephone or in person, unless otherwise designated.

6. 'Principal' means the building principal of any public school or charter school, or the building principal's designee.

7. 'School employee' includes all persons 18 years of age or older hired by a school district, attendance zone, or charter school; subcontractors such as bus drivers or security guards; substitute employees; and persons hired by or subcontracted by other State agencies to work on school property.

8. 'School function' includes any field trip or any officially sponsored public or charter school event in the State of Delaware.

9. 'School property' means any building, structure, athletic field, sports stadium, or real property that is owned, operated, leased, or rented by any public school district or charter school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or charter school, or any motor vehicle owned, operated, leased, rented, or subcontracted by any public school or charter school.

10. 'School volunteer' means a person 18 years of age or older who, without compensation, renders service to a public or charter school. 'School volunteer' includes parents who assist in school activities or chaperone school functions.

11. 'Superintendent' means the superintendent of any public school district or charter school, or the superintendent's designee.

12. 'Suspension' means either an external or an internal removal of a student from the general school population.

13. 'Violent felony' means a crime designated in 11 Del. C. 4201(c).

14. 'Written report' includes printed paper filings and electronic filings that can be printed.

(b) Criminal violation: mandatory reports.

(1) Whenever a school employee has reliable information that would lead a reasonable person to believe that:

(a) a student or a school volunteer has been the victim of

(i) a violent felony,

(ii) an Assault III, or

(iii) an Unlawful Sexual Contact III,

as prohibited by Title 11 of the Delaware Code, which occurred on school property or at a school function; or

(b) a school employee has been the victim of

(i) a violent felony,

(ii) an Assault III,

(iii) an Unlawful Sexual Contact III,

(iv) an Offensive Touching, or

(v) a Terroristic Threatening,

as prohibited by Title 11 of the Delaware Code, which occurred on school property or at a school function,

the school employee who has reliable information that would lead a reasonable person to believe that a crime has been committed shall immediately report the incident to the principal, who shall immediately make reasonable efforts to notify the parents of any juvenile victim and shall conduct a thorough investigation to determine if good reason exists to believe that a crime has been committed. If investigation verifies that good reason exists, the principal must report the incident to the appropriate police agency:

(i) immediately, if the crime is a suspected violent felony; and

(ii) within 3 working days, if the crime is a suspected misdemeanor required to be reported pursuant to subsection (b)(1) of this section.

If the police agency determines that probable cause exists to believe that a crime has been committed, or if the principal later learns that a suspect has been arrested for the offense, then the principal must file a written report of the incident with the superintendent. Thereafter, the superintendent shall, within 5 days, file a written report of the incident with the Department of Public Instruction.

Nothing in this section shall preclude school officials from reporting probable crimes that occur on school property or at a school function which are not required to be reported under this section. Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse set forth in 16 Del. C. § 906 et seq.

(2) Offenders under the age of 9. When a misdemeanor offense listed in subsection (b) of this section has allegedly been committed by a child under the age of 9, the principal is not required to notify the appropriate police agency or to

follow the provisions of subsection (d) of this section, but must file a written report of the incident with the superintendent, who shall file the written report with the Department of Public Instruction within five working days of receiving the report from the principal. The mandatory court filing requirements set forth in subsection (b)(4) of this section do not apply when a misdemeanor offense has been committed by a child under the age of nine. When the alleged offense is a violent felony, the appropriate police agency must be notified of the incident even when the suspect is under the age of nine.

(3) **Sexual Harassment.** Whenever a school employee has reliable information that would lead a reasonable person to believe that a student under the age of 18 has been the victim of Sexual Harassment, as defined in Title 11 of the Delaware Code, which occurred on school property or at a school function, the harassment must be reported to the principal who, immediately after conducting a thorough investigation to determine if good reason exists to believe that harassment has occurred, must notify the victim's parent of that determination if the parent is not alleged to be the offender. The principal is not required to notify the appropriate police agency or to follow the provisions of subsection (d) of this section, but must file a written report with the Department of Public Instruction.

(4) **Mandatory filing of misdemeanor charge with a court when victim is a school employee.** In any instance where probable cause exists to believe that a school employee has been the victim of a misdemeanor set forth in subsection (b)(1)(b) of this section and the offender has been identified, the superintendent, the superintendent's non-instructional designee, or a building-level administrator must, within 3 working days of receiving a police report, file the appropriate misdemeanor criminal charge or charges with a court of proper jurisdiction unless:

- (i) the police agency or the Attorney General's Office recommends against filing a criminal charge or charges;
- (ii) a criminal charge or charges have already been filed;
- (iii) the police have agreed to file a criminal charge or charges; or
- (iv) the offender is under the age of nine.

After making inquiries into the source of the complainant's information and the grounds of the complainant's belief, the court of proper jurisdiction shall have the authority to issue a warrant based on information and belief when the complaint has been signed by a superintendent or by a superintendent's non-instructional designee or by a building-level administrator pursuant to this section.

(c) Student possession of weapons and unlawful drugs: mandatory complaints.

Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in his or her possessions, or placed elsewhere on school property:

- (1) any controlled substance prohibited by Title 16 of the Delaware Code, or
- (2) any deadly weapon, destructive weapon, dangerous instrument, or incendiary or explosive device as prohibited by Title 11 of the Delaware Code,

the school employee shall immediately report the incident to the principal who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall

immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the superintendent. Thereafter, the superintendent shall file a written report of the incident with the Department of Public Instruction within 5 working days.

(d) Suspensions.

(1) Whenever a police agency has determined that probable cause exists to believe that a student has committed a crime which must be reported to the police pursuant to this section, the student shall:

(i) be referred immediately to the internal or external alternative services of the district or school for intervention of an appropriate nature and duration prior to being returned to the general student body, and

(ii) be given an immediate internal or external suspension by the district or school until a parent conference is held to review the student's educational placement.

(2) A student who is placed in an alternative program pursuant to this subsection, and who is determined by a superintendent to be in immediate need of a program to prevent seriously violent or habitual criminal behavior, shall be separated in the alternative program from students for which such a determination has not been made. The superintendent's determination shall include a statement of the recommended degree of separation, keeping in mind the available resources.

(3) Before a student suspended under this subsection may be returned to the general student body, a parent of the suspended student is required to attend a parent conference with the superintendent to discuss the offense and to review the student's educational placement. A telephone conference shall be sufficient only if the superintendent so determines and so notifies the parent. If the parent does not attend the parent conference, a subpoena compelling the parent's attendance may be issued pursuant to 14 Del. C. § 4122.

(4) When a student who has been given an external suspension or who has been sent to an alternative program pursuant to this subsection returns to the general student body at a school where the victim is required to be present, the principal of the school must attempt to notify the adult victim or, if the victim is a juvenile, a parent of the juvenile victim.

(5) Nothing in this subsection shall preclude a school district from imposing a suspension or expulsion beyond the date of a parent conference where otherwise appropriate. Any change of placement of students with qualifying disabilities must comply with applicable federal laws.

(e) Penalties.

Any school employee who fails to report an incident as required by subsection (b) or (c) of this section shall be guilty of a violation and shall be fined not more than \$250 for a first offense and not more than \$500 for a subsequent offense. Justices of the Peace Courts shall have jurisdiction over violations of this section.

(f) Immunity from civil liability; review of criminal complaint.

Any school employee who in good faith provides information to a police agency, a principal, a superintendent, or to the Department of Public Instruction under subsection (b) or (c) of this section shall not be held civilly liable for providing such information.

Prior to lodging any criminal charge against a school employee for providing information pursuant to subsection (b) or (c) of this section to a police agency, a principal, a superintendent, or to the Department of Public Instruction, the Attorney General's Office shall be consulted to determine the appropriateness of the charge.

(g) Confidential list of young student offenders.

Following to the start of each school year, the Department of Public Instruction shall, upon request, provide to the principal of any school a list of the students enrolled in that school for the coming year who committed offenses during the previous year which were reported to the Department of Public Instruction pursuant to this section. The list shall remain confidential and shall be used by the principal only for the purpose of identifying students who may be in need of beneficial programs such as mentoring."

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 July 23, 1997

CHAPTER 219

FORMERLY

HOUSE BILL NO. 271

AN ACT TO AMEND TITLE 16, DELAWARE CODE RELATING TO SMOKE DETECTORS.

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

Section 1. Amend Title 16, Delaware Code, Chapter 66, Section 6631 by renumbering paragraph (e) to (f) and inserting a new paragraph (f) to read as follows:

“(f) When the standards of the State Fire Prevention Regulations and the building codes change with respect to the number and location of smoke detectors in new construction, such standards shall be the minimum to be utilized for determining compliance with this statute for new construction. A listing of all updated standards and their effective dates shall be maintained in the State Fire Marshal’s Office.”

Section 2. Amend Section 6632(a)(1) by striking from “outside each separate sleeping area in the immediate vicinity of the bedrooms; and shall be installed on each additional story of the family living unit, including basements, but excluding crawl spaces and unfinished attics, if nothing is stored or kept in such areas.”; and insert “in accordance with the provisions of the State Fire Prevention Regulations and the building codes in effect at the time of new construction.”

Section 3. Further amend Section 6632 by striking paragraph (a)(2), renumbering (3) to (2), then striking the words “with respect to location as set forth in paragraph (1) of this subsection”, and inserting, “outside each sleeping area in the immediate vicinity of the bedrooms; and shall be installed on each additional story of the family living unit, including basements, but excluding crawl spaces and unfinished attics, if nothing is stored or kept in such area.”

Section 4. Amend Section 6633, paragraph (a) by striking subsection (1) and (2) and inserting a new subsection (1) to read: “Smoke detection devices and systems shall be installed in conformance to the standards of the State Fire Prevention Regulations and the building codes pursuant to the specifications for the individual occupancies or use.”

Approved July 23, 1997

CHAPTER 220

FORMERLY

SENATE BILL NO. 121
AS AMENDED BY SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO SIZE AND
WEIGHT RESTRICTIONS FOR MOTOR VEHICLES.

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

Section 1. Amend §4504(c)(2)c. of Title 21 of the Delaware Code by deleting said section in its entirety and replacing said subparagraph with the following:

"c. Pole, piling, and mill stock haulers may be issued a permit for pole, piling, and mill stock movements. Each permit shall be valid for an individual tractor only."

Section 2. Amend Section 4504(c)(2), Title 21, Delaware Code by deleting subparagraph "(f)" thereof in its entirety, and inserting in lieu thereof the following:

"f. Permits may also be issued for oversize and/or overweight vehicles engaged in ship offloading operations conducted at the Port of Wilmington to designated locations on designated routes within two miles from the property limits of the Port of Wilmington, subject to regulations adopted for this purpose by the Department. The fee for permits issued for this purpose shall be \$900.00 for each ship offloading operation.

g. The Secretary of Transportation is hereby authorized to adopt rules and regulations and to adopt procedures to grant other multi-trip permits for other activities for which such a process is determined to be suitable and reasonable. These regulations and procedures may include the use of on-line and other computer technology, a system for pre-deposit and credit of fees for these permits, and other means of streamlining the permitting process.

h. Multi-trip permits shall not be issued for any purpose not specifically authorized pursuant to subparagraphs a., b., c., d., f., and g. of this paragraph."

Section 3. Amend Section 4504(d), Title 21, Delaware Code by creating a new subsection "(5)" thereof, to read as follows:

"(5) Copies of multi-trip permits issued for Port of Wilmington ship offloading operations, or other multi-trip permits issued pursuant to regulations adopted by the Department of Transportation may be carried in the vehicle in lieu of the original."

Section 4. Sunset Provision. The Department of Transportation shall undertake a study of the multi-trip permitting process during the four years after the enactment of this Act. The study's results shall be reported to the Governor and the General Assembly at the conclusion of this period. The provisions of this Act shall expire on September 30, 2001, unless prior to that time the General Assembly, by further enactment taking into account the results of this study, continues in effect the provisions of this Act.

Approved July 24, 1997

CHAPTER 221

FORMERLY

SENATE BILL NO. 193

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE TO ALLOW FOR EXPANSIONS TO AGRICULTURAL PRESERVATION DISTRICTS WITHIN A THREE-MILE RADIUS OF ESTABLISHED DISTRICTS AND TO CHANGE THE FOUNDATION'S ANNUAL REPORT PERIOD.

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

Section 1. Amend §907(d)(2), Chapter 9, Title 3, Delaware Code, by deleting from subparagraph (2) the words "1-mile" and substituting in lieu thereof the words "3-mile".

Section 2. Amend §904(a)(9), Chapter 9, Title 3, Delaware Code, by deleting from subparagraph (9) the words "September 30" and substituting in lieu thereof the words "June 30".

Approved January 27, 1998

CHAPTER 222

FORMERLY

HOUSE BILL NO. 237
AS AMENDED BY HOUSE AMENDMENT NO. 1

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 2746, Title 21 of the Delaware Code by adding two new sentences at the end of said section to read as follows:

"Notwithstanding any other provision of law to the contrary, it shall not be necessary in any proceeding under this code to produce evidence that a person who has withdrawn blood from a person submitting to a chemical test under this title was qualified to do so as defined in this section. Notwithstanding any other provision of law to the contrary, it shall not be necessary to present the testimony of, or certification by, a person who has withdrawn blood from a person pursuant to this section in order to establish chain of physical custody of such evidence."

Section 2. Amend Section 4177(h)(3), Title 21 of the Delaware Code by adding the phrase "which is necessary to admit such evidence in any proceeding" between the word "section" and the first ",", as they appear in said paragraph.

Section 3. Amend Section 4177(h)(4), Title 21 of the Delaware Code by deleting said paragraph in its entirety and substituting in lieu thereof the following:

"(4) In a criminal proceeding, the prosecution shall, upon written demand of a defendant filed in the proceedings at least 15 days prior to the trial, require the presence of the Forensic Toxicologist, Forensic Chemist, State Police Forensic Analytical Chemist, or any person necessary to establish the chain of custody as a witness in the proceeding. The chain of custody or control of evidence defined in this section is established when there is evidence sufficient to eliminate any reasonable probability that such evidence has been tampered with, altered or misidentified."

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

Section 5. This Act shall become effective immediately upon its enactment into Law and shall apply to all defendants tried or sentenced after its effective date.

Approved January 27, 1998

CHAPTER 223

FORMERLY

HOUSE BILL NO. 240

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO
OSTEOPOROSIS.

WHEREAS the General Assembly hereby finds the following:

(1) Osteoporosis, a bone-thinning disease, is a major public health problem that poses a threat to the health and quality of life to as many as 25 million Americans;

(2) The 1.5 million fractures each year that result from osteoporosis cause pain, disability, immobility, and social isolation, affecting quality of life and threatening people's ability to live independently;

(3) Because osteoporosis progresses silently and without sensation over many years, and many cases remain undiagnosed, its first symptom is often a fracture, typically of the hip, spine, or wrist;

(4) One of two women and one of five men will suffer an osteoporotic fracture in their lifetime;

(5) A woman's risk of hip fracture is equal to her combined risk of breast, uterine, and ovarian cancer;

(6) The annual direct and indirect costs of osteoporosis to the health care system have been estimated to be as high as \$18 billion in 1993, and are expected to rise to \$60-\$80 billion by the year 2020;

(7) Since osteoporosis progresses silently and currently has no cure, prevention, early diagnosis, and treatment are key to reducing the prevalence of and devastation from this disease;

(8) Although a large quantity of public information exists about osteoporosis, that information remains inadequately disseminated and not tailored to meet the needs of specific population groups;

(9) Most people, including physicians, health care providers, and government agencies, continue to lack knowledge in the prevention, detection, and treatment of the disease;

(10) Experts in the field of osteoporosis believe that with greater awareness of the value of prevention among medical experts, service providers, and the public, osteoporosis will be preventable and treatable in the future, thereby reducing the costs of long-term care;

(11) Osteoporosis is a multi-generational issue because building strong bones during youth and preserving them during adulthood may prevent fractures in later life; and

(12) Educating the public and health care community throughout the State about this potentially devastating disease is of paramount importance and is in every respect in the public interest and to the benefit of all residents of the State of Delaware; and

WHEREAS the recommendations of this Act are:

- (1) To create and foster a multi-generational, Statewide program to promote public awareness and knowledge about the causes of osteoporosis, personal risk factors, the value of prevention and early detection, and the options available for treatment;
- (2) To facilitate and enhance knowledge and understanding of osteoporosis by disseminating educational materials, information about research results, services, and strategies for prevention and treatment to patients, health professionals, and the public;
- (3) To utilize educational and training resources and services that have been developed by organizations with appropriate expertise and knowledge of osteoporosis and to use available technical assistance;
- (4) To evaluate existing osteoporosis services in the community and assess the need for improving the quality and accessibility of community-based services;
- (5) To provide easy access to clear, complete, and accurate osteoporosis information and referral services;
- (6) To educate and train service providers, health professionals, and physicians;
- (7) To heighten awareness about the prevention, detection, and treatment of osteoporosis among State and local health and human service officials, health educators, and policy makers;
- (8) To coordinate State programs and services to address the issue of osteoporosis;
- (9) To promote the development of support groups for osteoporosis patients and their families and caregivers;
- (10) To provide lasting improvements in the delivery of osteoporosis health care, thus providing patients with an improved quality of life and society with the containment of health care costs; NOW, THEREFORE:

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

Section 1. Amend Part II of Title 16 of the Delaware Code by adding a new chapter to read as follows:

"Chapter 30. Osteoporosis Prevention and Education Initiative.

§ 3001. Osteoporosis Prevention and Education.

The Secretary of Health and Social Services shall establish, promote, and maintain an osteoporosis prevention and education initiative in order to raise public awareness of the causes and nature of osteoporosis, personal risk factors, the value of prevention and early detection, and options for diagnosing and treating the disease and to educate consumers, health professionals, teachers, and human services providers.

Approved January 27, 1998

CHAPTER 224

FORMERLY

SENATE BILL NO. 217
AS AMENDED BY SENATE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND TITLE 22 OF THE DELAWARE CODE REGARDING RESIDENCY
REQUIREMENTS OF MUNICIPAL EMPLOYEES.

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

Section 1. Amend Title 22 of the Delaware Code by deleting the current section 841 and
replacing it with a new subsection to read as follows:

"§841. Residency Requirements.

Notwithstanding any charter provision, ordinance or other provision to the
contrary, no municipal corporation with a population exceeding 50,000 shall require that,
as a condition of continued employment, an employee who is employed as of the
effective date of this Act, with at least 12 years of service for the municipality be, become
or remain a resident of the municipality during their employment. Notwithstanding any
charter provision, ordinance or other provision to the contrary, no municipal corporation
with a population exceeding 50,000 shall require that, as a condition of continued
employment, an employee who is hired after the effective date of this Act with 15 years
of service for the municipality be; become or remain a resident of the municipality during
their employment."

Approved January 28, 1998

CHAPTER 225

FORMERLY

HOUSE BILL NO. 254

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO GROSS
RECEIPTS TAXES.

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

Section 1. Amend Title 30, §2901(2)(b) of the Delaware Code, by deleting the period
(".") at the end of said subparagraph and by substituting in lieu thereof the following: "; or (vi)
receipts derived from printing contracts awarded by the Department of Administrative Services,
Division of Support Operations."

Section 2. This Act shall become effective on January 1, 1998.

Approved January 29, 1998

CHAPTER 226

FORMERLY

HOUSE BILL NO. 444

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

AN ACT TO AMEND TITLES 17 AND 29 OF THE DELAWARE CODE RELATING TO
DELAWARE DEPARTMENT OF TRANSPORTATION ACQUISITION AND SALE
OF REAL PROPERTY.

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

Section 1. Amend §9505, Title 29, Delaware Code by adding a new sentence at the end of §9505(2) to read as follows:

"The agency shall provide the owner with a copy of the agency's approved appraisal prior to initiation of negotiations for acquisition of the property."

Section 2. Amend §9505, Title 29, Delaware Code by adding new subsections (12) and (13) thereto to read as follows:

"(12) Purchase of title insurance in the acquisition of property by the Department of Transportation shall only be authorized upon written request of the Secretary of the Department with unanimous written approval of the co-chairs of the Joint Finance Committee, the Controller General and the Budget Director.

(13) When State funds are transferred into non State controlled escrow accounts in anticipation of property acquisitions by the Department of Transportation, the Department shall pursue the most cost-effective and timely means of effectuating said transfer of funds. Methods of funds transfer shall include, but not be limited to, the electronic transfer of funds.

Any funds escrowed for such purposes shall be subject to routine audit by the State Auditor."

Section 3. Amend §137, Title 17, Delaware Code, by striking subsection (b), (c) and (d) thereof and replacing it with a new subsection (b) to read as follows:

"(b) When any property heretofore or hereafter acquired by the Department by gift, devise, purchase or condemnation is no longer needed for transportation purposes the Department shall attempt to dispose of the property as follows:

(1) If at the time of the Department's determination to dispose of the property, the property is subject to a revenue producing lease agreement which has been in force for a period of at least five years, the Department shall, in writing, notify the tenant that the property is no longer needed for transportation purposes. Such notice shall inform the tenant of the Department's desire to sell the property, and include a copy of the Department's approved appraisal and a purchase agreement containing the terms and conditions for sale to the tenant. The sale price shall not be less than the approved appraised value. If the tenant elects to purchase the property, the tenant shall execute and return the purchase agreement to the Department within thirty days of such notice. Such notice is not required if the tenant has, in writing, waived any desire to purchase the property, or if the property is subject to multiple leases. Failure of the tenant to respond to the notice within thirty days shall constitute a waiver of the tenant's rights hereunder.

(2) If the provisions of paragraph (1) of this subsection do not apply, or were forfeited through lack of response, or were waived by the tenant, or the tenant fails to comply with the terms and conditions of the purchase agreement, the Department shall, in writing, notify the owner from whom the property was acquired, if the property had been

acquired within the immediately preceding five years, that the property is no longer needed for transportation purposes. In the event that the previous owner is deceased, the Department may proceed with the provisions for sale identified in subsection (3) hereof. Such notice shall inform the prior owner of the Department's desire to sell the property at the approved appraised value, and shall include a copy of the Department's approved appraisal and a purchase agreement containing the terms and conditions for the sale to the prior owner. The sale price shall not be less than the approved appraised value. If the prior owner elects to purchase the property, he/she shall execute and return the purchase agreement to the Department within thirty days of such notice. Such notice is not required if the prior owner has, in writing, waived his/her right to repurchase the property. Failure of the prior owner to respond to the notice within thirty days shall constitute a waiver of their rights hereunder.

(3) If the provisions of paragraphs (1) and (2) of this subsection have been satisfied without sale, the Department shall determine if the property has independent utility and in such cases shall offer the property for sale to the general public at a public auction sale. The Department shall notify the public of the sale by posting a "Notice of Sale" on the property at least two weeks before the sale and by publishing a "Notice of Sale" for at least one day a week for two consecutive weeks in a newspaper having general circulation in the county where the property is located. The "Notice of Sale" shall describe the property to be sold, state the date, time, location of the sale, terms and conditions, and amount of the minimum acceptable bid. The public sale may be conducted by Department personnel or the Department may retain an outside contractor to handle the sale. At the conclusion of the sale, the Department's representative shall announce the name of the highest bidder and the amount of the bid. The Department's representative shall record the results of the sale including the name and amount of the next highest bid. The Department shall have the authority to accept or reject the highest bid as long as such bid is equal to or greater than eighty-five percent of the approved appraised value. The Department shall offer the property for sale at a price not less than eighty-five percent of the approved appraised value and shall reject any bid of a lesser amount. The Department may reject any bid for due cause. If the sale is confirmed and the highest bidder defaults, the Department may proceed to the next highest acceptable bidder. In the event that the Department does not receive an acceptable bid, the public sale shall be deemed concluded and the Department may proceed to market the property for sale in the open market for a price not less than eighty-five percent of the approved appraised value. In the event the property is not sold within twelve months of placing it for sale on the open market, then the Department may proceed to dispose of the property through absolute auction for whatever price can be obtained, subject, however, to unanimous written approval of the selling price from the Secretary of Administrative Services, the Controller General and the Budget Director.

(4) Notwithstanding any other provisions of this section, the Department may determine that the property has minimal independent utility for reasons such as, but not limited to, lack of access, irregular shape, poor topography or hydrology, small size and nominal value (less than \$3,000.00 in the opinion of the Department's Chief Review Appraiser). In such event the Department may, without having to perform an appraisal of the property, sell or otherwise convey such property to an adjoining property owner or an organized community civic association or maintenance association for use as community open space at a price to be negotiated by the parties. In cases where more than one adjoining property owner indicates an interest in purchasing the property, the Department may elect to offer the property for sale via sealed bid to the highest bidder, or to divide the property to accommodate the interests of all interested owners.

(5) Notwithstanding any other provisions of this section, the Department may convey property by direct sale or trade to an owner of other property which is being acquired for transportation purposes. Such sale shall not abridge the provisions of paragraphs (1) and (2) of this subsection. The Department shall receive in return a price and/or compensatory property valued at not less than the approved appraised value.

(6) Notwithstanding any other provisions of this section, the Department may convey property by direct sale to a public utility company when such property is needed for public utility purposes, provided the Department receives in return a price not less than the approved appraised value.

(7)(a) Notwithstanding any other provisions of this section, the Department may convey property to other governmental entities for public purposes, on terms acceptable to the Department and other agency.

(b) Notwithstanding any other provisions of this section or the provisions of Chapter 9, Title 3, the Department may convey property to the Delaware Agricultural Lands Preservation Foundation on terms acceptable to the Department and the Foundation.

(c) Notwithstanding any other provisions of this section or the provisions of Chapter 75, Title 7, the Department may convey property to the Delaware Open Space Council on terms acceptable to the Department and the Council.

(8) As used in this subsection, "approved appraised value" shall mean:

(a) When the estimated value of the property is not more than \$10,000, an appraisal performed by a qualified Department employee or qualified independent appraiser, reviewed and approved by a qualified Department review appraiser; or

(b) When the estimated value of the property exceeds \$10,000, an appraisal performed by a qualified independent appraiser, reviewed and approved by a qualified Department review appraiser.

(9) Property rights disposed of pursuant to this Section may be in fee simple absolute or such lesser interest as the Department may deem appropriate.

(10) 'Notice', as required in paragraphs (1) and (2) of this subsection, shall be sent by certified mail, return receipt requested, addressed to the tenant or previous owner at the last known postal address obtained after diligent inquiry. If after diligent inquiry a postal address cannot be found, the Department shall publish a notice for at least one day a week for two (2) consecutive weeks in a newspaper having general circulation in the county in which the property is located. Such published notice shall set forth the name or names of the tenant or previous owner to whom it is directed, that the Department desires to sell the property, a brief description of the property to be sold, and the date by which the Department must receive a response. The return receipt of the notice, whether signed, refused or unclaimed, or a copy of the published newspaper notice shall be held and considered to be *prima facie* evidence of the service of the notice.

(11) The Department shall provide to the Governor and the General Assembly on or before December 31 of each year, a report identifying by size and location all properties being held for projects, properties deemed surplus or excess properties, dates of acquisition, purchase price, previous owner, date the property was determined to be excess and/or surplus, dates and nature of actions undertaken to dispose of such surplus/excess properties and approximate fair market value of each. If properties are deemed non-marketable they shall be identified as such. The report shall further identify all properties disposed of during the previous year by size and location, date of disposition, appraised value if appraised, amount received from disposition and name of the purchaser(s) or owners, including, but not limited to equitable owners."

Section 4. The State Treasurer, in cooperation with the development of the Integrated Management System (IMS), shall actively pursue the automation of the Electronic Funds Transfer (EFT) component of the system. At such time as the automated EFT component of IMS is activated, the Department of Transportation shall utilize such transfer capability unless it is deemed less cost efficient than alternative means of funds transfers.

Approved February 4, 1998

CHAPTER 227

FORMERLY

HOUSE BILL NO. 467

AN ACT TO AMEND CHAPTER 150, VOLUME 71, DELAWARE LAWS; APPROPRIATING GENERAL FUNDS; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURES FOR SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS OF THE LAWS OF DELAWARE AND THE DELAWARE CODE.

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. It is the intent of the General Assembly that a portion of the MCI/Equipment appropriation to the Department of Public Safety contained in the Section 1 Addendum in Chapter 150, Volume 71, Laws of Delaware, may be utilized to complete the State Police Firing Range.

Section 2. Amend §5805(i), Title 29, Delaware Code, by deleting that subsection in its entirety.

Section 3. Amend 71 Del. Laws, Chapter 150, Section 75 by striking the second sentence of subsection (3) in its entirety.

Section 4. It is the intent of the General Assembly that the Budget Director and Controller General shall have the authority to transfer up to one million two hundred thousand dollars (\$1,200,000) from the Department of Transportation, Engineering and Contingencies Account (55-05-00-57-00) to a new State Infrastructure Bank Account (55-05-00-70-01) to allow for the establishment of the federally sanctioned State Infrastructure Bank.

Section 5. Notwithstanding any other provision under Delaware Law to the contrary, including but not limited to Title 29 Delaware Code, Chapter 94 and Title 17 Delaware Code, Chapter 1 and Chapter 13, the Secretary of the Department of Administrative Services may negotiate the disposition and convey 3 parcels of State-owned land on behalf of the State of Delaware and the Delaware Department of Transportation bounded by 12th, King, and Walnut Streets in the City of Wilmington, constituting the parking lot for the Wilmington Courthouse. Such disposition and the use of any proceeds from the sale shall be subject to the approval of the New Castle County Courthouse Executive Committee established by 71 Laws of Delaware, Chapter 150, Section 35(c).

Section 6. Amend 71 Delaware Laws, Chapter 150, Section 22 by adding a sentence at the end of said section to read as follows:

"This Section shall not preclude local school districts from providing student access to e-mail with local discretionary funds either through their own e-mail server or through a contract with the Office of Telecommunications Management (OTM). OTM shall provide a written report to the Joint Legislative Committee on the Capital Improvement Program by June 1, 1998 which shall include, but not be limited to, the number of schools participating in either local or OTM services for e-mail, acceptable use policies, monitoring capabilities, and security."

Section 7. Amend 71 Del. Laws, Chapter 150, Section 97, by striking said section in its entirety and substituting in lieu thereof the following:

"Section 97. Channin Elementary Planning. Pursuant to the provisions of Chapter 6 of Title 14, Delaware Code or of Chapter 63 of Title 29, Delaware Code and any other provision of the law applicable it is the intent of the General Assembly that \$275,000 be appropriated from the Capital Investment Fund held in the State Treasurer's Office (12-05-03 - FY 1997, Appropriation 8700) for an advanced planning loan to Brandywine School District, hereinafter

known as the "receiving district" in order to plan the renovations of Channin Elementary building to provide an appropriation in-state facility for alternative placements.

Upon completion of such renovations, the receiving district shall charge each sending district an amount necessary to ensure repayment of the local share of all loans or debt service incurred due to borrowed funds through the issuance of general obligation bonds of the State. It is the intent of the General Assembly that funding for this project shall be 70% State share and 30% local share."

Section 8. Amend Section 41 (a), Volume 70, Chapter 210, Laws of Delaware, by striking the second sentence in its entirety and substituting in lieu thereof the following:

"The Corporation shall be governed by a Board of Directors which shall include the Governor, the Senate President Pro Tempore, the Speaker of the House, Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program, the County Executive of New Castle County, the President of the Wilmington City Council, the Mayor of the City of Wilmington, a member appointed by the Major of the City of Wilmington, and six additional members with economic development expertise who shall be appointed by the Governor. The member appointed by the Mayor of the City of Wilmington shall be selected from among private citizens active in the non-profit community and/or residential organizations in the City of Wilmington who shall also serve as the Chairperson of any Community Advisory Board established by the Riverfront Development Corporation Board of Directors."

This section shall be effective March 31, 1998.

Section 9. There is hereby appropriated a sum of five million two hundred seventy-nine thousand dollars (\$5,279,000) from the General Fund to the Department of Administrative Services, Division of Facilities Management (30-05-10) for the completion of the Delaware Public Archives Facility.

Section 10. There is hereby appropriated a sum of six million dollars (\$6,000,000) from the General Fund to the Department of Transportation, Transportation Trust Fund, Engineering and Contingencies (55-05-00-57-00) to accelerate the completion of critical transportation projects throughout the State. Funds appropriated in this section shall be utilized for the following projects:

Route 7 and Churchman's Road

Naaman's Road

Scarborough Road in Dover

SR 404 in Bridgeville

Route 141, Paving and Rehabilitation

Section 11. 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, 2000.

Approved February 4, 1998

CHAPTER 228

FORMERLY

HOUSE BILL NO. 256

AN ACT TO AMEND CHAPTER 39, TITLE 18, DELAWARE CODE RELATING TO PROHIBITION AGAINST PREMIUM INCREASES IN CERTAIN CIRCUMSTANCES AND CANCELLATION OR NONRENEWAL OF AUTOMOBILE POLICY.

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

Section 1. Amend § 3904(a)(7)a., Title 18, Delaware Code by deleting said paragraph in its entirety and inserting in lieu thereof the following:

"Has, within the 36 months prior to the notice of cancellation or nonrenewal, had a driver's license under suspension or revocation, except a child whose license has been revoked or suspended pursuant to § 1009 of Title 10, or whose license had been revoked or suspended pursuant to § 904 of Title 4, or had a driver's license under suspension or revocation for a non-driving-related drug offense pursuant to § 2707(b)(11), or § 4177K of Title 21; or".

Section 2. Amend § 3912(a), Title 18, Delaware Code by deleting the numbers "937" after the "\$" and before the word "of" and insert in lieu thereof "1009 of Title 10".

Section 4. Amend § 3912(c), Title 18, Delaware Code by re-lettering said subsection (c) to subsection (d) and adding a new subsection (c) to read as follows: "No premium may be increased on any contract of casualty insurance based on a named insured or any other operator who either resides in the same household or customarily operates an automobile insured under such policy being revoked or suspended pursuant to § 904 of Title 4".

Approved February 5, 1998

CHAPTER 229

FORMERLY

HOUSE BILL NO. 366

AN ACT TO AMEND CHAPTER 91, TITLE 16, OF THE DELAWARE CODE REGARDING
REGULATION OF MANAGED CARE ORGANIZATIONS

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

WHEREAS, certain Managed Care Organizations are being developed that are different in organizational structure than Health Maintenance Organizations; and

WHEREAS, a great number of Managed Care Organizations currently do not consider themselves Health Maintenance Organizations; and

WHEREAS, it is the intent of the legislature that the State provide the same oversight for all Managed Care Organizations, whether or not they are Health Maintenance Organizations; and

WHEREAS, the Insurance Department has the authority to regulate Managed Care Organizations in several Chapters of Title 18, rather than just Chapter 64; and

WHEREAS, there may be Managed Care Organizations that, in the judgment of the Insurance Commissioner do not engage in the business of insurance and therefore do not need a certificate of authority from the Insurance Department, but would engage in the practice of managed care as defined in this chapter and do need a certificate of authority from Delaware Health and Social Services.

NOW THEREFORE:

BE IT ENACTED by the House of Representatives of the 139th General Assembly of the State of Delaware

Section 1. Amend Title 16, Chapter 91, Delaware Code by striking the phrase "Health Maintenance Organization" as it appears in each instance therein and inserting the phrase "Managed Care Organization" in lieu thereof.

Section 2. Amend §9101, Title 16 of the Delaware Code by striking the phrase "the provisions of Chapter 64 of Title 18, and any chapters specified in §6406 of Title 18." as it appears in said section and inserting the phrase "and the relevant provisions of Title 18." in lieu thereof.

Section 3. Amend (2) §9102, Title 16 of the Delaware Code by striking the phrase "§9104 of this title and under Chapter 64 of Title 18, or which is operating pending action on an application as provided is subsection (b) of §9103 of this title and subsection (b) of §6403 of Title 18." as it appears in said subsection and inserting the phrase "this title and certificate of authority from the Insurance Department under the relevant provisions of Title 18 or a statement from the Insurance Department that the Insurance Department certificate of authority is not required." in lieu thereof.

Section 4. Amend (a) §9103, Chapter 16 of the Delaware Code by striking the phrase "under Chapter 64 of Title 18." as it appears in said subsection and inserting the phrase "a certificate of authority from the Insurance Department under the relevant provisions of Title 18 or a statement from the Insurance Department that the Insurance Department certificate of authority is not required." in lieu thereof.

Section 5. Amend (b) §9103, Chapter 16 of the Delaware Code by striking said subsection in its entirety and renumbering subsection (c) §9103 as subsection (b) §9103.

Section 6. Amend (a)(5) §9109, Chapter 16 of the Delaware Code by striking the phrase "pursuant to Chapter 64 of Title 18." as it appears therein, and inserting the phrase "under the relevant provisions of Title 18, or a statement from the Insurance Department that a certificate of authority is not required." in lieu thereof.

Section 7. Amend (d) §9112, Chapter 16 of the Delaware Code by striking said subsection in its entirety.

Section 8. Amend (b) §9115, Chapter 16 of the Delaware Code by striking the phrase "Delaware Health Maintenance Organization Act" or the "Delaware HMO Act" as it appears in said subsection and inserting the phrase "Delaware Managed Care Organization Act" or the "Delaware MCO Act" in lieu thereof.

Approved February 5, 1998

CHAPTER 230

FORMERLY

SENATE BILL NO. 69

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

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO PERSONS PROHIBITED.

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

Section 1. Amend § 1448(a), Title 11, Delaware Code by inserting after the words "a deadly weapon" and before the words "within the State" the words "or ammunition for a firearm".

Section 2. Amend § 1448 (c), Title 11, Delaware Code by inserting after the word "firearm" the words "or ammunition for a firearm".

Section 3. Amend § 1448(b), Title 11, Delaware Code by inserting after the words "controls a deadly weapon" and before the words "while so prohibited" the words "or ammunition for a firearm" and by inserting after the words "possession of a deadly weapon" and before the words "by a person" the words "or ammunition for a firearm".

Section 3. Amend Section 1448(c), Title 11, of the Delaware Code by inserting at the end of the original the following:

"As used herein, the word 'ammunition' shall mean one or more rounds of fixed ammunition designed for use in and capable of being fired from a pistol, revolver, shotgun or rifle but shall not mean inert rounds or expended shells, hulls or casings."

Section 4. Amend § 1448(d), Title 11, Delaware Code by inserting after the words "controlling a deadly weapon" and before the words "if 5 years" the words "or ammunition for a firearm".

Section 5. Amend § 1448(e), Title 11, Delaware Code by inserting after the words "controls a firearm" and before the words "while so prohibited" the words "or ammunition for a firearm."

Approved February 5, 1998

CHAPTER 231

FORMERLY

SENATE BILL NO. 164

AN ACT TO AMEND CHAPTER 69, TITLE 10, OF THE DELAWARE CODE RELATING TO APPEALS IN HABEAS CORPUS CASES.

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

Section 1. Amend §6909, Title 10 of the Delaware Code, by adding the following sentence at the end of subsection (a):

"Any order entered upon a petition for a writ of habeas corpus discharging the prisoner from custody or otherwise granting relief to the prisoner may be appealed by the State to the Delaware Supreme Court."

Approved February 5, 1998

CHAPTER 232

FORMERLY

SENATE BILL NO. 202

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO UNPAID
KENT COUNTY SEWER SERVICE CHARGES.

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

Section 1. Amend §4511(b), Chapter 45, Title 9, Delaware Code by striking the number
"5" as it appears in the first sentence thereof and substituting in lieu thereof the number "2".

Approved February 5, 1998

CHAPTER 233

FORMERLY

SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 231

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, 1995" and ending with the number "\$6.21"
and inserting immediately after the words "Effective January 1, 1998.....\$6.58" the following:

"Effective January 1, 1999.....\$6.97 per unit

Effective January 1, 2000.....\$7.39

Effective January 1, 2001.....\$7.83"

Section 2. Amend §131(b)(2), Title 23, Delaware Code, by striking the language
commencing with the words "Effective January 1, 1995 and ending with the number "\$6.21" and
inserting immediately after the words "Effective January 1, 1998.....\$6.58" the following:

"Effective January 1, 1999.....\$6.97 per unit

Effective January 1, 2000.....\$7.39

Effective January 1, 2001.....\$7.8

Approved February 5, 1998

CHAPTER 234

FORMERLY

SENATE BILL NO. 81

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO MINORS
AND UNIFORM CONTROLLED SUBSTANCES.

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

Section 1. Amend Title 16 of the Delaware Code by adding a new section to read as follows:

"§4761A. Purchase of drugs from minors; penalties.

(a) Except as authorized by this chapter:

(1) Whoever knowingly purchases a controlled substance or counterfeit controlled substance listed in Schedule I or II which is a narcotic drug from a person under 18 years of age is guilty of a class C felony.

(2) Whoever knowingly purchases any other controlled substance or counterfeit controlled substance which is a nonnarcotic drug classified in Schedule I, II, III, IV or V from a person under 18 years of age is guilty of a class E felony.

(3) In any prosecution for violation of paragraph (1) of this subsection, when the person from whom the narcotic drug has been purchased is under the age of 16, there shall be a mandatory minimum term of imprisonment of 1 year, which 1 year mandatory minimum term shall not be subject to suspension and no person shall further be eligible for probation or parole during said 1 year mandatory minimum term; when the person from whom the narcotic drug has been purchased is under the age of 14, there shall be a mandatory minimum term of imprisonment of 2 years which 2 year mandatory minimum term shall not be subject to suspension and no person shall further be eligible for probation or parole during said 2 year mandatory minimum term.

(4) In any prosecution for violation of paragraph (2) of this subsection, when the person from whom the nonnarcotic drug has been purchased is under the age of 16, there shall be a mandatory minimum term of imprisonment of 6 months, which 6 months mandatory minimum term shall not be subject to suspension and no person shall further be eligible for probation or parole during said 6 months mandatory minimum term; when the person from whom the nonnarcotic drug has been purchased is under the age of 14, there shall be a mandatory minimum term of imprisonment of 1 year, which 1 year mandatory minimum term shall not be subject to suspension and no person shall further be eligible for probation or parole during said 1 year mandatory minimum term.

(b) Whenever in this section the criminality of conduct or particular sentence depends on a person's age, it is no defense that the actor did not know the person's age, or reasonably believed the person to be older than age 14, 16 or 18, as the case may be.

(c) Nothing in this section shall be construed to preclude or limit any prosecution or conviction for a violation of this chapter or any other provision of law; and a conviction under this section shall not merge with a conviction for the violation of any other provision of this chapter or other provision of law."

Approved February 5, 1998

CHAPTER 235

FORMERLY

SENATE BILL NO. 239
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE PERTAINING TO THE
ACQUISITION OF REAL PROPERTY BY THE DEPARTMENT OF
TRANSPORTATION.

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

Section 1. Amend Section 137(a), Title 17, Delaware Code redesignating subsection (a) as "(a)(1)" and creating a new subsection "(a)(2)" to read as follows:

"(a)(2) The acquisition of real property by the Department after approval of the preferred alternative for new corridors or expansion of existing corridors by the Council on Transportation, or as a part of the Department's Corridor Capacity Preservation Program, shall be reviewed by a committee consisting of the Secretary of the Department of Transportation, the Secretary of the Department of Agriculture, the Director of the Delaware Economic Development Office, the Governor's Chief of Staff, a member of the Senate designated by the President Pro Tempore of the Senate, a member of the House of Representatives designated by the Speaker of the House of Representatives, a member of the public designated by the President Pro Tempore of the Senate and a member of the public designated by the Speaker of the House of Representatives to determine the consistency of such action with the State's overall goals for land use planning. If it determines that the acquisition will be inconsistent with State planning goals, the committee may disapprove the acquisition."

Section 2. Amend Section 137(a), Title 17, Delaware Code by creating a new subsection "(a)(3)" to read as follows:

"(a)(3) The Department shall provide to the Governor and General Assembly, on or before December 31 of each year, a report identifying all properties acquired in the preceding twelve month period in connection with acquisitions made pursuant to subsection (a)(2) of this Section."

Section 3. Amend §137(a)(1), Title 17 of the Delaware Code by adding the following to the end of said subparagraph:

"This subparagraph may not be utilized to acquire real property for a new corridor, expansion of existing corridors or as part of the Department's Corridor Capacity Preservation Program unless the approvals required pursuant to subparagraph (a)(2) of this section have been acquired."

Approved February 10, 1998

CHAPTER 236

FORMERLY

HOUSE BILL NO. 39

AN ACT TO AMEND CHAPTER 41, TITLE 14 OF THE DELAWARE CODE RELATING TO STUDENTS WHO HAVE BEEN EXPELLED FROM PUBLIC SCHOOL.

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

Section 1. Amend §4130, Chapter 41, Title 14 of the Delaware Code by adding, at the end of subsection (a), the following sentence:

"In any case where a student is expelled from a school located in another state, the expelled student shall not be permitted to enroll in any school district in this State until after the full period of expulsion from the other state's school district has expired."

Section 2. Amend §4130, Chapter 41, Title 14 of the Delaware Code by striking the words "if in this State," as the same appear in subsection (b).

Section 3. Amend §4130, Chapter 41, Title 14 of the Delaware Code by re-designating present subsection (c) as new subsection (d); by re-designating each succeeding subsection accordingly; and by adding thereto a new subsection (c), which shall read as follows:

"(c) Any student who has been expelled from a public school in this State or in any other state shall, prior to enrollment in any public school in this State, completely fulfill the terms of that expulsion."

"Section 4. Amend newly designated subsection (d) of §4130, Chapter 41, Title 14 of the Delaware Code, by striking the phrase "(a) and (b)" and by substituting in lieu thereof the phrase "(a), (b), and (c)".

"Section 5. Amend §4130(b) of Title 14 of the Delaware Code by striking the phrase "last school district" and by substituting in lieu thereof the phrase "public school district."

Approved February 10, 1998

CHAPTER 237

FORMERLY

HOUSE BILL NO. 216

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE UNEMPLOYMENT COMPENSATION ADVISORY COUNCIL.

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

Section 1. Amend Section 3107(c)(2), Subchapter 1, Chapter 31, Title 19 of the Delaware Code by deleting the words "Small Business Committee of the State House of Representatives" and substituting in lieu thereof the words "Business/Corporations/Commerce Committee of the State House of Representatives".

Approved February 10, 1998

CHAPTER 238

FORMERLY

HOUSE BILL NO. 343

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO
RESIDENTIAL HEATING SYSTEMS.

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

Section 1. Amend Title 6 of the Delaware Code by adding thereto a new Chapter 34 to
read:

"Chapter 34. Contracts for Providing Service and Fuel for Residential Heating Systems.

§ 3401. Definitions.

As used in this Chapter:

(a) 'Residential heating fuel' includes natural gas, propane, fuel oil, wood,
and electricity.

(b) 'Residential heating system' means all equipment necessary for the
storage and transmission of residential heating fuel and the conversion thereof to
energy for the purpose of heating a residence and/or heating hot water to be used
in the residence.

(c) 'Energy service company' means any person engaged in the sale of
residential heating fuel and/or the service of residential heating systems.

(d) 'Energy service agreement' means a contract between a homeowner
and an energy service company by which the energy service company is to
provide residential heating fuel to the homeowner's home and/or service the
residential heating system.

(e) 'Person' means any individual, partnership, corporation, trustee, or
other entity having the capacity to enter into a valid and enforceable contract.

§ 3402. Mandatory Provisions for Energy Service Agreements.

(a) An energy service agreement must contain the following provisions:

(i) all charges associated with the commencement of the services
provided by the energy service company, listed with specificity;

(ii) all charges associated with the termination of the services
provided by the energy service company, listed with specificity;

(iii) that the energy service company will, after the energy service
agreement has been in effect for at least one year and at the written request
of the homeowner, sell the residential heating system equipment installed
on the premises and owned by the energy service company to another
energy service company designated in writing by the homeowner. The
purchase price of the residential heating system equipment sold pursuant
to the preceding sentence shall be no more than the actual cost of
equipment at the time of sale, plus installation costs incurred at the time of
installation; and

(iv) notice that sale of the residence, whether voluntary or
involuntary, shall be deemed a termination of the energy service

agreement by the homeowner, and notice of the homeowner's notice obligations under § 3403(a).

(b) An energy service company may not demand from the homeowner payment of any charges not specified in the energy agreement pursuant to the above provisions.

(c) Except as provided in this section, an energy service agreement may contain any provisions mutually agreeable to an energy service company and a homeowner. Nothing in this section shall require an energy service company to enter into an energy service agreement with any homeowner.

§ 3403. Provision of Information to Purchasers of Residences.

(a) When the owner of any residence subject to an energy service agreement enters into a contract for the sale of such residence, the owner must provide the energy service company with notice thereof at least thirty (30) days prior to settlement.

(b) No later than fifteen (15) days prior to the scheduled settlement, the energy service company shall provide to the prospective purchaser a copy of any agreement the energy service company proposed to have the purchaser sign as a condition to the continuation of the energy service company's services after the sale.

(c) This fifteen (15) day notice period may be waived only by the prospective purchaser, and then only in writing signed by the purchaser acknowledging the purchaser's understanding of entitlement to fifteen (15) days to consider any proposed energy service agreement.

(d) If the energy service company fails to comply with § 3403(b) and the purchaser does not waive in writing such non-compliance, then, unless the purchaser agrees otherwise, the energy service company shall be required to remove the residential heating system equipment owned by the energy service company from the premises. Removal of the residential heating system equipment shall be, except as provided below, at the energy service company's expense and shall be completed within thirty (30) days after the sale; provided, however, that no energy service company shall be permitted to remove any equipment or refuse to supply fuel between the months of October and April unless the owner waives this restriction in writing. If the new owner refuses to enter into a contract with the energy service company and refuses to provide the written waiver to remove the equipment, the use of the equipment and supply of the fuel shall be billed to the new owner, at the energy service company's regular rates, on a monthly basis until such time as the equipment may be removed in compliance with the terms of this subsection.

§ 3404. Limitation of Liability Upon Transfer of Residential Heating System Equipment.

If the owner of a residence requires the settlement of residential heating system equipment pursuant to the provision of § 3402(a)(iii) above, the purchasing energy service company shall perform such inspection of the residential heating system equipment as it deems appropriate. The sale may be completed only if the purchasing energy service company gives the owner of the residence a written certification that the equipment to be purchased has been properly installed and is in good working order. If upon inspection, the condition of the residential heating equipment is not to the satisfaction of the purchasing energy service company, the purchasing energy company shall give the homeowner a list of conditions or repairs needed. The purchasing energy service company may refuse to complete the purchase if such repairs or conditions are not met. At or before the sale of such residential heating system equipment, the purchasing energy service company shall give the selling energy service company a written release of all liability arising out of or relating to the sale of, installation of, service of or provision

of fuel for such residential heating system equipment. The selling energy service company may refuse to complete the sale absent such release.

§ 3405. Private Rights of Action.

This chapter does not afford any person or any energy service company a private rights of action for damages or recession of the agreement of sale for the residence, and no such right of action shall be implied from any of its provisions, except that (a) an energy service company may bring an action in any court of competent jurisdiction to recover removal costs from a homeowner pursuant to § 3403(d) and (b). The Court of Chancery may enforce the provisions of this chapter by appropriate orders."

Approved February 10, 1998

CHAPTER 239

FORMERLY

HOUSE BILL NO. 426

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

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO DELAWARE
INSURANCE LAW PERTAINING TO CORPORATE OWNED LIFE INSURANCE.

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

Section 1. Amend § 702(c), Chapter 7, Title 18, Delaware Code by striking said subsection in its entirety, and substituting in lieu thereof the following:

“(c) (1) There shall be paid a tax at the rate of 1-3/4% on net premiums as shown on reports required to be filed under Subsection (a) on this section.

(2) In lieu of paragraph (1) above, there shall be paid a tax on a graduated basis at the rates set forth in the following table on net premiums per case for employer owned life insurance policies, as defined in § 2704(c)(3) of this title, and trust owned life insurance policies, as defined in § 2704(c)(4) of this title. For purposes of this section, a ‘case’ is (i) all contracts issued to an employer, a trust established by an employer, or an individual, as appropriate; or (ii) all contracts issued to all employers or trusts that participate in a private placement under federal securities laws and/or purchase with respect to at least 25 lives policies covered by registrations under such laws. Said tax shall be paid on net premiums and other considerations received on account of insurance contracts issued for delivery in this State, except that no premium tax shall be paid with respect to persons resident or located outside of this State upon whom premium tax is paid to the State of residency or location.

<u>Net Premiums Per Case</u>	<u>Premium Tax Rate</u>
First \$10,000,000	2.0%
\$10,000,001 to \$24,999,999	1.5%
\$25,000,000 to \$99,999,999	1.25%
\$100,000,000 and over	1.0%

The premium tax rate shall be calculated on the basis of net premiums (upon which taxes are payable to this State) received per case in each calendar year, except that in subsequent calendar years the premium tax rate shall not be higher than the rate established for the preceding year. A reduction in the premium tax rate for subsequent calendar year shall not apply retrospectively to any previous calendar year. The following example illustrates calculation of the tax rates under this section:

<u>Calendar</u>	<u>Premiums Per Case</u>	<u>Tax Rate</u>
1995	\$9,000,000	2%
1996	\$20,000,000	2% x \$10,000,000 plus 1.5% x \$10,000,000
1997	\$30,000,000	1.5% x \$25,000,000 plus 1.25% x 5,000,000
1998	\$9,000,000	1.25%

The tax imposed by this subsection shall be the only tax imposed by this chapter on employer owned life insurance policies and trust owned life insurance policies.

Section 2. Amend § 2704, Chapter 27, Title 18, Delaware Code by striking subsection "(c)", and "(e)" in their entirety and substituting in lieu thereof the following:

"(c) 'Insurable Interest' as to such personal insurance means that every individual has an insurable interest in the life, body and health of himself and a person has an insurable interest in the life, body and health of other individuals as follows:

(1) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

(2) In the case of other persons, a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured;

(3) An employer providing life, health, disability, retirement or similar benefits to its employees or the employees of its affiliates, or their dependents or beneficiaries, has an insurable interest in the lives of its employees. The trustee of a trust established by an employer substantially for the benefit of the employer, or for the benefit of some or all of the employees in which such employer has an insurable interest, or the dependents or beneficiaries or such employees, has the same insurable interest in the life of such employees as does the employer;

(4) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm or of shares of stock of a corporation or of an interest in such shares, has an insurable interest in the life of each individual party to such contract and for the purpose of such contract only, in addition to any insurable interest which may otherwise exist as to the life of such individual; and

(5) The trustee of a trust established by an individual has an insurable interest in the life of that individual and the same insurable interest in the life of any other individual as does any person who is treated as the owner of such trust for federal income tax purposes. The trustee of a trust has the same insurable interest in the life of any individual as does any person with respect to proceeds of insurance on the life of such individual (or any portion of such proceeds) that are allocable to such person's interest in such trust. If multiple beneficiaries of a trust have an insurable interest in the life of the same individual, the trustee of such trust has the same aggregate insurable interest in such life as such beneficiaries with respect to proceeds of insurance on the life of such individual (or any portion of such proceeds) that are allocable in the aggregate to such beneficiaries' interest in the trust.

(6) A person obligated to make a payment on the death of an individual to or for the benefit of a person who is designated by such individual has an insurable interest in the life of such individual. For purposes of this section, group insurance premiums paid on an experience-rated basis shall be treated as payments for the benefit of the beneficiary of such policy.

(e) As used in this section and in § 2708(4) of this Title, and § 702(c), of this Title, except as provided in § 702(c)(3) of this Title:

(1) The term 'employee' shall include any and all directors, officers, partners, employees and retired employees, and it shall include any other former employees but only for the purpose of replacing existing life insurance policies that will be surrendered in exchange for new life insurance policies in an amount not exceeding the insurance being surrendered, except that the amount of new life insurance may exceed the insurance being surrendered to the extent application of

the cash surrender value from the old insurance as a premium under the new life insurance contract requires a larger amount of insurance to qualify as life insurance, and not be treated as a modified endowment contract, for federal income tax purposes.

(2) The term 'employer' shall include corporations, limited liability companies or partnerships, business trusts, and other business entities, including associations of employers, and their affiliates.

(3) An 'employer owned life insurance policy' means an insurance contract for which an insurable interest exists under paragraph (c)(3) of this section, issued for delivery in this State and procured or effected by any employer, or a trust established by an employer, which employer as defined herein, is incorporated, registered or qualified to do business in this State and has at least 50 employees.

(4) A 'trust owned life insurance policy' means an insurance contract for which an insurable interest exists under paragraph (c)(3) or (c)(5) of this section, issued for delivery in this State to a trust established under the laws of this State and having a trustee with its principal place of business in this State.

(5) The term 'trust' includes without limitation a business trust.

(f) The insurable interest of an employer or trustee under this section shall be conveyed automatically to another employer or to the trustee of a trust established by such other employer substantially for its benefit which has acquired by purchase, merger, or otherwise all or part of the first employer's business. An employer or the trustee of a trust established by such employer substantially for its own benefit or substantially for the benefit of its employees or their dependents may exchange any policy of insurance issued to itself or to another employer or the trustee of a trust established by such other employer substantially for its own benefit from which the exchanging employer has acquired by purchase, merger, or otherwise all or part of such other employer's business for a new policy of insurance issued to itself without establishing a new insurable interest at the time of such exchange.

(g) The insurable interests recognized in this section may exist cumulatively or concurrently as appropriate to the relationships between the individual insured and the person having the interest in such individual's life. The existence of an insurable interest with respect to an employer owned life insurance policy or trust owned life insurance policy shall be governed by this section without regard to an insured's state of residency or location. An employer owned life insurance policy, if delivered to the employer's principal place of business in this State or to its registered agent in this State; or in the case of a policy issued to a trust established by an employer, if delivered to the place of business in Delaware of trustee of said trust; and a trust owned life insurance policy, if delivered to the place of business in Delaware of the trustee of said trust; shall be deemed to have been delivered in this State. The parties to an employer owned life insurance policy may arrange for delivery in this State by means other than the method described in the preceding sentence. An employer owned life insurance policy may be issued on an individual or group basis, and any group policy shall be exempt from Chapter 31 of this title. A group insurance policy issued to an employer for the benefit of persons other than the employer, as permitted by § 3102 of this title, shall not constitute an employer owned life insurance policy."

Section 3. Amend § 2708(4), Chapter 27, Title 18, Delaware Code by striking said paragraph in its entirety and substituting in lieu thereof the following:

"(4) An employer, or the trustee of a trust described in § 2704(e)(3) of this title, may effectuate insurance under an employer owned life insurance policy, as defined in § 2704(e) of this title, upon any employee in whom it has an insurable interest, and the employer or trustee, as the case may be, shall not be required to notify employees of the

effectuation of such insurance or obtain their consent. The insurer and any investment sub-advisors shall:

(a) Use best efforts to direct securities transactions relating to such employer owned variable life insurance policies utilizing separate accounts, through a securities agent licensed and located in this State, as opposed to a securities agent licensed and located in another state, unless a better price for the identical security (securities) is available through the securities agent located in that other state."

Approved February 10, 1998

CHAPTER 240

FORMERLY

HOUSE BILL NO. 455

AN ACT TO AMEND THE DELAWARE CODE AND THE LAWS OF DELAWARE RELATING TO THE ORGANIZATION, COMPOSITION AND OPERATION OF THE JUDICIARY OF THE STATE OF DELAWARE.

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

Section 1. Amend Section 44 of the Laws of Delaware, Volume 71, Chapter 176, by striking Section 44 in its entirety and by substituting in lieu thereof the following:

"Section 44. All provisions of this Act shall become effective 270 days after enactment into law, or May 1, 1998, whichever occurs later in time, except for Section 4A and lines 17-18 of Section 4 which shall become effective upon enactment into law."

Section 2. Amend § 2702, Title 11 of the Delaware Code, by adding a new subsection (50) to read as follows:

"(50) All Municipal and County building, housing, health and sanitation Code offenses classified as misdemeanors, under any Municipal and county ordinances."

Section 3. Amend § 709(a), Title 21 of the Delaware Code, by adding the following sentence as the final sentence of subsection (a):

"Notwithstanding any provision of this section and chapter to the contrary, the City of Wilmington may establish the exclusive mail-in fine center for parking summonses issued for designated offenses committed within the boundaries of the City of Wilmington."

Approved February 10, 1998

CHAPTER 241

FORMERLY

HOUSE BILL NO. 461

AN ACT AUTHORIZING AND DIRECTING THE BOARD OF PENSION TRUSTEES TO GRANT ARLENE E. BANNING A SURVIVOR'S PENSION; AND APPROPRIATING MONIES TO THE SPECIAL PENSION FUND CREATED BY VOLUME 61, CHAPTER 455, LAWS OF DELAWARE.

WHEREAS, on August 4, 1997, Oakley M. Banning, Jr., Representative of the 9th Representative District, succumbed to an apparent heart attack, having completed almost five years of dedicated public service; and

WHEREAS, under the provisions of Title 29, Chapter 55, §5527(d) of the Delaware Code, elected officials are entitled to a service pension if they have attained the age of sixty with at least five years of service; and

WHEREAS, Oakley M. Banning, Jr. died just under three months short of compliance with the statute; and

WHEREAS, under the provisions of §5528 of Title 29, Delaware Code, which establishes the criteria for eligibility for a survivor's pension, Mrs. Banning would be eligible to receive three-fourths of her late husband's pension had he completed the full five years of service.

NOW, THEREFORE:

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

Section 1. The Board of Pension Trustees is hereby authorized and directed to grant Arlene E. Banning a survivor's pension, effective September 1, 1997, in the amount of \$214.67 per month as if such award were made pursuant to Chapter 55, Title 29 of the Delaware Code.

Section 2. The Budget Director and the Controller General are authorized to transfer the sum of \$23,100 from a contingency line item within the Office of the Budget-Contingency and One-Times (10-02-04) to the Special Pension Fund authorized by Volume 61, Chapter 455, Laws of Delaware for the purpose of implementing the provisions of Section 1 of this Act.

Approved February 10, 1998

CHAPTER 242

FORMERLY

HOUSE BILL NO. 465

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO SCHOOL DISTRICT ENROLLMENT CHOICE PROGRAM.

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

Section 1. Amend § 407(a)(1), Title 14 of the Delaware Code, by striking the period (.) at the end of Paragraph 1 as it appears therein and by substituting in lieu thereof the following:

" , provided, however, that upon the concurrence of the boards of both the district of residence and the receiving district, a pupil's right to remain enrolled may be terminated prior to graduation from or completion of the program where such termination is based upon the pupil's i) failure to continue to comply with the receiving district's requirements for attending school or class, or ii) multiple violations of, or one or more serious violations of, the receiving district's student code of conduct".

Section 2. Amend § 407(a)(2), Title 14 of the Delaware Code, by striking Paragraph 2 in its entirety as it appears therein and by substituting in lieu thereof the following:

"(2) A pupil accepted for enrollment in a school or program pursuant to this chapter shall remain enrolled therein for a minimum of 2 years unless, during that 2 year period,

(a) the pupil graduates from the school or completes the program,

(b) the pupil's parent or parents cease to be residents of the pupil's original district of residence;

(c) at the conclusion of any academic year during such 2 year period, the pupil ceases to meet the academic requirements for such school or program;

(d) if daycare was indicated on the relevant choice application as a reason for seeking enrollment, or if daycare was a reason for granting priority to consideration of or granting of the relevant choice application, and the pupil ceases to attend the daycare referenced in the application; or the provider of daycare services to the pupil ceases doing business or relocates to a location so distant from the original location as to render the original combination of daycare and choice enrollment no longer reasonably practicable for the pupil or the parent(s) of such pupil; or

(e) the board of the district of residence, the board of the receiving district, and the parent(s) of the pupil agree for any reason to terminate such enrollment.

(f) The provisions of (a), (b), (c), (d), and (e) above shall apply unless the receiving district, at its sole discretion, agrees to maintain a child in a choice placement."

Section 3. Amend § 408, Title 14 of the Delaware Code, by adding a new subsection to read:

"(j) In the event of any mid-year termination of a pupil's enrollment under the provisions of this chapter, nothing contained in this section shall prevent the district of residence and the receiving district from entering into an agreement providing for the pro-

ration of student funding between or among the district of residence, the receiving district, a successor district of residence and/or a successor receiving district".

Section 4. Amend § 403(a), Title 14 of the Delaware Code, by striking Subsection (a) in its entirety as it appears therein and by substituting in lieu thereof the following:

"(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 on or before the second Wednesday in January for enrollment during the following school year in a program in grades 1 through 12, or on or before the first day of the school year for enrollment in a kindergarten program during that school year."

Section 5. Amend § 403(b), Title 14 of the Delaware Code, by striking the phrase "or if the application is to enroll a child in a kindergarten program," as it appears therein.

Section 6. Amend § 402(d), Title 14 of the Delaware Code, by striking the phrase "a similar set of circumstances consistent with this definition of 'good cause'." as it appears therein and by substituting in lieu thereof the phrase "a set of circumstances consistent with this definition of 'good cause'."

Section 7. Amend § 405(b), Title 14 of the Delaware Code, by striking the word "Each" as it appears as the first word therein and by substituting in lieu thereof the phrase "Prior to the applicable application deadline established in § 403(a), each".

Approved February 10, 1998

CHAPTER 243
FORMERLY
HOUSE SUBSTITUTE NO. 1

FOR
HOUSE BILL NO. 93

AN ACT TO AMEND TITLE 11, DELAWARE CODE, RELATING TO BODY-PIERCING, TATTOOING, OR BRANDING CONSENT FOR MINORS AND CIVIL AND CRIMINAL PENALTIES.

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

Section 1. Amend Chapter 5, Title 11, Delaware Code by adding a new section to read as follows:

"Section 1113. Body-piercing, tattooing, or branding; consent for minors; civil and criminal penalties.

(a) No person shall knowingly or negligently tattoo, brand or perform body-piercing on a minor unless that person obtains the prior written consent of the minor's parent over the age of eighteen or legal guardian to the specific act of tattooing, branding or body piercing.

(b) No person shall tattoo, brand, or perform body piercing on another person if the other person is under the influence of alcoholic beverages, being beer, wine or spirits, or a controlled substance.

(c) Consent forms required by subsection (a) shall be notarized.

(d) (1) A person who violates this section shall be guilty of a Class B misdemeanor for the first offense or a Class A misdemeanor for a second or subsequent offense. The Court of Common Pleas shall have original jurisdiction over these offenses for those 18 years of age or older, and the Family Court shall have original jurisdiction for those under the age of 18 at the time of the offense.

(2) In any prosecution for an offense under this subsection, it shall be an affirmative defense that the individual, who has not reached the age of 18, presented to the accused identification, with a photograph of such individual affixed thereon, which identification sets forth information which would lead a reasonable person to believe such individual was 18 years of age or older. A photocopy of the identification shall be attached to the information card that a customer shall complete at the time that the tattoo, body piercing or branding is obtained.

(e) A person who violates subsection (a) is liable in a civil action for actual damages or \$1,000.00, whichever is greater, plus reasonable court costs and attorney fees.

(f) As used in this section:

(1) 'Body-piercing' means the perforation of human tissue excluding the ear for a non-medical purpose.

(2) 'Branding' means a permanent mark made on human tissue by burning with a hot iron or other instrument.

(3) 'Controlled substance' means that term as defined in Chapter 47, Title 16 of this Code.

(4) 'Minor' means an individual under 18 years of age who is not emancipated.

(5) 'Tattoo' means one or more of the following:

(i) An indelible mark made upon the body of another person by the insertion of a pigment under the skin.

(ii) An indelible design made upon the body of another person by production of scars other than by branding."

(6) Nothing in this act shall require a person to tattoo, brand or body pierce a minor with parental consent if the person does not regularly tattoo, brand or body pierce customers under the age of 18.

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

Approved February 10, 1998

CHAPTER 244

FORMERLY

HOUSE BILL NO. 97

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47 OF TITLE 16 OF THE DELAWARE CODE RELATING TO CONTROLLED SUBSTANCES.

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

Section 1. Amend § 4763 of Title 16 of the Delaware Code by adding a new subsection (c) to provide as follows:

"(c) Additional penalties - In any case in which a defendant has been found by evidence beyond a reasonable doubt to have moved to the State of Delaware to maintain his or her primary residence in this state for the purpose of engaging in activity which is prohibited by Sections 4751 through 4761 of this Chapter, such defendant, if convicted under any of sections 4751 through 4761 of this Chapter, shall be subject to the increased penalty of imprisonment for one year, in addition to any other penalties to which the convicted defendant would otherwise be subject for violation of the foregoing statutes."

Approved February 10, 1998

CHAPTER 245

FORMERLY

HOUSE BILL NO. 206
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 19, 21 AND 23 OF TITLE 7 OF THE DELAWARE CODE
RELATING TO SHELLFISH LICENSES, PERMITS AND LEASES.

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

Section 1. Amend § 1908(a), Title 7, Delaware Code, by striking the phrase "May 1st and end April 30th of the following" and substituting in lieu thereof the words "January 1st and end December 31st of the same."

Section 2. Amend § 1915, Title 7, Delaware Code, by striking said section in its entirety.

Section 3. Amend § 1916, Title 7, Delaware Code, by striking the words "April 30th" and substituting in lieu thereof the words "December 31st".

Section 4. Amend § 2107(a), Title 7, Delaware Code, by striking the words "April 30th" and substituting in lieu thereof the words "December 31st".

Section 5. Amend § 2108, Title 7, Delaware Code, by striking the words "April 30th" and substituting in lieu thereof the words "December 31st".

Section 6. Amend § 2303(b), Title 7, Delaware Code, by striking the words "April 30th" and substituting in lieu thereof the words "December 31st of each calendar year."

Section 7. Notwithstanding the provisions of § 1916 of Title 7, a crab dredger's license issued pursuant to Chapter 23 of Title 7 for the period May 1, 1997, through April 30, 1998, shall remain valid through December 31, 1998.

Section 8. Except for a crab dredger's license issued pursuant to Chapter 23 of Title 7, the annual fee(s) for the renewal of any shellfish license, permit and/or lease issued pursuant to Chapters 21 through 28 of Title 7 for the period May 1, 1998, through April 30, 1999, shall be reduced by one-third for calendar year 1999.

Section 9. Section 1-6 and Section 8 of the Act shall be effective December 31, 1998. Section 7 of the Act shall be effective upon its enactment into law.

Approved February 10, 1998

CHAPTER 246

FORMERLY

HOUSE BILL NO. 212
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO LICENSES
TO CARRY CONCEALED DEADLY WEAPONS.

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

Section 1. Amend § 1441(a)(2), Title 11 of the Delaware Code, by striking the words "election district" and by inserting in place thereof new text, to read:

"county".

Approved February 10, 1998

(2) 'Branding' means a permanent mark made on human tissue by burning with a hot iron or other instrument.

(3) 'Controlled substance' means that term as defined in Chapter 47, Title 16 of this Code.

(4) 'Minor' means an individual under 18 years of age who is not emancipated.

(5) 'Tattoo' means one or more of the following:

(i) An indelible mark made upon the body of another person by the insertion of a pigment under the skin.

(ii) An indelible design made upon the body of another person by production of scars other than by branding."

(6) Nothing in this act shall require a person to tattoo, brand or body pierce a minor with parental consent if the person does not regularly tattoo, brand or body pierce customers under the age of 18.

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

Approved February 10, 1998

CHAPTER 244

FORMERLY

HOUSE BILL NO. 97

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47 OF TITLE 16 OF THE DELAWARE CODE RELATING TO CONTROLLED SUBSTANCES.

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

Section 1. Amend § 4763 of Title 16 of the Delaware Code by adding a new subsection (c) to provide as follows:

"(c) Additional penalties - In any case in which a defendant has been found by evidence beyond a reasonable doubt to have moved to the State of Delaware to maintain his or her primary residence in this state for the purpose of engaging in activity which is prohibited by Sections 4751 through 4761 of this Chapter, such defendant, if convicted under any of sections 4751 through 4761 of this Chapter, shall be subject to the increased penalty of imprisonment for one year, in addition to any other penalties to which the convicted defendant would otherwise be subject for violation of the foregoing statutes."

Approved February 10, 1998

CHAPTER 245

FORMERLY

HOUSE BILL NO. 206
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 19, 21 AND 23 OF TITLE 7 OF THE DELAWARE CODE
RELATING TO SHELLFISH LICENSES, PERMITS AND LEASES.

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

Section 1. Amend § 1908(a), Title 7, Delaware Code, by striking the phrase "May 1st and end April 30th of the following" and substituting in lieu thereof the words "January 1st and end December 31st of the same."

Section 2. Amend § 1915, Title 7, Delaware Code, by striking said section in its entirety.

Section 3. Amend § 1916, Title 7, Delaware Code, by striking the words "April 30th" and substituting in lieu thereof the words "December 31st".

Section 4. Amend § 2107(a), Title 7, Delaware Code, by striking the words "April 30th" and substituting in lieu thereof the words "December 31st".

Section 5. Amend § 2108, Title 7, Delaware Code, by striking the words "April 30th" and substituting in lieu thereof the words "December 31st".

Section 6. Amend § 2303(b), Title 7, Delaware Code, by striking the words "April 30th" and substituting in lieu thereof the words "December 31st of each calendar year."

Section 7. Notwithstanding the provisions of § 1916 of Title 7, a crab dredger's license issued pursuant to Chapter 23 of Title 7 for the period May 1, 1997, through April 30, 1998, shall remain valid through December 31, 1998.

Section 8. Except for a crab dredger's license issued pursuant to Chapter 23 of Title 7, the annual fee(s) for the renewal of any shellfish license, permit and/or lease issued pursuant to Chapters 21 through 28 of Title 7 for the period May 1, 1998, through April 30, 1999, shall be reduced by one-third for calendar year 1999.

Section 9. Section 1-6 and Section 8 of the Act shall be effective December 31, 1998. Section 7 of the Act shall be effective upon its enactment into law.

Approved February 10, 1998

CHAPTER 246

FORMERLY

HOUSE BILL NO. 212
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO LICENSES
TO CARRY CONCEALED DEADLY WEAPONS.

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

Section 1. Amend § 1441(a)(2), Title 11 of the Delaware Code, by striking the words "election district" and by inserting in place thereof new text, to read:

"county".

Approved February 10, 1998

CHAPTER 247

FORMERLY

HOUSE BILL NO. 318
AS AMENDED BY HOUSE AMENDMENT NO. 1AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO CERTAIN
MOTOR VEHICLE OFFENSES.

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

Section 1. Amend Chapter 7, Title 21, Delaware Code by inserting as new § 711 the following:

“§711. Summons or citations in offenses involving injury.

In any matter in which a violation of this Title is alleged to involve physical injury to a person, other than the person charged with the violation, each summons or uniform traffic citation issued by the arresting or investigating officer in the matter shall include thereon a designation that it relates to injury-related offense.”

Section 2. Amend § 4201(a), Title 21, Delaware Code by inserting between the first and second sentences § 4201(a) the following:

“The driver shall immediately undertake reasonable efforts to ascertain whether any person involved in the accident was injured or killed. If such accident resulted in injury or death, the driver shall comply with § 4203 of this Title.”

Section 3. Amend § 4201, Title 21, Delaware Code by inserting as new § 4201(c) and § 4201 (d) the following:

“(c) Whoever violates subsection (a) of this section shall be fined no less than \$230.00 nor more than \$1,150.00 or imprisoned not less than 60 days nor more than 6 months.

(d) The Secretary shall revoke the driver's license and/or driving privilege of every person convicted under this section. Such revocation shall be for a period of 6 months.”

Section 4. Amend § 4202, Title 21, Delaware Code by deleting subsection (b) of that section and by inserting in lieu thereof the following:

“(b) Whoever violates subsection (a) of this section when that person has been involved in an accident resulting in injury to any person shall be guilty of an unclassified misdemeanor, be fined not less than \$1,000.00 nor more than \$3,000.00 or imprisoned not less than 1 year nor more than 2 years.

(c) Whoever violates subsection (a) of this section when that person has been involved in an accident resulting in death to any person shall be guilty of a Class A misdemeanor. The provisions of § 4206(a) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, the sentence for such offense shall include a period of incarceration of not less than 1 year nor more than 3 years, the first 6 months of any sentence imposed shall not be suspended.

(d) The Secretary shall revoke the driver's license and/or driver's privilege of every person convicted under this section. Such revocation shall be for a period of 1 year if the person is convicted and sentenced pursuant to subsection (b) of this section. Such revocation shall be for a period of 2 years if the person is convicted and sentenced pursuant to subsection (c) of this section.

(c) Except as provided in § 927 of Title 10, notwithstanding any other law, rule or regulation to the contrary, the Court of Common Pleas shall have original jurisdiction to hear, try and finally determine any violation of this section, and any other violation of any offense set forth in this Title which was allegedly committed during the same incident. The jurisdiction of the justices of the peace over such matters is hereby terminated."

Approved February 10, 1998

CHAPTER 248

FORMERLY

HOUSE BILL NO. 334

AN ACT TO AMEND TITLE 11, DELAWARE CODE RELATING TO OBSTRUCTION OF GOVERNMENT OPERATIONS.

BE IT 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 enacting a new section as follows:

" § 1240. Use of an animal to avoid capture, Class G Felony; 'Class A Misdemeanor'.

(a) A person is guilty of the use of using an animal to avoid capture when, with the intent to prevent, hinder or delay the apprehension of a wanted person, including themselves, they release any animal against a law enforcement or other authorized person to make arrests under Delaware law.

(b) Use of an animal to avoid capture is a Class G Felony, (i) if the person commits any of the acts set forth in subsection (a) of this section with intent to prevent, hinder or delay the discovery or apprehension of, or the lodging of a criminal charge against, a person whom that person knows committed acts constituting a felony, or is being sought by law-enforcement officers for the commission of a felony, or, (ii) if the animal injures the law enforcement officer.

(c) Use of an animal to avoid capture is a Class A Misdemeanor if the person commits any of the acts set forth in subsection (a) of this section with intent to prevent, hinder or delay the discovery or apprehension of, or the lodging of a criminal charge against, a person whom that person 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."

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 bill shall be effective the day after enactment.

Approved February 10, 1998

CHAPTER 249

FORMERLY

HOUSE BILL NO. 355

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO PROJECTING LOADS.

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

Section 1. Amend Title 21, Section 4343 of the Delaware Code by designating the existing section as subsection (a).

Section 2. Further Amend Title 21, Section 4343 of the Delaware Code by adding the following as subsection (b) and (c):

“(b) This section does not apply to:

(1) Any vehicle carrying wooden prefabricated roof trusses in an inverted position, if the trusses do not extend more than 10 feet beyond the rear of the bed or body of the vehicle;

(2) A combination of vehicles carrying an indivisible load if the load is not over 70 feet long, and the load is being transported during daylight hours; or

(3) Any vehicle or combination of vehicles carrying:

(i) Piling, poles, or mill logs;

(ii) Nursery stock; or

(iii) Crew or racing shells.

(c) Subject to the maximum length limits of this section, the load on any vehicle operated alone or the load on the front vehicle of a combination of vehicles:

(1) Except as provided in paragraph (2) of this subsection, may not extend more than 3 feet beyond the foremost part of the vehicle; and

(2) May extend more than 3 feet beyond the foremost part of a vehicle equipped with front-end loading attachments and containers used in collecting garbage, rubbish, refuse, or recyclable materials when the vehicle is actively engaged in collecting garbage, rubbish, refuse, or recyclable materials.”

Section 3. This Act shall take effect the day after enactment.

Approved February 10, 1998

CHAPTER 250

FORMERLY

HOUSE BILL NO. 383

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

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

Section 1. Amend §2104(b), Title 21 of the Delaware Code, by adding thereto a new subsection (4) as follows:

"(4) The Department shall allow the registration of trailers for individuals who are not bona fide residents of Delaware if the individual provides documented proof of ownership of a residence in Delaware and signs a declaration indicating the trailer will remain in Delaware at all times."

Approved February 10, 1998

CHAPTER 251

FORMERLY

HOUSE BILL NO. 133

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 11 OF THE DELAWARE CODE RELATING TO THE
POSSESSION OF DEADLY WEAPONS.

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

Section 1. Amend Chapter 5, Title 11, Delaware Code by inserting a new §1459 as follows:

"§ 1459. Possession of a weapon with a removed, obliterated, or altered serial number.

(a) No person shall knowingly transport, ship, possess or receive any firearm with the knowledge that the importer's or manufacturer's serial number has been removed, obliterated or altered in a manner that has disguised or concealed the identity or origin of the firearm.

(b) The provisions of this Act shall apply to a firearm manufactured prior to 1973.

(c) Possessing, transporting, shipping or receiving a firearm with a removed, obliterated or altered serial number pursuant to this section is a class D felon."

Approved February 12, 1998

CHAPTER 252

FORMERLY

HOUSE BILL NO. 446

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO LICENSES TO CARRY CONCEALED DEADLY WEAPONS.

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

Section 1. Amend § 1441(a)(3), Title 11, Delaware Code by adding to the end of the original the following:

"At the time of application for the issuance of an initial license the person shall file with the Prothonotary, a notarized certificate signed by an instructor or authorized representative of a sponsoring agency, school, organization or institution certifying (1) that prior to this initial application the applicant has completed a firearms training course which contains at least the below described minimum elements, and (2) is sponsored by a federal, state, county or municipal law enforcement agency, a college, a nationally recognized organization that customarily offers firearms training, or a firearms training school with instructors certified by a nationally recognized organization that customarily offers firearms training. The firearms training course shall include the following elements:

- a. Instruction regarding knowledge and safe handling of firearms;
- b. Instruction regarding safe storage of firearms and child safety;
- c. Instruction regarding knowledge and safe handling of ammunition;
- d. Instruction regarding safe storage of ammunition and child safety;
- e. Instruction regarding safe firearms shooting fundamentals;
- f. Live fire shooting exercises conducted on a range, including the expenditure of a minimum of 100 rounds of ammunition;
- g. Identification of ways to develop and maintain firearm shooting skills;
- h. Instruction regarding federal and state laws pertaining to the lawful purchase, ownership, transportation, use and possession of firearms;
- i. Instruction regarding the laws of this State pertaining to the use of deadly force for self defense; and
- j. *Instruction regarding techniques for avoiding a criminal attack and how to manage a violent confrontation, including conflict resolution."*

Section 2. The requirements of Section 1 of this Act shall only apply to applications for new licenses submitted after the effective date of this Act.

Section 3. The provisions of this bill will become effective 90 days after signature by the Governor.

Approved February 12, 1998

CHAPTER 253

FORMERLY

HOUSE BILL NO. 463
AS AMENDED BY SENATE AMENDMENT NO. 8

AN ACT TO AMEND TITLES 3 AND 29 OF THE DELAWARE CODE AND THE LAWS OF
DELAWARE RELATING TO THE VIDEO LOTTERY AND HARNESS RACING.

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

Section 1. Amend Title 29, §4803, Delaware Code, by deleting the "." and adding to the existing subsection (i) the following sentence to read as follows:

"and shall also mean an individual employee, person, or agent of an applicant or licensee who has the power to exercise significant influence over significant business decisions concerning the applicant's or licensee's video lottery business."

Section 2. Amend Title 29, §4803, Delaware Code, by adding a new subsection (j) to read as follows:

"(j) 'Video lottery operations employee' shall mean an individual employee, person or agent of an applicant or licensee who is responsible for the security of video lottery machines, or responsible for handling video lottery machine proceeds, or is otherwise employed in a position that allows direct access to the internal workings of video lottery machines."

Section 3. Amend Title 29, §4805(a)(16),(17), Delaware Code, by deleting the existing subsections and inserting the following new subsections:

"(16) A licensure requirement and enforcement procedure (taking no more than 90 days to complete, unless extenuating circumstances require a longer period in which case the Director and the State shall act with all deliberate speed to complete the process) for officers, directors, key employees, video lottery operations employees, and persons who own directly or indirectly 10% or more of such agent, which licensure requirement shall include the satisfaction of such security, fitness, and background standards as the Director may deem necessary relating to competence, honesty, and integrity, such that a person's reputation, habits, and associations do not pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the video lottery; it being specifically understood that any person convicted of any felony, a crime involving gambling, or a crime of moral turpitude within ten (10) years prior to applying for a license hereunder or at any time thereafter shall be deemed unfit. The Delaware State Police shall conduct the security, fitness, and background checks required under this rule or regulation. It shall be the obligation of the video lottery agent to notify the Director on a continuing basis of any change in officers, partners, directors, key employees, video lottery operations employees, and persons who own, directly or indirectly, 10% or more of such entity.

(17) A licensure requirement and enforcement procedure (taking no more than 90 days to complete, unless extenuating circumstances require a longer period in which case the Director and the State shall act with all deliberate speed to complete the process) for those persons or entities including video lottery manufacturers who propose to contract with a video lottery agent or the State for the provision of goods or services including management services, which licensure requirements shall include the satisfaction of such security, fitness and background standards for officers, directors, key employees, video lottery operations employees, and persons who own directly or indirectly 10% or more of such entity, as the Director may deem necessary relating to competence, honesty, and integrity, such that a person's reputation, habits, and associations do not pose a threat to the public interest of the State or to the reputation of or effective regulations and control of the video lottery; it being specifically understood that any person convicted of any felony, a crime involving gambling, or a crime of moral turpitude within ten (10) years prior to applying for a license hereunder or at any time thereafter shall be deemed unfit. The Director may determine whether the licensing standards of another state are

comprehensive, thorough, and provide similar adequate safeguards and, if so, may, in his discretion, license an applicant already licensed in such state without the necessity of a full application and background check. The Delaware State Police shall conduct the security, fitness, and background checks required under this rule or regulation. It shall be the obligation of any licensed entity, including technology providers, to notify the Director on a continuing basis of any change in officers, partners, directors, key employees, video lottery operations employees and persons who own, directly or indirectly, 10% or more of such entity."

Section 4. Amend Title 29, §4805(c), Delaware Code, by replacing the first two sentences with the sentence:

"The license granted pursuant to subsection (b)(13) may be revoked or suspended for cause upon 30 days' written notice to the licensee or due to a change in ownership as set forth in §4805(b)(13), but shall otherwise not be subject to expiration or termination."

Section 5. Further amend Title 29, §4805(c), Delaware Code, by deleting the sentences:

"At least 180 days prior to the expiration of a license, the licensed agent may apply for renewal of such license. A license renewal application shall be acted upon within 100 days, and the failure to grant or deny such renewal within 100 days shall be deemed a renewal."

Section 6. Amend Title 29, §4815(b) by replacing the first four lines with the following:

"All proceeds, net of proceeds returned to players pursuant to paragraph (1) of this subsection, from the operation of the video lottery shall be electronically transferred daily or weekly at the discretion of the Lottery Director into a designated State Lottery account by the agent, and transferred to the State Lottery Fund by the Lottery on a daily or weekly basis and shall be applied as follows:"

Section 7. Amend Title 29, §4815(b)(3)a. by replacing the existing subsection with the following subsection:

"a. Additional State Proceeds. The State shall receive an additional 12.27% of the proceeds remaining after payments made under paragraph (1) above from the proceeds attributable to licensees which conducted forty or fewer (but at least one) days of live harness horse races during 1992, 12.59% of such proceeds of licensees which conducted more than forty days of live harness racing during 1992 or which conduct thoroughbred racing under Title 28, and 12.73% of such proceeds of licensees which conduct thoroughbred horse racing pursuant to Chapter 101 of Title 3. From these proceeds, the State shall pay for all costs of equipment (both video lottery machines and related equipment), whether leased or owned by the State, used or under the control of such agent and the cost of the central computer used to monitor the equipment used by the agent. The State shall also pay \$1,000,000 of the proceeds received under this section from licensees under this chapter which conduct live harness horse racing to fund the State's contribution to the Delaware Standardbred Breeder's Program. Said amount is to be allocated equally as of January 1st of the calendar year among existing licensees which conduct live harness horse racing, but monies shall not be expended for the program until such time as a plan has been approved pursuant to subparagraph D. of Title 29, §4815(b)(3)b.2., Delaware Code. Monies remaining after payment of all costs of equipment and central computer monitoring shall be deposited to the General Fund of the State."

Section 8. Amend Title 29, §4815(b)(3)b.2., Delaware Code, by adding a new subsection D. as follows:

"D. \$1,000,000 of those proceeds, which would otherwise fund purses, on an annual basis (\$500,000 to come from each licensee which conducts live harness horse racing) to be set aside for purses under this subsection (b)(3)b. 2. shall be used to fund a Delaware Standardbred Breeder's Program which shall be administered by a board comprised of 4 members from the Delaware Standardbred Owners Association, 1 member from the Standardbred Breeders and Owners of Delaware, Inc., 1 member from each video lottery agent licensed to conduct harness racing meets under Chapter 100 of Title 3, one member appointed by the Speaker of House of the General Assembly, one member appointed by the President Pro Tempore of the Senate of the

General Assembly, the Secretary of Agriculture or his designee, and the Secretary of Finance or his designee. Members shall be chosen by the organizations they represent, and shall serve four-year terms except that four of the initial board selected by the members of the Delaware Standardbred Owners Association shall serve an initial term of two years, and four years thereafter. The Board created hereunder will present a plan for the administration of the Program to the General Assembly no later than May 15, 1999. This plan, and all subsequent amendments to the plan, shall be subject to the written approval of the Secretary of Agriculture or his designee, the Chairman of the Delaware Harness Racing Commission or his designee, and the Secretary of Finance or his designee. The board shall transmit minutes of all meetings and any proposed actions to the Delaware Harness Racing Commission within 10 days after each meeting. The board shall transmit an annual report detailing the allocation of proceeds from the fund and make available to the State Auditor or the State Auditor's representative such information as may be required to perform an annual audit of funds allocated from the Delaware Standardbred Breeder's Program. In addition to funding special purses for Delaware standardbred horses, the Board created hereby may also use the funds dedicated to this program for advertising, promotion, educational, and administrative purposes. Funds dedicated to the Delaware Standardbred Breeder's Program shall not be subject to the one-year payout requirement of §10048 of Title 3.

Section 9. Amend Title 29, §4815(b)(3)c. by deleting the subsection in its entirety and replacing the subsection with the following, and by adding subsection d.:

"c. For video lottery agents which are licensed only to conduct thoroughbred horse racing meetings under Chapter 101 of Title 3 or Chapter 4 of Title 28, such agents annually shall be paid and shall pay the sum of \$175,000 plus an additional \$175,000 (which shall be subtracted from the amount such agent is paid and shall pay as additional purses under §4815(b)(3)b. 1.) for a total payment of \$350,000 annually, adjusted for inflation by the Delaware Thoroughbred Racing Commission, to the organization which represents the majority of jockeys who are licensed and who regularly ride in Delaware for the purposes of providing health and other welfare benefits to active, disabled and retired jockeys pursuant to reasonable criteria for benefit eligibility. Such jockey organization shall annually provide to the Delaware Thoroughbred Racing Commission a certified financial statement of the expenditures made for the benefits provided under this subsection.

d. Commissions To Agents. The portion of such proceeds remaining after the payments required by paragraphs a., b. and c. of this paragraph shall be paid to such video lottery agent as commission."

Section 10. Amend Title 29, §4820(b) by replacing the subsection with the following:

"(b) Upon submission by a video lottery agent of a proposed plan for the lease or purchase of video lottery machines in accordance with procedures to be established by the Director, the Lottery Director shall lease or purchase the number, type, and kind of video lottery machines necessary for the efficient and economical operation of the Lottery, or the convenience of the players and in accordance with the plan of the licensee, provided that no more than 1000 video lottery machines shall be located within the confines of a racetrack property unless the Director approves up to an additional 1000 for each racetrack property, and further provided that the Director may amend such plan where the Director finds that such amendments are necessary to increase revenues, provided such amendments do not produce reductions in the overall net proceeds from the video lottery, protect the public welfare or ensure the security of the video lottery."

Section 11. Amend Title 29, §4823, by deleting said section in its entirety and replacing it with the following:

"§4823. Enforcement.

(a) Whoever violates this chapter or any rule or regulation duly promulgated thereunder, or any condition of a license issued pursuant to §4805, or any Administrative Order issued pursuant to this section, shall be punishable as follows:

(1) If the violation has been completed, by a civil penalty imposed by Superior Court, which shall have jurisdiction of civil penalty actions brought pursuant to this section, of not less than \$1000 nor more than \$10,000 for each completed violation. Each day of a continued violation shall be considered as a separate violation if, on each such day, the violator has knowledge of the facts constituting the violation and knows or should know that such facts constitute or may constitute a violation. Lack of knowledge regarding such facts or violation shall not be a defense to a continued violation with respect to the first day of its occurrence.

(2) If the violation is continuing or there is a substantial likelihood that it will reoccur, the Director may also seek a temporary restraining order, preliminary injunction, or permanent injunction in the Court of Chancery, which shall have jurisdiction of an action for such relief.

(3) In his discretion, the Director may impose an administrative penalty of not more than \$1000 for each violation. Each day of continued violation shall be considered as a separate violation if the violator has knowledge of the facts constituting the violation and knows or should know that such facts constitute or may constitute a violation. Lack of knowledge regarding such facts or violation shall not be a defense to a continued violation with respect to the first day of its occurrence. Prior to the assessment of an administrative penalty, written notice of the Director's proposal to impose such penalty shall be given to the violator, and the violator shall have 30 days from receipt of such notice to request a public hearing. Any public hearing, if requested, shall be held prior to the imposition of the penalty and shall be governed by §10125 of Title 29. If no hearing is timely requested, the proposed penalty shall become final and shall be paid no later than 60 days from receipt of the notice of proposed penalty. Assessment of an administrative penalty shall take into account the circumstances, nature, and gravity of the violation, as well as any prior history of violations, the degree of culpability, the economic benefit to the violator resulting from the violation, any economic loss to the State, and such other matters as justice may require. In the event of nonpayment of an administrative penalty within 30 days after all legal appeal rights have been waived or otherwise exhausted, a civil action may be brought by the Director in Superior Court for the collection of the penalty, and for interest, from the date payment was due, attorneys' fees and other legal costs and expenses. The validity or amount of such administrative penalty shall not be subject to review in an action to collect the penalty. Any penalty imposed after a public hearing is held pursuant to this subsection shall be appealable to Superior Court, and such appeal shall be governed by §10142 of Title 29.

(4) In his discretion, the Director may endeavor to obtain compliance with requirements of this chapter by written Administrative Order. Such order shall be provided to the responsible party, shall specify the complaint, and propose a time for correction of the violation. It may also provide an opportunity for a public hearing at which the Director shall hear and consider any submission relevant to the violation, corrective action, or the deadline for correcting the violation.

(b) The Director shall enforce this chapter.

(c) Any interest, costs or expense collected under this section shall be appropriated to the State Lottery Office to carry out the purposes of this Chapter."

Section 12. Amend Title 3, §10048(1) by striking the first sentence thereof and replacing it with the following:

"As to each racetrack so licensed by the Director of the State Lottery Office, the licensee shall, at a minimum, subject to the availability of racing stock, force majeure, casualty, and other circumstances beyond the reasonable control of the licensee, conduct live harness horse races on (i) at least 80 days if the licensee conducted more than 40 days

of live harness horse races during 1992, or (ii) at least 60 days if the licensee conducted 40 or fewer days of live harness horse races during 1992. The obligation set forth in the preceding sentence to increase the number of days upon which live harness horse races must be conducted shall be contingent upon (i) the licensee receiving the necessary approvals from the Commission and any approvals required from the contracted horsemen's association to conduct year-round inbound and outbound simulcasting, (ii) the licensees continuing to be licensed under Title 29, Chapter 48 of the Delaware Code as a video lottery agent, and (iii) no authorization of any new, or expansion of any existing form of gambling beyond that as existing under the Delaware Code on February 1, 1998 (including but not limited to any increase in the number of video lottery agents), except for changes to "class II gaming" (as currently defined under 25 U.S.C. §2703) conducted by non-profit and charitable organizations."

Section 13. "If any provision hereof, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act shall not be affected thereby."

Approved March 26, 1998

CHAPTER 254

FORMERLY

SENATE BILL NO. 255

AN ACT TO AMEND TITLES 5, 6, 8 AND 12 OF THE DELAWARE CODE RELATING TO THE DEFINITIONS, POWERS, SUPERVISION, REGULATION AND FIDUCIARY OBLIGATIONS OF 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. This Act may be referred to as the "Banking and Financial Services Amendments Act of 1998".

Section 2. Amend §101 of Title 5 of the Delaware Code by deleting the text of that section in its entirety and inserting in lieu thereof the following:

"For the purpose of this Code and any other laws of this State relating to banks or banking, unless otherwise specifically defined, or unless another intention clearly appears, or unless the context requires a different meaning:

(1) 'Affiliate' means a person that directly or indirectly through 1 or more intermediaries, controls or is controlled by or is under common control with, the person specified.

(2) 'Automated service branch' means an automated teller machine, cash dispensing machine or other electronic facility located in this State installed or operated by any bank, remote from its main office or any branch office, by which funds may be deposited into or withdrawn from established accounts, advances may be obtained against previously authorized lines of credit, transfers of funds between accounts may be made, loan and other payments may be made or cash may be received or dispensed.

(3) 'Bank' means every bank and every corporation conducting a banking business of any kind or plan whose principal place of business is in this State, except a national bank.

(4) 'Banking organization' means:

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

b. A national bank, including a federal savings bank, with its principal office in this State;

c. An Edge Act corporation organized pursuant to § 25(a) of the Federal Reserve Act, 12 U.S.C. § 611 et seq., or a state chartered corporation exercising the powers granted thereunder pursuant to an agreement with the Board of Governors of the Federal Reserve System, and maintaining an office in this State;

d. A federal branch or agency licensed pursuant to § 4 and § 5 of the International Banking Act of 1978, 12 U.S.C. § 3101 et seq., to maintain an office in this State;

e. A foreign bank limited purpose branch or foreign bank agency organized pursuant to Chapter 14 of this title, or a resulting branch in this State of a foreign bank authorized pursuant to Chapter 14 of this title; or

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).

(5) The terms 'borrowing,' 'deposit' and 'extension of credit' as they relate to the activities of international banking facilities shall have the meanings ascribed to them in pertinent regulations adopted by the Board of Governors of the Federal Reserve System, as such regulations may be amended from time to time.

(6) 'Capital stock' means both common stock and preferred stock.

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

(8) 'Control' means, directly or indirectly or acting through one or more other persons, to own, control or have the power to vote 25 percent or more of any class of voting securities, to control in any manner the election of a majority of the directors or trustees, or to exercise a controlling influence over the management or policies of a bank, trust company, other financial institution or any other company.

(9) 'Financial institution' means any bank, trust company or other institution either licensed under this title or subject to the supervision and regulation of the State Bank Commissioner.

(10) 'Foreign bank' means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands, which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company. The term 'foreign bank' includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign companies are organized or operating.

(11) 'Foreign bank agency' means an office in this State of a foreign bank that is exercising the powers authorized by § 1404(a) of this title.

(12) '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.

(13) 'Foreign country' means any country other than the United States, and includes any colony, dependency or possession of any such country.

(14) 'International banking facility' means a set of asset and liability accounts, segregated on the books and records of a banking organization, that includes only international banking facility deposits, borrowings and extensions of credit.

(15) 'International banking transaction' means any of the following transactions, whether engaged in by a banking organization, any foreign branch thereof (established pursuant to § 771 of this title or federal law) or any subsidiary corporation directly or indirectly owned by any banking organization:

a. The financing of the exportation from, or the importation into, the United States or between jurisdictions abroad of tangible property or services;

b. The financing of the production, preparation, storage or transportation of tangible personal property or services which are identifiable as being directly and solely for export from, or import into, the United States or between jurisdictions abroad;

c. The financing of contracts, projects or activities to be performed substantially abroad, except those transactions secured by a mortgage, deed of trust or other lien upon real property located in this State;

d. The receipt of deposits or borrowings or the extensions of credit by an international banking facility, except the loan or deposit of funds secured by mortgage, deed of trust or other lien upon real property located in this State;

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 subsection (4)c. of this section, or any of its subsidiaries, in connection with the transaction of banking or other financial operations; or

f. The entering into foreign exchange trading or hedging transactions in connection with the activities described in paragraphs a. through e. of this subdivision.

(16) 'National Bank' means a banking association organized under the authority of the United States and having a principal place of business in this State.

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

(18) 'Representative office' means an office in this State of a foreign bank that is exercising the powers authorized by § 1423 of this title.

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

a. Direct or indirect ownership or control of 25 percent or more of the voting rights;

b. Control of the election of majority of the directors; or

c. The power, directly or indirectly, to exercise a controlling influence over the management or policies of the organization.

(20) 'Trust company' means a trust company or corporation doing a trust company business which has a principal place of business in this State."

Section 3. Amend §108 of Title 5 of the Delaware Code by deleting the words "Deputy Commissioner or examiners" and inserting in lieu thereof the words and punctuation "Deputy Commissioners, examiners or compliance reviewers" after the words and punctuation "Commissioner," and before the word "employed" in the first sentence, by deleting the words "subject to supervision or regulation of the Commissioner" from the end of the first sentence, and by inserting between the existing second and third sentences thereof the following new sentence:

"For the purposes of this section, an entity shall not be considered supervised or regulated by the Office of the State Bank Commissioner solely because it is exempt under Section 2202 of this title or because it is subject to an escheat examination conducted by the Office of the State Bank Commissioner."

Section 4. Amend §121(a)(1) of Title 5 of the Delaware Code by deleting the words and punctuation "safe deposit companies," after the words and punctuation "trust companies," and before the words "building and loan associations".

Section 5. Amend §127(b) of Title 5 of the Delaware Code by deleting the number "3.5" and inserting in lieu thereof the number "5" after the word "exceed" and before the word "cents" in the fourth sentence thereof, beginning with the words "The assessment" and ending with the words and punctuation "total assets."

Section 6. Amend §724 of Title 5 of the Delaware Code by deleting the number "3" and inserting in lieu thereof the number "2" after the word "for" and before the words "successive weeks".

Section 7. Amend §725 of Title 5 of the Delaware Code by deleting the word "third" and inserting in lieu thereof the word "second" after the number and words "60 days after the" and before the word "publication", and by deleting the number and words "30 days from the date of the third publication" and inserting in lieu thereof the number and words "20 days from the date of the second publication" after the words "before the expiration of" and before the comma.

Section 8. Amend §767 of Title 5 of the Delaware Code by deleting existing subsection (e) thereof in its entirety, and by redesignating existing subsection (f) as new subsection (e).

Section 9. Amend §777(c) of Title 5 of the Delaware Code by deleting the words "needs and convenience" from the last sentence of that subsection and inserting in lieu thereof the words "convenience and needs".

Section 10. Amend §795(6) of Title 5 of the Delaware Code by deleting the reference therein to "§101(1)" and inserting in lieu thereof a reference to "§101".

Section 11. Amend §795(b) by inserting the words and punctuation "a Delaware state bank," after the words "permissible for" and before the words "a bank chartered", and by deleting the words "except to the extent such activities are expressly prohibited by the laws of this State" and inserting in lieu thereof the words "or a branch office of any national bank located in the state where such branch office of the Delaware state bank is located".

Section 12. Amend §796 of Title 5 of the Delaware Code by deleting existing subsection (2) thereof and by redesignating existing subsections (3) and (4) as new subsections (2) and (3), respectively.

Section 13. Amend §905 of Title 5 of the Delaware Code by deleting the words "on forms furnished" and inserting in lieu thereof the words "according to the form which may be prescribed", and by inserting at the end of that section the following new sentence: "The Commissioner shall have power to call for special reports whenever in the Commissioner's judgment the same are necessary."

Section 14. Amend §1101(a) of Title 5 of the Delaware Code by deleting the reference to "§101(7)" in the first sentence of the last paragraph and inserting in lieu thereof a reference to "§101".

Section 15. Amend §1101(c) of Title 5 of the Delaware Code by deleting the reference therein to "§101(9)" and inserting in lieu thereof a reference to "§101".

Section 16. Amend §1101(d) of Title 5 of the Delaware Code by deleting the reference therein to "§101(9)" and inserting in lieu thereof a reference to "§101".

Section 17. Amend §1402(a) of Title 5 of the Delaware Code by inserting the words and punctuation ", except as otherwise provided in Subchapter III of this chapter," after the words "any part thereof" and before the words "unless such foreign bank".

Section 18. Delete existing subsection (c) of §1403 of Title 5 of the Delaware Code, and redesignate existing subsections (d), (e) and (f) of that section as new subsections (c), (d) and (e), respectively.

Section 19. Amend §1404 of Title 5 of the Delaware Code by adding thereto a new subsection (c), as follows:

"(c) No foreign bank holding a certificate of authority pursuant to this subchapter shall concurrently maintain in this State a federal branch or federal agency pursuant to the International Banking Act of 1978, as amended (12 U.S.C. §3101 et seq.)."

Section 20. Amend §1405 of Title 5 of the Delaware Code by adding to the title thereof the words and punctuation "; separate assets" after the word "State" and before the period, and by adding to the text of that section a new subsection (c), as follows:

"(c) Each foreign bank holding a certificate of authority pursuant to this subchapter shall keep the assets of its business in this State separate and apart from the assets of its business outside this State."

Section 21. Amend §1408 by inserting in the title thereof the words and punctuation "; transfer or assignment of certificate of authority" after the word "business" and before the period, 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 certificate of authority issued by the Commissioner pursuant to this subchapter shall be transferable or assignable without approval by the Commissioner."

Section 22. Amend §1410(a) of Title 5 of the Delaware Code by deleting the words and punctuation ": (1) Is engaging in any activity not permitted by §1404 of this title; (2) is engaging in a manner of business activity constituting a violation of §1403(c) of this title; or (3)" and inserting in lieu thereof the words "is engaging in any activity not permitted by §1404 of this title or" after the word "subchapter" and before the words "is not in a safe and satisfactory condition".

Section 23. Amend Subchapter I of Chapter 14 of Title 5 of the Delaware Code by adding thereto a new §1416, as follows:

"§1416. Examinations, cooperative agreements, fees.

(a) The Commissioner may make such examination of any foreign bank limited purpose branch or foreign bank agency in this State as the Commissioner may deem necessary to determine compliance with the laws of this State and operation in a safe and sound manner. The provisions of this title shall apply to such examinations.

(b) The Commissioner, as a home state regulatory authority, may enter into cooperative agreements with the appropriate host state regulatory authorities for the periodic examination of and otherwise to facilitate a single point of contact with respect to any foreign bank limited purpose branch or foreign bank agency in this State and any such other entities operating in other United States jurisdictions. Additionally, the Commissioner, as a host state regulatory authority, may enter into cooperative agreements with the appropriate home state regulatory authorities for the periodic examination of and otherwise to facilitate a single point of contact with respect to any foreign bank limited purpose branch or foreign bank agency operating in this State, and may accept reports of examination and other records from a home state regulatory authority of such entities in lieu of conducting the Commissioner's own examination of such entities operating in this State. The Commissioner, as a home state or host state regulatory authority, may enter into joint actions, including with respect to asset maintenance, pledge of assets, separation of assets and liquidation, with other regulatory authorities with respect to foreign bank limited purpose branches or foreign bank agencies in this State, or may take such actions independently with notice to the appropriate home state or host state regulatory authorities to carry out the Commissioner's responsibilities to assure the safety and soundness of any such entity in this State and to assure compliance with applicable banking laws of this State. For purposes of this subsection, the term 'home state' in reference to a foreign bank has the meaning set forth in section 5(c) of the International Banking Act of 1978, as amended, at 12 U.S.C. §3103(c), and the term 'host state' means a State other than the home state.

(c) A foreign bank holding a certificate of authority pursuant to this subchapter 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."

Section 24. Amend §1422(b) of Title 5 of the Delaware Code by deleting existing subparagraph (1) thereof in its entirety, and by redesignating existing subparagraphs (2), (3) and (4) as new subparagraphs (1), (2) and (3) thereof, respectively.

Section 25. Amend Subchapter II of Chapter 14 of Title 5 of the Delaware Code by adding thereto a new §1426, as follows:

"§1426. Applicability of other laws.

Every foreign bank holding a license pursuant to this subchapter shall be deemed and held to be subject to this title and any other law or laws of this State making provision for the regulation of banks and trust companies where the same are not inconsistent with the express provisions of this subchapter including, without limitation, §131 and §132 of this title and the provisions of Subchapter I of this chapter for the regulation of foreign banks operating foreign bank limited purpose branches and foreign bank agencies in this State."

Section 26. Amend Chapter 14 of Title 5 of the Delaware Code by adding at the end thereof a new Subchapter III, as follows:

"Subchapter III. Merger of Delaware Banks and Foreign Banks;

Resulting Branch Offices of Foreign Banks

§1430. Scope.

This subchapter deals with the conditions under which Delaware banks may merge with or into foreign banks, and under which foreign banks may operate resulting branch offices in this State.

§1431. Definitions.

(a) 'Branch office', 'Delaware bank', 'Delaware state bank', 'existing Delaware bank', 'merger', 'merging bank', 'out-of-state bank' and 'resulting' shall have the meanings ascribed to them in §795 of this title.

(b) 'Home state' in reference to a foreign bank has the meaning set forth in section 5(c) of the International Banking Act of 1978, as amended, at 12 U.S.C. §3103(c).

(c) 'Out-of-state foreign bank' means a foreign bank whose home state is a state other than this State.

§1432. Authority for merger.

An existing Delaware bank may merge with or into an out-of-state foreign bank, and an out-of-state foreign bank may merge with or into a Delaware bank, in substantially the same manner and under substantially the same terms and conditions as an existing Delaware bank may merge with or into an out-of-state bank, or an out-of-state bank may merge with or into a Delaware bank, pursuant to Subchapter VII of Chapter 7 of this title.

§1433. Authority for interstate branch offices of out-of-state foreign banks.

(a) The place of business or main office and all branch offices of a merging existing Delaware bank may continue as resulting branch offices of the out-of-state foreign bank.

(b) An out-of-state foreign bank with resulting branch offices in this State 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

foreign bank or through acquisition of a branch office in this State by an out-of-state foreign bank, without merger with a Delaware bank as provided in this subchapter.

§1434. Powers.

An out-of-state foreign bank which establishes one or more branch offices in this State in accordance with 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 or pursuant to the laws of the home state of such out-of-state foreign bank to the extent that such activities are permissible in this State for a branch office of an out-of-state national bank.

§1435. Authorized agency activities.

A resulting branch office in this State of an out-of-state foreign bank may exercise agency activities as provided in Subchapter VIII of Chapter 7 of this title.

§1436. Applicability of other laws.

Every foreign bank operating a resulting branch office in this State pursuant to this subchapter shall be deemed and held to be subject to this title and any other law or laws of this State making provision for the regulation of banks and trust companies where the same are not inconsistent with the express provisions of this subchapter including, without limitation, §131 and §132 of this title, the provisions of Subchapter VII of Chapter 7 of this title for the regulation of out-of-state banks operating resulting branch offices in this State, and the provisions of Subchapter I of this chapter for the regulation of foreign banks operating foreign bank limited purpose branches and foreign bank agencies in this State."

Section 27. Amend §1662(b) of Title 5 of the Delaware Code by deleting existing subparagraph (5) thereof in its entirety, and by redesignating existing subparagraph (6) as new subparagraph (5).

Section 28. Amend §2102(a)(1) of Title 5 of the Delaware Code by inserting the words and punctuation "out-of-state state or national bank," after the words and punctuation "banking organization," and before the words "state or federal savings bank".

Section 29. Amend §2901(4) of Title 5 of the Delaware Code by inserting the words and punctuation ", if any," after the words "finance charge" and before the words "shall together" in the last sentence thereof.

Section 30. Amend §2901 of Title 5 of the Delaware Code by redesignating existing subsection (13) as new subsection (14) thereof, and by inserting a new subsection (13), as follows:

"(13) 'Licensee' means a holder of a license issued by the State Bank Commissioner pursuant to this chapter."

Section 31. Amend §2902 of Title 5 of the Delaware Code by adding thereto a new subsection (g), as follows:

"(g) Upon written request, the Commissioner may in the Commissioner's discretion grant conditional approval for an 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 this section."

Section 32. Amend §2911(b) of Title 5 of the Delaware Code by deleting the reference therein to "§2906 or 2907" and inserting in lieu thereof a reference to "§§2907, 2908 or 2909".

Section 33. Amend Chapter 29 of Title 5 of the Delaware Code by adding thereto a new §2914, as follows:

"§2914 Surety Bonds and Irrevocable Letters of Credit.

(a) Surety Bonds.

(1) Every licensee shall file with the Commissioner, in a form satisfactory to the Commissioner, an original corporate surety bond, with surety provided by a corporation authorized to transact business in this State, in the principal sum of \$25,000.

(2) No bond shall be accepted unless the following requirements are satisfied:

(i) The term of the bond shall be commensurate with the license period or continuous;

(ii) The expiration date of the bond shall not be earlier than midnight of the date on which the license expires; and

(iii) The bond shall run to the State, for the benefit of the Office of the State Bank Commissioner and for the benefit of all consumers injured by any wrongful act, omission, default, fraud or misrepresentation by a licensee in the course of its activity as a licensee. Compensation under the bond shall be for amounts which represent actual losses and shall not be payable for claims made by business creditors, third-party service providers, agents or persons otherwise in the employ of the licensee. Surety claims shall be paid to the Office of the State Bank Commissioner by the insurer not later than 90 days after receipt of a claim. Claims paid after 90 days shall be subject to daily interest at the legal rate. The aggregate liability of the surety on the bond, exclusive of any interest which accrues for payments made after 90 days, shall in no event exceed the amount of such bond.

(3) If the licensee changes its surety company or the bond is otherwise amended, the licensee shall immediately provide the Commissioner with the amended original copy of the surety bond. No cancellation of an existing bond by a surety shall be effective unless written notice of its intention to cancel is filed with the Commissioner at least thirty (30) days before the date upon which cancellation shall take effect.

(4) The Commissioner may require potential claimants to provide such documentation and affirmations as the Commissioner shall determine to be necessary and appropriate. In the event the Commissioner determines that multiple consumers have been injured by a licensee, the Commissioner shall cause a notice to be published for the purpose of identifying all relevant claims.

(5) When a surety company receives a claim against the bond of a licensee, it shall immediately notify the Commissioner and shall not pay any claim unless and until it receives notice to do so from the Commissioner.

(6) The Commissioner shall have a period of two calendar years after the effective date of cancellation or termination of the surety bond by the insurer to submit claims to the insurer.

(b) Irrevocable Letters of Credit.

In lieu of requiring the filing of a surety bond, the Commissioner may, at the Commissioner's discretion, accept from a licensee an irrevocable letter of credit.

(1) Such irrevocable letter of credit shall be provided by an insured depository institution (as defined in the Federal Deposit Insurance Act at 12 U.S.C. §1813(c)) acceptable to the Commissioner, in a form satisfactory to the Commissioner in the principal sum of \$25,000.

(2) No irrevocable letter of credit shall be accepted unless the following requirements are satisfied:

(i) The irrevocable letter of credit shall run to the State, for the benefit of the Office of the State Bank Commissioner and for the benefit of all consumers injured by the wrongful act, omission, default, fraud or misrepresentation by a licensee in the course of its activity as a licensee. Compensation under the irrevocable letter of credit shall be for amounts which represent actual losses and shall not be payable for claims made by business creditors, third-party service providers, agents or persons otherwise in the employ of the licensee. The aggregate liability of the insured depository institution issuing the irrevocable letter of credit shall in no event exceed the amount of such irrevocable letter of credit; and

(ii) Draws upon such irrevocable letter of credit shall be available by sight drafts thereunder, in amounts determined by the Commissioner, up to the aggregate amount of the irrevocable letter of credit. Such drafts shall be paid in accordance with §5-112(1) of Title 6 of the Delaware Code.

(3) The Commissioner may require potential claimants to provide such documentation and affirmations as the Commissioner shall determine to be necessary and appropriate. In the event the Commissioner determines that multiple consumers have been injured by a licensee, the Commissioner shall cause a notice to be published for the purpose of identifying all relevant claims.

(4) The Commissioner may refuse release of an irrevocable letter of credit, following the surrender of a license, up to two (2) years after the effective date of such termination of licensure."

Section 34. Delete §2303 of Title 6 of the Delaware Code.

Section 35. Amend §379(a) of Title 8 of the Delaware Code by inserting the words and number "or in Chapter 14" after the words and numbers "except as otherwise provided in subchapter VII of Chapter 7" and before the words and number "of Title 5."

Section 36. Amend §3573 of Title 12 of the Delaware Code by deleting existing subsection (2) thereof in its entirety and by redesignating existing subsection (3) thereof as new subsection (2).

Section 37. Section 36 of this Act shall apply to trust instruments becoming irrevocable on or after July 9, 1997.

Section 38. 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 39. The sections, other than section 36, of this Act shall be effective upon its enactment into law.

Approved March 30, 1998

CHAPTER 255

FORMERLY

SENATE BILL NO. 203

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO PUBLIC HEARINGS ON PETITIONS TO ESTABLISH GARBAGE COLLECTION DISTRICTS.

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

Section 1. Amend §4722, Chapter 47, Title 9, Delaware Code by striking the number "14" as it appears therein and substituting in lieu thereof the number "10".

Approved April 1, 1998

CHAPTER 256

FORMERLY

HOUSE BILL NO. 532

AN ACT TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND AUTHORIZING THE SECRETARY OF ADMINISTRATIVE SERVICES TO ENTER INTO A CONTRACT FOR THE PURCHASE OF PROPERTY TO BECOME THE SITE OF THE NEW CASTLE COUNTY COURTHOUSE.

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

Section 1. Notwithstanding any other provision under Delaware Law to the contrary, including but not limited to Title 29 Delaware Code, Chapter 95, and 71 Laws of Delaware, Chapter 150, Section 35(c), the Secretary of the Department of Administrative Services is authorized to enter into a contract for the purchase of approximately 5.5 acres of land owned by the City of Wilmington generally bounded by Fourth and Walnut Streets and Sixth and King Streets in the City of Wilmington for the sum of four million five hundred thousand dollars (\$4,500,000) said property to become the site of the New Castle County Courthouse. Said purchase agreement shall be subject to the approval of the New Castle County Courthouse Executive Committee established by 71 Laws of Delaware, Chapter 150, Section 35(c).

Section 2. There is hereby appropriated a sum of four million five hundred thousand dollars (\$4,500,000) from the General Fund to the Department of Administrative Services for the purpose of implementing Section 1 of this Act.

Section 3. This Act is a supplementary appropriation and 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, 2000.

Approved April 1, 1998

CHAPTER 257

FORMERLY

HOUSE BILL NO. 372

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO
AGRICULTURAL LANDS PRESERVATION.

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

Section 1. Amend § 909(a)(2), Chapter 9, Title 3, Delaware Code, by deleting such subparagraph in its entirety and by substituting in lieu thereof the following:

“(2) Activities conducted on the real property shall be limited to agricultural and related uses, and residential use of the real property shall be limited as follows:

(i) no more than one (1) acre of land for each twenty (20) acres of usable land owned in a District or an expansion of a District, to a maximum of ten (10) acres, shall be allowed for dwelling housing; and

(ii) the dwelling housing shall be limited to residential use of the owner, relatives of the owner and persons providing permanent and seasonal farm labor services; provided, however, that the Foundation may, pursuant to regulations adopted after notice and public hearing, allow, from the effective date of an initial District Agreement, no more than a total of three (3) dwellings or dwelling lots located in the Agriculture Preservation District to be transferred from an owner or relatives of an owner to any other person, subject to the following limitations and requirements:

(A) the owner or relative of an owner seeking to make the transfer shall establish that a hardship condition exists, as defined pursuant to Foundation regulations, and obtain Foundation approval;

(B) The dwelling or dwelling lot, after transfer, shall be used only for residential purposes;

(C) the transferred property shall not qualify for District benefits or benefits of easement conveyance established under this Chapter; and

(D) if a preservation easement has been acquired by the Foundation on the real property subject to transfer, the owner or relatives of the owner, shall, as a condition of Foundation approval, pay to the Foundation an amount equal to twenty-five (25) percent of the then current fair market value of the land subject to transfer; and

(iii) any transfer of real property in a District or an expansion of a District to another person shall be preceded by the execution by the transferee of a document, in recordable form and as prescribed by the Foundation, which sets forth the acreage allowed for dwelling housing and the restrictions which apply to the real property under this Chapter and the regulations of the Foundation.”

Section 2. Amend § 908(a), Chapter 9, Title 3, Delaware Code, by eliminating the word “and” at the end of subparagraph (3); by adding a semi-colon in lieu of the period at the end of subparagraph (4) and including the word “and” thereafter; and by adding a new subparagraph (5) to read as follows:

“(5) The real property proposed for inclusion in the District shall include all of the eligible real property located in the tax parcel or tax parcels subject to application, and no eligible real property shall be carved out or otherwise excluded from the application

for establishment of an Agricultural Preservation District or the application to sell a preservation easement pursuant to Subchapter III of this Chapter."

Section 3. The Foundation shall be entitled, subject to the concurrence of the real property owners, to modify existing District Agreements and Preservation Easements to conform to the provisions of Section 1 hereof.

Approved April 1, 1998

CHAPTER 258

FORMERLY

HOUSE BILL NO. 524

AN ACT TO AMEND CHAPTER 237, VOLUME 51, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BRIDGEVILLE", AND PROVIDING FOR THE LEVY OF A REAL ESTATE TRANSFER TAX NOT TO EXCEED ONE PERCENT OF THE PURCHASE PRICE.

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

Section 1. Amend Section 27, Chapter 237, Volume 51 of the Laws of Delaware, by adding thereto a new paragraph, as follows:

"The Commissioners shall have the power and authority by ordinance to levy, assess and collect or provide for the levying, assessment and collection of such taxes as shall be determined by the Commissioners to be paid by the transferor or transferee upon the transfer of real property or any interest in real property, situated within the corporate limits of the Town of Bridgeville, regardless of where the instruments making the transfers are made, executed and delivered or where the actual settlements upon such transfers occur; provided, however, that no tax levied under this Section shall exceed one percent (1%) of the sales price (including the value of any assumed mortgage or mortgages) or fair market value of the real property so transferred; and provided further that no tax shall be levied upon an organization exempted from *ad valorem* real estate taxes. No ordinance providing for a tax on the transfer of real property or any interest in real property authorized under this Section shall become effective unless it receives an affirmative vote of two-thirds of all the elected members of the Commissioners of Bridgeville. If the taxing power or authority granted under this Section shall be exercised by way of a stamp affixed to a document presented for recording, the Recorder of Deeds in and for Sussex County shall not receive for record any documents subject to said tax unless such stamps are affixed thereto. The Commissioners of Bridgeville may adopt an ordinance to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this Section."

Approved April 1, 1998

CHAPTER 259

FORMERLY

SENATE BILL NO. 224

AN ACT TO AMEND CHAPTER 28, TITLE 24, DELAWARE CODE, RELATING TO PROFESSIONAL ENGINEERS.

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

Section 1. Amend §2817 (4)a., Title 24, Delaware Code, by striking the colon ":" immediately following the word "provided" and inserting the following:

"the applicant's qualifications meet at least one of the following:"

Section 2. Amend §2817 (4) a., subsections 1 and 2, Title 24, Delaware Code, by striking the word "or" as it appears immediately following the words "date" and "case" in the respective subsections 1 and 2.

Section 3. Amend §2817 (4) a., Title 24, Delaware Code, by adding thereto a new subsection 4 to read as follows:

"4. The professional engineering qualifications of the applicant include a minimum of 10 years of continuous and verifiable professional experience in engineering work of a character satisfactory to Council. Such experience shall have been obtained in a state, territory or possession of the United States, the District of Columbia, or a province or territory of Canada. The applicant must meet the additional requirements of subsections (5) a and (7) and must not have been subject to disciplinary action in the current or previous licensing jurisdictions."

Approved April 9, 1998

CHAPTER 260

FORMERLY

HOUSE BILL NO. 188
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CERTAIN
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 Section 856(a) of Title 11 of the Delaware Code by inserting between
the phrases "for theft" and "it is no" as they appear in the first sentence of said section the phrase
"or theft of a firearm", and by inserting immediately after the phrase "receiving stolen property"
as it appears in said sentence the phrase "or receiving a stolen firearm".

Section 2. Amend Section 856(b) of Title 11 of the Delaware Code by inserting between
the phrases "receiving stolen property" and "it is no" as they appear in the first sentence of said
section the phrase "receiving a stolen firearm" and by inserting immediately after the word
"theft" as it appears in said sentence the phrase "theft of a firearm".

Section 3. Amend Section 856(c) of Title 11 of the Delaware Code by inserting between
the phrases "receiving stolen property" and "with regard to property" as they appear in the first
sentence of said section the following:

“, or both theft of a firearm and receiving a stolen firearm,”.

Approved April 9, 1998

CHAPTER 261

FORMERLY

HOUSE BILL NO. 341
AS AMENDED BY HOUSE AMENDMENT NO. 1AN ACT TO AMEND TITLE 21, DELAWARE CODE REGARDING INFORMATION ON
DRIVERS LICENSES.

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

AMEND Title 21, Section 2718 of the Delaware Code by adding a new subsection (e).

"(e) If an applicant is required to register as a sex offender pursuant to Title 11, Section 4120 of the Delaware Code, as amended, for a felony conviction the sentencing court shall take possession of the driver's license and shall tender to the person being sentenced a temporary license, directing that the person report to the Division of Motor Vehicle for a replacement Driver's License with the following code under restrictions: Y indicating sex offender. The person shall tender to the Division of Motor Vehicle a fee of \$5.00 for the replacement license. Upon a person being removed from the registration requirement, the Division of Motor Vehicle shall issue a license without the sex offender code printed upon the license at no charge. The sentencing court shall forward to the Division all licenses that it receives, along with a copy of the Sentencing Order".

Approved April 20, 1998

CHAPTER 262

FORMERLY

HOUSE BILL NO. 488

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE
ISSUANCE OF SEARCH WARRANTS TO CODE ENFORCEMENT CONSTABLES.

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

Section 1. Amend Chapter 29, Title 10, Delaware Code, by adding a new section thereto as follows:

"§ 2902A. Prohibition against the issuance of a search warrant where probable cause does not exist.

Notwithstanding any state or local law, statute, ordinance or regulation to the contrary, no warrant to search any house, building, structure, place, conveyance or thing located in Sussex County shall be issued except upon probable cause supported by oath or affirmation as required by Article I, §6 of the Delaware Constitution of 1897."

Approved April 20, 1998

CHAPTER 263

FORMERLY

HOUSE BILL NO. 277

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE
REPEAL OF CERTAIN CRIMINAL STATUTES.

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

Section 1. Amend Chapter 2 of Title 11 of the Delaware Code by adding thereto a new section, to be designated as § 211, to read as follows:

"211. Repeal of statutes as affecting existing liabilities.

(a) The repeal of any statute creating, defining or relating to any criminal offense set forth under the laws of this State, shall not have the effect of releasing or extinguishing any penalty, forfeiture or liability incurred under such statute, unless the repealing act shall so expressly provide, and such statute shall be treated as remaining in full force and effect for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.

(b) Any action, case, prosecution, trial or other legal proceeding in progress under or pursuant to any statute relating to any criminal offense set forth under the laws of this State shall be preserved and shall not become illegal or terminated in the event that such statute is later amended by the General Assembly, irrespective of the stage of such proceeding, unless the amending act expressly provides to the contrary. For the purposes of such proceedings, the prior law shall remain in full force and effect.

Approved April 20, 1998

CHAPTER 264

FORMERLY

HOUSE BILL NO. 235

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO TIME LIMITATIONS APPLYING TO CERTAIN CRIMINAL PROSECUTIONS.

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

Section 1. Amend Section 205(a) of Title 11 of the Delaware Code by inserting between the phrases "prosecution for murder" and "may be commenced" as they appear in said paragraph the following phrase "or any Class A felony, or any attempt to commit said crimes,".

Section 2. Amend Section 205(b)(1) of Title 11 by inserting between the phrases "felony except murder" and "must be commenced" as they appear in said paragraph the phrase "or any Class A felony, or any attempt to commit said crimes,".

Approved April 20, 1998

CHAPTER 265

FORMERLY

HOUSE BILL NO. 479

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO WRONGFUL DEATH ACTIONS.

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

Section 1. Amend Chapter 37, Title 10 of the Delaware Code by deleting § 3723 in its entirety.

Approved April 20, 1998

CHAPTER 266

FORMERLY

SENATE BILL NO. 234

AN ACT TO AMEND CHAPTER 302, VOLUME 49, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF FENWICK ISLAND, DELAWARE" TO CLARIFY WHEN APPEALS OF TAX ASSESSMENTS MAY BE MADE.

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

Section 1. Amend Subsection A., of Section 24, of the Charter of the Town of Fenwick Island, Delaware, Chapter 302, Volume 49, Laws of Delaware, as amended, by striking the fourth sentence thereof and substituting in lieu thereof the following:

"The Town Council shall at their regular meeting in the month of July hear appeals from said assessment, and shall increase, decrease or abate such assessment if they deem such action just."

Approved April 20, 1998

CHAPTER 267

FORMERLY

SENATE BILL NO. 237

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

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

Section 1. Amend Chapter 42, Volume 53, Laws of Delaware, as amended, by adding a new subsection (s) to Section 27 as follows:

"(S) However, should the City Council so elect, the city manager 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 City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Seaford for Sussex County therein."

Section 2. Amend Chapter 42, Volume 53, Laws of Delaware, as amended, by adding a new section designated as "Section 37A" as follows:

"NOTICE OF ACTION

Section 37A. No action, suit or proceeding shall be brought or maintained against the City of Seaford, the Mayor or the City Council of the City of Seaford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Seaford or any of its departments, offices, agents or employees thereof unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained."

Approved April 20, 1998

CHAPTER 268

FORMERLY

HOUSE BILL NO. 492

AN ACT TO AMEND THE CHARTER OF THE TOWN OF MILLSBORO, CHAPTER 457, VOLUME 60, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MILLSBORO", TO DELETE THE LIMITATION ON THE ANNUAL APPROPRIATION FOR A PENSION AND HEALTH AND WELFARE PLAN FROM SECTION 30(41).

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

Section 1. Subsection (41), Section 30, Enumeration of Powers, of Chapter 457, Volume 60, be and is hereby amended by striking out the second clause: "provided, however, that any annual appropriation which is made by the Town Council under any such Pension Plan or any Health and Welfare Plan, or both, shall not exceed a maximum of fifteen percent (15%) of the total annual payroll of the town;"

The remainder of the section remains unchanged.

Approved April 20, 1998

CHAPTER 269

FORMERLY

HOUSE BILL NO. 507

AN ACT TO AMEND CHAPTER 237, VOLUME 51, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BRIDGEVILLE", TO CHANGE THE DATE FOR THE FILING FOR CANDIDACY IN THE TOWN AND TO CHANGE THE DATE FOR THE GENERAL ELECTION.

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

Section 1. Amend Section 5, Chapter 237, Volume 51, Laws of Delaware, as amended, by deleting from the first sentence thereof the phrase "the first Monday of January" and substituting in lieu thereof, "the second Saturday of January".

Section 2. Amend Section 5, Chapter 237, Volume 51, Laws of Delaware, as amended, by amending the ninth sentence thereof by deleting the phrase "at least one week before the date" and substituting in lieu thereof "at least four weeks before the date".

Approved April 20, 1998

CHAPTER 270

FORMERLY

HOUSE BILL NO. 511

AN ACT TO AMEND CHAPTER 5, TITLE 7, OF THE DELAWARE CODE RELATING TO HUNTING LICENSES FOR NONRESIDENTS.

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

Section 1. Amend § 507, Title 7 of the Delaware Code, by adding thereto a new subsection to read as follows:

"(f) A nonresident shall be exempt from the licensing requirement of this chapter while hunting snow geese, provided:

(1) The non-resident resides in another state or Canadian province which extends the same exemption to Delaware residents;

(2) The nonresident is properly licensed, or exempt from the licensing requirement, to hunt snow geese in the state or Canadian province in which he or she resides;

(3) The nonresident purchases a migratory waterfowl stamp as provided for by § 517 of this Title; and

(4) The nonresident complies with the hunter education requirements of § 506(a) of this Title."

Section 2. Amend § 508(5), Title 7 of the Delaware Code, by striking the word "waterfowl," and by striking the phrase "and not valid for hunting on any publicly owned land".

Section 3. Amend § 517(b), Title 7 of the Delaware Code, by inserting the phrase "Unless otherwise provided in this Chapter," between the period "." and the phrase "Any person who is exempt".

Approved April 20, 1998

CHAPTER 271

FORMERLY

HOUSE BILL NO. 317

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO PURCHASES OF ALCOHOLIC BEVERAGES BY RETAIL LICENSE HOLDERS.

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

Section 1. Amend §304, Title 4, Delaware Code by deleting §304(a)(2)c. in its entirety and by substituting in lieu thereof the following:

"c. Purchases of one case not to exceed 20 gallons of alcoholic beverages per day by the holder of a retail license from another holder of a retail license."

Approved May 6, 1998

CHAPTER 272

FORMERLY

HOUSE BILL NO. 37

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

AN ACT TO AMEND TITLE 14 AND TITLE 21 OF THE DELAWARE CODE RELATING TO PUBLIC SCHOOLS; AND PROVIDING FOR THE SUSPENSION OF, NON-RENEWAL OF, OR REFUSAL TO ISSUE A DRIVER'S LICENSE TO A PERSON WHO HAS BEEN EXPELLED FROM SCHOOL.

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

Section 1. Amend §4130, Chapter 41, Title 14 of the Delaware Code by striking the title to said section, and substituting in lieu thereof the following:

"§4130. Expulsion of students; Re-enrollment; Loss of Driver's License"

Section 2. Amend §4130, Chapter 41, Title 14 of the Delaware Code by adding thereto a new subsection, designated as subsection (d), which new subsection shall read as follows:

"(d)(1) In any case where a person is expelled from a public school, the Superintendent of Schools for the school district in which such school is located shall send written notice of such expulsion to the Division of Motor Vehicles. Such notice shall be sufficient authority for the Division to suspend, or refuse to renew, any driver's license already issued to such person; or to refuse to issue a license to anyone reported by a superintendent to have been expelled from school. Such expelled person shall remain ineligible for the issuance of a new license, or for the renewal or reinstatement of a present or former license until the Division receives such proof as it may require that such person is again eligible for a driver's license.

(2) An expelled person whose license has been suspended may have such license reinstated, or a new license issued, if any of the following requirements are met:

- (i) the length of the expulsion is complete;
- (ii) Such person is nineteen years of age or older; or
- (iii) Two years have elapsed since the date of expulsion.

(3) To have a driver's license reinstated, or to obtain a new license, an expelled student must meet one of the requirements set forth in paragraph (2); must apply in person to the Division of Motor Vehicles; and must provide the Division with verification from the school, or such proof as the Division may require.

(4) Where a person does not have a driver's license because the Division has suspended, or refused to renew a license to such person in accordance with this section, such person may apply to the Division for a conditional license. The Division shall not issue any conditional license under this section unless such person's application:

- (i) is made upon a form prescribed by the Division, and sworn to by the applicant;
- (ii) contains a statement setting forth those hardships which would occur if a conditional license were not granted; and
- (iii) contains a sworn statement that the applicant shall comply with all conditions placed upon such conditional license.

Section 3. Amend Subsection (b), Section 2707, Title 21 of the Delaware Code by adding thereto a new paragraph, designated as paragraph (13), which new paragraph shall read as follows:

"(13) Person who has been expelled from a public school, where the Department has been notified by the school of such expulsion, until the expelled person presents such proof to the Department as the Department may require that such person complies with one of the requirements set forth in §4130 (d)(2) of Title 14."

Section 5. Amend §2732, Chapter 27, Title 21 of the Delaware Code by adding thereto a new subsection, designated subsection (e), which new subsection shall read as follows:

"(e) The Department shall forthwith suspend the license or driving privileges, or both, of any person who has been expelled from a public school upon receipt of notice from the superintendent of schools for the school district in which such school is located, that such person has been expelled. No insurer may increase the premiums charged for, or reduce the coverage provided by, any policy of vehicle insurance, as defined in §906(a)(1) of Title 18 of this code, solely as a result of the suspension of a person's license or driving privileges under this subsection."

Approved May 6, 1998

CHAPTER 273

FORMERLY

HOUSE BILL NO. 588

AN ACT TO AMEND TO AUTHORIZE AND APPROVE THE TRANSFER OF CERTAIN REAL PROPERTY IN THE CITY OF WILMINGTON.

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

Section 1. Notwithstanding any provisions to the contrary, including, but not limited to, those contained in Title 29, Chapter 94 of the Delaware Code relating to surplus property, the Secretary of the Department of Administrative Services may negotiate the disposition and convey a parcel of State-owned land on behalf of the State of Delaware situated at the north east corner of Twelfth and Walnut Streets, Wilmington, Delaware, further identified as tax parcel #26-036.10-01 and containing 2,352 square feet. Such disposition and the use of any proceeds from the sale shall be subject to the approval of the New Castle County Courthouse Executive Committee established by 71 Laws of Delaware, Chapter 150, Section 35 (c).

Section 2. This bill becomes effective upon its enactment into law.

Approved May 7, 1998

CHAPTER 274

FORMERLY

SENATE BILL NO. 319

AN ACT TO AMEND CHAPTER 237, VOLUME 51, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BRIDGEVILLE", BY REPEALING A PREVISION RELATING TO SPECIAL ELECTIONS UPON THE DEATH OR RESIGNATION OF A TOWN COMMISSIONER.

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

Section 1. Section 5, Chapter 237, Volume 51, the Laws of Delaware, as amended, is hereby amended by repealing therefrom the fourth paragraph thereof relating to the death or resignation of a Town Commissioner.

Approved May 13, 1998

CHAPTER 275

FORMERLY

HOUSE BILL NO. 156

AS AMENDED BY

HOUSE AMENDMENT NO. 2 AS AMENDED BY
HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 2;
HOUSE AMENDMENT NOS. 3, 4 AND 6 AND
SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH
INSURANCE.

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

Section 1. Amend Chapter 33 of Title 18 of the Delaware Code by adding a new section
thereto to read as follows:

"§3343. Insurance Coverage for Serious Mental Illness.

a. Definitions. For the purposes of this section, the following words and phrases shall
have the following meanings:

1. 'Carrier' means any entity that provides health insurance in this State. For the
purposes of this section, carrier includes an insurance company, health service
corporation, health maintenance organization and any other entity providing a plan of
health insurance or health benefits subject to state insurance regulation.

2. 'Health benefit plan' means any hospital or medical policy or certificate, major
medical expense insurance, health service corporation subscriber contract or health
maintenance organization subscriber contract. Health benefit plan does not include
accident-only, credit, dental, vision, Medicaid plans, long-term care or disability income
insurance, coverage issued as a supplement to liability insurance, worker's compensation
or similar insurance or automobile medical payment insurance.

'Health benefit plan' shall not include policies or certificates of specified
disease, hospital confinement indemnity or limited benefit health insurance, provided that
the carrier offering such policies or certificates complies with the following:

a. The carrier files on or before March 1 of each year a certification with
the Commissioner that contains the statement and information described in
paragraph b. of this subdivision.

b. The certification required in paragraph a. of this subdivision shall
contain the following:

1. A statement from the carrier certifying that policies or
certificates described in this subdivision are being offered and marketed as
supplemental health insurance and not as a substitute for hospital or
medical expense insurance or major medical expense insurance.

2. A summary description of each policy or certificate described in
this subdivision, including the average annual premium rates (or range of
premium rates in cases where premiums vary by age, gender or other
factors) charged for such policies and certificates in this State.

c. In the case of a policy or certificate that is described in this subdivision and that is offered for the first time in this State on or after January 1, 1999, the carrier files with the Commissioner the information and statement required in paragraph b. of this subdivision at least 30 days prior to the date such a policy or certificate is issued or delivered in this State.

3. 'Serious mental illness' means any of the following biologically based mental illnesses: schizophrenia; bipolar disorder; obsessive-compulsive disorder; major depressive disorder; panic disorder; anorexia nervosa; bulimia nervosa; schizo affective disorder and delusional disorder. In determining whether this Section applies, the diagnostic criteria set out in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders shall be utilized to determine whether a beneficiary of a health benefit plan is suffering from a Serious Mental Illness. This Section shall not apply to coverage or benefits for the treatment of alcoholism or other drug dependencies. Further, this Section shall not apply to coverage or benefits for the treatment of alcoholism or other drug dependencies through the diagnosis or treatment of one or more serious mental illnesses.

b. Coverage of Serious Mental Illnesses. Carriers shall provide coverage for serious mental illnesses in all health benefit plans delivered or issued for delivery in this State. Subject to the provisions of subsections a, and c through h of this Section, no carrier may issue for delivery, or deliver, in this State any health benefit plan containing terms that place a greater financial burden on an insured for covered services provided in the diagnosis and treatment of a serious mental illness than for covered services provided in the diagnosis and treatment of any other illness or disease covered by the health benefit plan. By way of example, such terms include deductibles, co-pays, monetary limits, co-insurance factors, limits in the numbers of visits, limits in the length of inpatient stays, durational limits or limits in the coverage of prescription medicines.

c. Eligibility for Coverage. A health benefit plan may condition coverage of services provided in the diagnosis and treatment of a serious mental illness on the further requirements that the service(s): (1) must be rendered by a mental health professional licensed or certified by the State Board of Licensing or in a mental health facility licensed by the State or substantially similar licensing entities in other states (2) must be medically necessary and; (3) must be covered services subject to any administrative requirements of the health benefit plan. A health benefit plan may further condition coverage of services provided in the diagnosis and treatment of a serious mental illness in the same manner and to the same extent as coverage for all other illnesses and diseases is conditioned. Such conditions may include, by way of example, and not by way of limitation, precertification and referral requirements.

d. Benefit Management. A carrier may, directly or by contract with another qualified entity, manage the benefit prescribed by subsection b in order to limit coverage of services provided in the diagnosis and treatment of a serious mental illness to those services that are deemed medically necessary. The management of benefits for serious mental illnesses may be by methods used for the management of benefits provided for other medical conditions, or may be by management methods unique to mental health benefits. Such may include, by way of example and not limitation; pre-admission screening, prior authorization of services, utilization review and the development and monitoring of treatment plans.

This Section shall not be interpreted to require a carrier to employ the same benefit management procedures for serious mental illnesses that are employed for the management of other illnesses or diseases covered by the health benefit plan or to require parity or equivalence in the rate, or dollar value of, claims denied.

e. Exclusions. This Section shall not apply to plans or policies not within the definition of health benefit plan, as set out in subsection a.2, above.

f. Out of Network Services. Where a health benefit plan provides benefits for the diagnosis and treatment of serious mental illnesses within a network of providers and where a beneficiary of the health benefit plan obtains services consisting of diagnosis and treatment of a serious mental illness outside of the network of providers, the provisions of this section shall not

apply. The health benefit plan may contain terms and conditions applicable to out of network services without reference to the provisions of this section.'

Section 2. Amend Chapter 35 of Title 18 of the Delaware Code by adding a new section thereto to read as follows:

'§3566. Insurance Coverage for Serious Mental Illness.'

a. Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:

1. 'Carrier' means any entity that provides health insurance in this State. For the purposes of this section, carrier includes an insurance company, health service corporation, health maintenance organization and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

2. 'Health benefit plan' means any hospital or medical policy or certificate, major medical expense insurance, health service corporation subscriber contract or health maintenance organization subscriber contract. Health benefit plan does not include accident-only, credit, dental, vision, Medicaid plans, long-term care or disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance or automobile medical payment insurance.

'Health benefit plan' shall not include policies or certificates or specified disease, hospital confinement indemnity or limited benefit health insurance, provided that the carrier offering such policies or certificates complies with the following:

a. The carrier files on or before March 1 of each year a certification with the Commissioner that contains the statement and information described in paragraph b. of this subdivision.

b. The certification required in paragraph a. of this subdivision shall contain the following:

1. A statement from the carrier certifying that policies or certificates described in this subdivision are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance or major medical expense insurance.

2. A summary description of each policy or certificate described in this subdivision, including the average annual premium rates (or range of premium rates in cases where premiums vary by age, gender or other factors) charged for such policies and certificates in this State.

c. In the case of a policy or certificate that is described in this subdivision and that is offered for the first time in this State on or after January 1, 1999, the carrier files with the Commissioner the information and statement required in paragraph b. of this subdivision at least 30 days prior to the date such a policy or certificate is issued or delivered in this State.

3. 'Serious mental illness' means any of the following biologically based mental illnesses: schizophrenia; bipolar disorder, obsessive-compulsive disorder, major depressive disorder; panic disorder, anorexia nervosa; bulimia nervosa; schizoaffective disorder and delusional disorder. In determining whether this Section applies the diagnostic criteria set out in the most recent edition of the Diagnostic and Statistical Manual shall be utilized to determine whether a beneficiary of a health benefit plan is suffering from a Serious Mental Illness. This Section shall not apply, or be interpreted to apply, to coverage or benefits for the treatment of alcoholism or other drug dependencies. Further, this Section shall not apply to coverage or benefits for the treatment of alcoholism or other drug dependencies through the diagnosis or treatment of one or more serious mental illnesses.

b. Coverage of Serious Mental Illness. Carriers shall provide coverage of serious mental illnesses in all health benefit plans delivered or issued for delivery in this State. Subject to the provisions of subsections a, and c through h of this Section, no carrier may issue for delivery, or deliver, in this State any health benefit plan containing terms that place a greater financial burden on an insured for covered services provided in the diagnosis and treatment of a serious mental illness than for covered services provided in the diagnosis and treatment of any other illness or disease covered by the health benefit plan. By way of example, such terms include deductibles, co-pays, monetary limits, co-insurance factors, limits in the numbers of visits, limits in the length of inpatient stays, durational limits or limits in the coverage of prescription medicines.

c. Eligibility for Coverage. A health benefit plan may condition coverage of services provided in the diagnosis and treatment of a serious mental illness on the further requirements that the service(s): (1) must be rendered by a mental health professional licensed or certified by the State Board of Licensing or in a mental health facility licensed by the State or substantially similar licensing entities in other states (2) must be medically necessary and; (3) must be covered services subject to any administrative requirements of the health benefit plan. A health benefit plan may further condition coverage of services provided in the diagnosis and treatment of a serious mental illness in the same manner and to the same extent as coverage for all other illnesses and diseases is conditioned. Such conditions may include, by way of example and not by way of limitation, precertification and referral requirements.

d. Benefit Management. A carrier may, directly or by contract with another qualified entity, manage the benefit prescribed by subsection b in order to limit coverage of services provided in the diagnosis and treatment of a serious mental illness to those services that are deemed medically necessary. The management of benefits for serious mental illnesses may be by methods used for the management of benefits provided for other medical conditions, or may be by management methods unique to mental health benefits. Such may include, by way of example and not limitation; pre-admission screening, prior authorization of services, utilization review and the development and monitoring of treatment plans.

This Section shall not be interpreted to require a carrier to employ the same benefit management procedures for serious mental illnesses that are employed for the management of other illnesses or diseases covered by the health benefit plan or to require parity or equivalence in the rate, or dollar value of, claims denied.

e. Exclusions. This Section shall not apply to plans or policies not within the definition of health benefit plan, as set out in subsection a.2, above.

f. Out of Network Services. Where a health benefit plan provides benefits for the diagnosis and treatment of serious mental illnesses within a network of providers and where a beneficiary of the health benefit plan obtains services consisting of diagnosis and treatment of a serious mental illness outside of the network of providers, the provisions of this section shall not apply. The health benefit plan may contain terms and conditions applicable to out of network services without reference to the provisions of this section."

Section 3. Applicability. This act shall be effective and shall apply only to policies issued for delivery or delivered in Delaware and which cover residents of the State of Delaware, or employees of employers located in Delaware and their dependents.

Section 4. Effective Date. This act will become effective on January 1, 1999 and will apply to policies delivered or renewed in Delaware on or after January 1, 1999.

Section 5. On or before January 15, 2001, a panel comprised of the Secretary of the Department of Health and Social Services or his/her designee; the Chair of the Health Care Commission or his/her designee; the Director of the Division of Alcoholism, Drug Abuse and Mental Health or his/her designee; the Insurance Commissioner or his/her designee; the State Budget Director or his/her designee; the Controller General or his/her designee; a representative of the Delaware State Chamber of Commerce; a member of the House and Senate or his/her designee; a mental health professional, to be appointed by the Governor; a member of the managed care industry, to be appointed by the Governor; and two public consumers, to be appointed by the Governor, shall report to the General Assembly on the following:

- (i) An estimate of the impact of this Act on health insurance costs.
- (ii) A review of the use of mental health insurance benefits by the insured and the impact on the work place.
- (iii) Actions taken to assure that health insurance plans are in compliance with this Act and that quality and access to treatment for mental health conditions are not compromised by providing financial parity for such coverage.
- (iv) Identification of any segments of Delaware's population that may be excluded from access to treatment for mental health conditions at the level provided by this Act.
- (v) Analysis of the use of medical services resulting from the provision of access to mental health treatment as provided by this Act.

This collection and analysis of data shall be the responsibility of the Delaware Health Care Commission and become part of the Delaware Health Information Network.

Section 6. Sunset. This Act shall sunset and automatically be repealed, unless reenacted on or before June 30, 2002.

Section 7. Severability. 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 applications, and, to that end, the provisions of this Act are declared to be severable.

Approved May 14, 1998

CHAPTER 276

FORMERLY

SENATE BILL NO. 289

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO EXEMPTIONS FROM EXECUTION.

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

Section 1. Amend §4915(f), of Title 10 of the Delaware Code by deleting said subsection in its entirety and replacing said subsection with the following:

"(f) 'Retirement plan' means any retirement or profit sharing plan that is qualified under section 401, 403, 408, 408A, 409, 414 or 457 of the Internal Revenue Code of 1986, as amended."

Section 2. This act shall be effective January 1, 1998.

Approved May 19, 1998

CHAPTER 277

FORMERLY

SENATE BILL NO. 253

AN ACT TO AMEND AN ACT, BEING CHAPTER 276, VOLUME 65, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF GEORGETOWN" TO INCREASE THE INDEBTEDNESS LIMITATION OF THE TOWN COUNCIL OF THE TOWN OF GEORGETOWN.

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

Section 1. Subsection (b), Section 34, Chapter 276, Volume 65, Laws of Delaware, as amended, be and the same is hereby amended by deleting the words "forty percent (40%)" as they appear in the second line of said subsection and by inserting therein instead the words "fifty percent (50%)".

Section 2. Paragraph 36, Subsection 1, Section 30, Chapter 276, Volume 65, Laws of Delaware, as amended, be and the same is hereby amended by deleting the words "forty percent (40%)" as they appear in the eighth line of said paragraph and by inserting therein instead the words "fifty percent (50%)".

Approved May 19, 1998

CHAPTER 278

FORMERLY

SENATE BILL NO. 278

AN ACT TO AMEND CHAPTER 237, VOLUME 51, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BRIDGEVILLE", TO CHANGE THE DATE UPON WHICH THE ANNUAL BUDGET SHOULD BE SUBMITTED.

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

Section 1. Amend Section 24, Chapter 237, Volume 51, Laws of Delaware, entitled "FISCAL YEAR", by deleting from the first sentence thereof the phrase "the first day of March" and substituting in lieu thereof "the first day of July" and by deleting the word "February" and replacing said word with the word "June".

Section 2. Amend Section 25, Chapter 237, Volume 51, Laws of Delaware, by deleting from the first sentence thereof the phrase "the first Tuesday in February" and substituting in lieu thereof "the first Tuesday in June".

Approved May 19, 1998

CHAPTER 279

FORMERLY

SENATE BILL NO. 285

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REINCORPORATE THE CITY OF HARRINGTON" BEING CHAPTER 115, VOLUME 69, LAWS OF DELAWARE, AS AMENDED, RELATING TO CONTRACTS, MEETINGS AND ELECTIONS.

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

Section 1. Amend Section 27 of Chapter 115 Volume 69, Laws of Delaware by deleting paragraphs "D" and "E" in their entirety.

Section 2. Amend Section 9.3 of Chapter 115 Volume 69, Laws of Delaware by deleting the word "adjourned" and replacing said word with the word "reconvened".

Section 3. Amend Section 6.6.1 of Chapter 115 Volume 69, Laws of Delaware by deleting the phrase "Paper Ballots," as found in the title and by deleting the phrase ", electronic voting system, or by paper ballot" and replacing said phrase with the phrase "or electronic voting system".

Section 4. Amend Section 6.2 of Chapter 115 Volume 69, Laws of Delaware by deleting the phrase "for at least six (6) months" in its entirety.

Approved May 19, 1998

CHAPTER 280

FORMERLY

SENATE BILL NO. 323

AN ACT TO AMEND CHAPTER 288, VOLUME 64 LAWS OF DELAWARE AS AMENDED, THE CHARTER OF THE TOWN OF LAUREL, WITH REGARD TO THE PROCEDURES AND LIMITS FOR AUTHORIZING GENERAL OBLIGATION BONDS, CERTIFICATES OF INDEBTEDNESS, NOTES, BONDS OR OTHER OBLIGATIONS.

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

Section 1. Amend Section 36(a) of Chapter 288, Volume 64, Laws of Delaware, the Charter of The Town of Laurel, as amended, by adding "as determined by the Town Council." at the end of the first sentence in paragraph 9.

Section 2. Amend Section 36(b) of Chapter 288, Volume 64, Laws of Delaware, the Charter of The Town of Laurel, as amended, to change the designation of existing paragraph "(b)" to paragraph "(c)", and to add after paragraph "(a)", the following new paragraph "(b)":

"(b) Notwithstanding the foregoing provisions of this Section, The Town Council may authorize the issuance of bonds, certificates of indebtedness, notes or other obligations of The Town under this Section in an aggregate amount of up to \$2,000,000.00 outstanding at any time, without regard to the requirements set forth in paragraphs (1) - (8) of Section 36 (a), if: (i) The Town Council, by Resolution (adopted by at least a majority of all of the members of Town Council) approves of the issuance of bonds, certificates of indebtedness, notes or other obligations pursuant hereto for a proper municipal purpose with such Resolution stating the amount of such issuance, or borrowing, the purpose of such issuance or borrowing, the manner, if any, of securing the same, that the amount of all other bonds, certificates of indebtedness, notes and other obligations issued pursuant to this paragraph (b) does not exceed \$2,000,000.00 and any other facts relating to the issuance which are deemed pertinent by The Town Council and in its possession at that time. Such Resolution (or a subsequent Resolution adopted by as least a majority of a quorum as established pursuant to Section 11 hereof) shall establish the form of the bonds, certificates of indebtedness, notes or other obligations, the time or times of payment, the interest rate or rates, the classes, the series, the maturity or maturities, the registration, any callable or redeemable features, the denominations, whether such bonds, certificates of indebtedness, notes or other obligations shall be sold at either public or private sale, and the name or names thereof and any other relative or appurtenant matter pertaining thereto. Except for the provisions of paragraphs (1) - (8) of Section 36(a), all other provisions of this Section 36, if not in conflict, shall be applicable to the bonds, certificates of indebtedness, notes and other obligations issued pursuant to this paragraph (b)."

Approved May 19, 1998

CHAPTER 281

FORMERLY

SENATE BILL NO. 324

AN ACT TO AMEND CHAPTER 137, VOLUME 61 LAWS OF DELAWARE, AS AMENDED, THE CHARTER OF THE TOWN OF DELMAR, 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 24(a) of Chapter 137, Volume 61, Laws of Delaware, the Charter of the Town of Delmar, as amended, to delete paragraph (9) thereof in its entirety and to insert a new paragraph (9) as follows:

"(9) The bonds may be sold at either public or private sale as determined by the Town Council. 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 described by the Town council as least one (1) month before offering the same for sale."

Section 2. Amend Section 24(b) of Chapter 137, Volume 61, Laws of Delaware, the Charter of the Town of Delmar, as amended, to change the designation of existing paragraph "(b)" to paragraph "(c)", and to add after paragraph "(a)", the following new paragraph "(b)":

"(b) Notwithstanding the foregoing provisions of this Section, the Town Council may authorize the issuance of bonds or other obligations of the Town under this Section in an aggregate amount of up to \$1,000,000 outstanding at any time, without regard to the requirements set forth in paragraphs (1) - (7) of Section 24(a), if: (i) the Town Council, by Resolution (adopted by at least a majority of all of the members of Town Council) 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 all other bonds and obligations issued pursuant to this paragraph (b) does not exceed \$1,000,000 and any other facts relating to the issuance which are deemed pertinent by the Town Council 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 payment, 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 (1) - (7) of Section 24(a), all other provisions of this Section 24 shall be applicable to the bonds and other obligations issued pursuant to this paragraph (b)."

Approved May 19, 1998

CHAPTER 282

FORMERLY

SENATE BILL NO. 288
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2 AND
HOUSE AMENDMENT NOS. 3 AND 4

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO DRIVERS
LICENSES AND MOTORCYCLE 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 Title 21, Section 2710 of the Delaware Code by deleting the existing
section in its entirety and substituting in lieu of thereof:

"Section 2710. Issuance of a Level 1 Learner's Permit and Class D operator's license to
persons under 18 years of age.

(a) The Division, upon receiving from any person over the age of 15 years, 10 months, an
application for a Level 1 Learner's Permit, together with the fee required by law, may, in its
discretion, issue such a permit entitling the applicant, with such a permit in the applicant's
immediate possession, to drive a motor vehicle upon the highways of this State provided they
meet all requirements for the permit. Eye screening and medical examinations will be required
in accordance with Division policies.

The Division can issue a distinctively designed Level 1 Learner's Permit document or
issue the permit holder a Class D license encased in a packet which explains the driver's limited
driving privileges. If the permit holder completes the twelve month driving experience and the
sponsor does not withdraw their endorsement, the Division will notify the permit holder by mail
that he or she is eligible for a Class D license.

(b) Level 1 Learner's Permit. A person who is at least 15 years, 10 months old but less than 18
years old may obtain a Level 1 Learners Permit if the person has:

(1) Successfully completed a course in driver education in a public or private high school
in this State, which has been approved by the Department of Education and meets the standards
for such courses described by that Department. If the applicant has completed a course of
instruction in driver education in a public or private high school outside this State, the applicant
must produce a certified copy of their high school transcript evidencing the completion of the
driver education course;

(2) Passed a written test and road skills test administered by the Division or administered
by a driver education teacher. Students who require specialized evaluation, training or
equipment to operate a motor vehicle because of a physical or mental disability will be identified
by the driver education teacher and tested by the Division;

(3) Been certified by the driver education teacher as qualified for licensing; and

(4) Submitted an application signed by a sponsor as required by Subsection 2710(e).

(c) Restrictions pertaining to the Level 1 Learner's Permit.

A learner's permit authorizes the permit holder to drive the specified type or class of motor
vehicles as those defined under Section 2702(d)(1) for 12 months only under the conditions
listed below. If the learner's permit expires, the applicant will pay the appropriate fees and pass a
written and road skills examination conducted by the Division.

(1) The Level 1 Learner's Permit must be in possession of the permit holder.

(2) When the permit holder is under mandatory supervision, the permit holder must be supervised by a properly licensed parent, guardian or a licensed driver at least 25 years of age who has held a Class D license for at least 5 years. The supervising driver must be seated beside the permit holder in the front seat of the vehicle when it is in motion. No person other than the supervising driver can be in the front seat.

(3) For the first six months after issuance, the permit holder may only drive supervised.

(4) After the first six months after issuance, the permit holder may drive unsupervised between the hours of 6:00 a.m. and 9:00 p.m. Such a permit holder may drive only with supervision from 9:00 p.m. to 6:00 a.m. with the exception of times when the permit holder is traveling to and from church activities, work activities, and the permit holder's school. For purposes of this section, the term "school" shall not include school-related activities that do not take place on school property.

(5) No passengers other than the adult supervisor and two or fewer other passengers can be in the vehicle during the first year. During the second six month period of unsupervised driving, when a supervisor is not present, only two other passengers in addition to the driver can be in the vehicle.

(d) Class D license qualifications. A person who is at least 16 years and 10 months old but less than 18 years old may obtain a Class D operator's license if the person meets the following requirements:

(1) The Person has held a Level 1 Learner's Permit issued by the Division for at least twelve (12) months; and

(2) The Person has an application signed by a sponsor as specified in Section 2710(c). The sponsor's signature on the Level 1 Learner's Permit application authorizes the minor to obtain the Class D operator's license when eligible unless the sponsor withdraws, in writing, their authorization for any such license or permit.

(e) The Division shall not grant the application of any minor between the ages of 15 years, 10 months and 18 years for a operator's license or Level 1 Learner's Permit unless such application is signed both by the applicant and a sponsor who is the applicant's parent, guardian, or employer who resides in this State.

(1) Nevertheless, if the applicant has no parent, guardian, or employer residing in the State to act as their sponsor, another responsible adult person acceptable to the Secretary of Public Safety who resides with the applicant may sign the application.

(2) The following sponsors are listed in order of preference:

a. Father or mother of the minor if both parents are living together within this State and the minor resides with both parents.

b. Father of the minor, if the father is living within this State, and the minor resides with the father only, mother of the minor, if the mother is living within this State, and the minor resides with the mother only; or father or mother, if the father or mother live within this State, and the minor resides with neither parent, and the minor has no legal guardian within this State;

c. Guardian of the minor, duly appointed, as such, under the laws of this State; or

d. Employer of the minor, or by any suitable person acceptable to the Secretary of Public Safety.

(3) The Department shall not require as a prerequisite to the issuance of a license to a minor under this section, that the father, mother, or guardian who signs the minor's driver license application be present at the time the application is made by minor or sign the application at the offices of the Division of Motor Vehicle. The signing of the application and acknowledgment, thereof, by the parent, or guardian, before a notary public or other person authorized to

administer oaths shall be deemed sufficient to satisfy the requirements of this section. However, sponsors designated in paragraph (2)d. of this subsection shall sign the minor's license application in the presence of a Division representative.

(4) The sponsor who signs the driver's license application on behalf of a minor has final authority to determine if the minor is capable of handling the responsibility of operating a motor vehicle and authority to designate who can supervise the minor driver per Section 2710(c)(2). The sponsor who signed the application on behalf of the minor can withdraw their endorsement at any time until the minor reaches age 18, thereby canceling the minor's driving authority regardless of the type of permit or license held. To reinstate the canceled driving privileges, an approved sponsor must sign the application on behalf of the minor. When the minor turns 18, they can reinstate their previously held driving privileges without a sponsor's signature. The applicant can reinstate the driving privileges of a canceled license when they meet the license requirements and pay the appropriate license fee.

(5) It shall be unlawful for any person to sign the application of a minor under the provisions of this section when such application misstates the age of the minor or misrepresents the sponsor's relationship to the minor. Any person who violates this provision shall be guilty of a Class B misdemeanor, and both the minor applicant and the sponsor's driving privileges shall be suspended for 2 months per Section 2733(a)(5).

(f) Out-of-State Driver License Transfer. A person who is at least 15 years, 10 months old but less than 18 years old, who was a resident of another state and has a drivers license issued by that state, and who becomes a resident of this State may obtain Delaware driving authority under the following conditions:

(1) If the applicant was issued the out-of-state drivers license for less than twelve (12) months, they are eligible to apply for a Level 1 Learners Permit when meeting the requirements under Section 2710 (b) and successfully completing a driver education training program approved by the Delaware Department of Education.

(2) If the applicant was issued the out-of-state driver's license for over 12 months, and has successfully completed a driver education training program approved by the Delaware Department of Education, he or she is eligible to apply for a Class D operator's license after meeting the requirements of Section 2710 (e). Additionally, such a minor applicant must pass a written and road skills examination conducted by the Division.

(3) If the applicant holds an out-of-state drivers license and he or she is over 18 years old, he or she can apply for a Delaware Class D operators license under Sections 2712 and 2713.

(g) Duration and Fees. A Level 1 Learner's Permit expires 12 months after the date of issuance. If the applicant's learners permit expires, the permit shall be void. The permit can be reissued when the applicant meets the permit requirements. The applicant must pay the \$12.50 Class D license fee at the time of initial application.

(h) It is unlawful for the holder of a Level 1 Learner's Permit to operate a motor vehicle in violation of the restrictions that apply to the Level 1 Learner's Permit. Failure to comply with these restrictions constitutes operating a motor vehicle without a license under Section 2701(a).

(i) The Division shall not issue an operator's license or Level 1 Learners Permit to a person who has not reached the person's 18th birthday at the time of the offense if the person has been adjudicated delinquent as a result of acts which would constitute such an offense if committed by an adult as set forth in Section 2732 (a) of this Title.

(j) The Department may immediately suspend a minors permit, license, and/or driving privileges whenever the Department has reason to believe that such person is a reckless or negligent driver of a motor vehicle or has committed a serious moving traffic violation. The Secretary may promulgate policy regulations more stringent than those that apply to other drivers when suspending minors. The suspension period will be for 1 month for the first suspension and three months for subsequent suspensions under this subsection. No suspension under this section

shall be used by a motor vehicle insurance company licensed to sell insurance in this State as a basis for canceling a policy of insurance or to raise the premium cost to the insured.

(k) **Driver Education Learners Permit.** The Division, upon receiving proper notice that a person is currently enrolled in a driver's education course and successfully completed the minimum class hours of actual driving experience and in-the-car observation as approved by the Department of Education, may issue a driver education learners permit to such person for up to 2 months prior to the person's 16th birthday, provided the person meets all other Division requirements. This permit is issued at no cost and it is valid for four months. The application must be signed by the sponsor pursuant to Section 2710(e).

1. Any person issued a driver education learners permit pursuant to this subsection is entitled to drive a motor vehicle described in Section 2702(d)(1) upon the highways only when supervised by a properly licensed parent or guardian. If the parent(s) or guardian(s) is (are) not licensed to operate a motor vehicle, the holder of the driver education learners permit must be supervised by a licensed driver who is 25 years of age or older and have held a Class D drivers license for at least 5 years. The supervising driver must be seated beside the permit holder in the front seat of the vehicle when it is in motion. No person other than the supervising driver can be in the front seat.
2. The driver education learners permit must be in the possession of the permit holder.
3. No passengers other than the adult supervisor and two or fewer other passengers can be in the vehicle.
4. Driving experience obtained while holding this permit will be counted towards and in conjunction with the driving experience restrictions contained in Section 2710(c)(3)."

Section 2. Amend Section 2711, Title 21 by adding the following new paragraph (c) to read:

"(c) Regardless of the age of the applicant, the Division shall require a birth certificate, or certified copy thereof, or some other evidence satisfactory to the Division of the applicant's name and date of birth."

Section 3. Amend Section 2703, Title 21 of the Delaware Code by deleting the existing subparagraph (d) in its entirety and substituting in lieu of thereof:

"(d) The authorization or endorsement specified in subsection (a) of this section shall not be issued by the Division to any person under the age of 18 years unless the application therefor is signed by both the applicant and by the parent, guardian, or employer of the applicant with whom the applicant resides in this State.

(1) If the applicant has no parent, guardian, or employer residing in the State, by some other responsible adult person over the age of 21 who is acceptable to the Secretary of Public Safety who resides with the applicant.

(2) The following sponsors are listed in order of priority:

a. Father or mother of the minor, if both parents are living together within this State and the minor resides with both parents:

b. Father of the minor, if the father is living within this State, and the minor resides with the father only; mother of the minor, if the mother is living within this State and the minor resides with the mother only; or the father or mother, if the father or mother live within this State, and the minor resides with neither parent, and the minor has no legal guardian within this State:

c. Guardian of the minor, duly appointed as such under the laws of this State; or

d. Employer of the minor, or by any suitable person acceptable to the Secretary of Public Safety.

(3) The Department shall not require as a prerequisite to the issuance of a license to a minor under this section, that the father, mother, or guardian who signs the minor's driver license application be present at the time the application is made by the minor, or sign the application at the offices of the Division of Motor Vehicle. The signing of the application and acknowledgment thereof by the natural parent, or guardian before a notary public or other person authorized to administer oaths shall be deemed sufficient to satisfy the requirements of this section. Sponsors designated in paragraph (2)d of this subsection shall sign the minor's license application in the presence of a Division representative.

(4) The sponsor who signs the motorcycle endorsement application on behalf of a minor can withdraw their sponsorship at any time until the minor reaches 18 years of age, thereby canceling the minor's authority to drive a motorcycle. Once canceled, the applicant can reapply for a motorcycle endorsement when they meet the provisions of Section 2703 and pay the endorsement fee.

(5) It shall be unlawful for any person to sign the application of a minor under the provisions of this section when such application misstates the age of the minor or misrepresents themselves or their relationship to the minor. Any person who violates this provision shall be guilty of a Class B misdemeanor. Both the minor applicant and the sponsor's driver's license will be suspended for 2 months under Section 2733(a)(5)."

Section 4. Amend Title 21, Section 2703 of the Delaware Code by deleting the existing subsection (a) in its entirety and substituting in lieu of thereof:

"(a) No person shall operate a motorcycle, motorbike or other 2-wheeled, motor-driven vehicle upon a highway of this State without having been properly licensed and having passed, to the satisfaction of the Department, an examination testing the person's ability to operate such vehicle safely. The Department shall issue a separate license for the operation of such vehicle or shall note on the license authorization to operate the same. A temporary motorcycle instruction permit can be issued to a person age 18 or older after passing a written motorcycle examination. This permit expires in 60 days. If for any reason whatsoever the applicant fails to pass the required road skills examination during the 60-day period granted by the permit, the permit shall be void, and the fee paid therefor shall be forfeited unless the applicant requests an extension thereof and pays the sum of \$2.00. Upon payment of said sum the Division shall immediately issue 1 extension only of the permit for an additional 60 days. If the applicant fails to pass the required examination within the additional 60-day period, the permit shall become void. The following provisions shall apply to a person while operating a motorcycle with a temporary instruction permit for the operation of a motorcycle:

1. No passengers shall be allowed on the motorcycle;
2. Operating a motorcycle between sunset and sunrise is prohibited;
3. A safety helmet and eye protection as approved by the Secretary of Public Safety must be worn; and,
4. Operation is not permitted on the federal interstate highway system."

Section 5. Amend Title 21, Section 2712 of the Delaware Code by deleting the existing section in its entirety and substituting in lieu of thereof:

"Section 2712. Application for temporary instruction permits and Class D operator's license for persons age 18 or older.

(a) A Class D temporary instruction permit may be issued to a person age 18 years or older. A temporary permit shall entitle the applicant to drive during a 60-day period only when the applicant is accompanied by a licensed operator over the age of 21 who is actually occupying a seat beside the driver and there are no more than 2 other persons in the vehicle.

(b) If for any reason whatsoever the applicant fails to pass the required examination during the 60-day period granted by the permit, the permit shall be void, and the fee paid therefore shall be

forfeited unless the applicant requests an extension thereof and pays the sum of \$2.00 therefor. Upon payment of the said sum, the Division shall immediately issue only one extension of the permit for an additional 60-days. If the applicant fails to pass the required examination within the additional 60-day period, the permit shall become void.

(c) The applicant must successfully pass a written examination before being issued a temporary instruction permit, and pass a practical road skills examination before being issued a Class D operator's license. Eye screening and medical examinations will be administered in accordance with Division policies.

(d) It is unlawful for the holder of a Class D temporary instruction permit to operate a motor vehicle when the applicant is not accompanied by a licensed operator over the age of 21 years who is seated beside the driver or if there are more than two other persons in the vehicle. Failure to comply with Section 2712(a) restrictions constitutes operating a motor vehicle without a license under Section 2701(a)."

Section 6. Amend Title 21, Section 2702 of the Delaware Code by adding the following new subsections (d) and (e):

"(d) Vehicles Driven by Minor Permit Holders.

(1) A 'Driver Education Learners Permit' authorizes the holder to operate those vehicles that a holder of a Class D operators license can operate.

(2) A 'Level 1 Learners Permit' authorizes the holder to operate those vehicles referenced under Section 2702(d)(1)."

Section 7. Amend Title 21, Section 2701(a) of the Delaware Code by adding the following:

"(1) Those students enrolled in an approved Delaware Department of Education driver education course can drive without a learner's permit when under the supervision of a certified driver education teacher.

(2) Failure to adhere to the Level 1 Learner's Permit restrictions under Section 2710(e) or temporary instruction permit restrictions under Section 2712(a) constitutes a violation of this section. Those motor vehicle operators holding a Level 1 Learners Permit or temporary instruction permit who violate this Section will be suspended for 2 months for the first offense and 4 months for any subsequent offenses."

Section 8. Amend Title 21, Section 6105 by deleting in subsection (a) the phrase "\$2712" and substituting in lieu thereof the phrase "\$2710."

Section 9. Amend Title 21, Section 6105, by adding in subsection (b), after both phrases "original license", the phrases "or permit".

Section 10. Amend Title 21, Section 2713 by adding a new section (d) as follows:

"(d) Written and road skill examinations for students duly enrolled in a driver education course will be administered by driver education teachers certified by the Delaware Department of Education. Upon successful completion of the driver education course, the certified teacher must issue a 'High School Driver Education Certificate' which will be accepted in lieu of the written and road skill examinations administered by the Division for a period of six months from the date of issue. No further testing by the Division is required unless the High School Driver Education Certificate has expired; in such event, full testing is required. Students identified as disabled will attend specialized training and be examined by the Division. All persons under age 18 who transfer their out-of-state license for a Delaware license must be given a written and road test by the Division. Any person who is suspended while operating a motor vehicle on a Level 1 Learner's Permit, Drivers Education Learners Permit or temporary instruction permit will be re-examined before reinstatement."

Section 11. The Division of Motor Vehicles shall promulgate regulations necessary to implement this Act.

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

Section 13. Effective date. This Act shall become effective on July 1, 1999, with the exception of Sections 11 and 12 which shall become effective immediately upon enactment.

Approved May 22, 1998

CHAPTER 283

FORMERLY

SENATE BILL NO. 283

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO A REGISTERED NURSE'S AUTHORITY TO MAKE A PRONOUNCEMENT OF DEATH.

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

Section 1. Amend §1703(e)(9) of Title 24 of the Delaware Code by adding after the phrase "skilled nursing facility;" the phrase "in a residential community associated with a skilled nursing facility;".

Section 2. Amend §1902(b) of Title 24 of the Delaware Code by adding after the phrase "skilled nursing facility;" as it appears in the last paragraph of that subsection the phrase "in a residential community associated with a skilled nursing facility;".

Approved June 10, 1998

CHAPTER 284

FORMERLY

HOUSE BILL NO. 518

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO
EMERGENCY AND DISASTER ASSISTANCE.

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

Section 1. Amend Section 521, Title 31 of the Delaware Code, by striking the phrase "\$1500 for emergency shelter certified by the Department and \$200 for any other cost covered under this section" as it appears in the first sentence therein and by substituting in lieu thereof the following:

"\$1,200 for emergency shelter certified by the Department, \$450 for mortgage or rent assistance, and \$200 for other costs relating to self-sufficiency of the household".

Approved June 10, 1998

CHAPTER 285

FORMERLY

SENATE BILL NO. 226
AS AMENDED BY SENATE AMENDMENTS NOS. 1, 2, 3, 4 AND 5 AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLES 10, 11, AND 13 OF THE DELAWARE CODE RELATING TO CERTAIN CRIMES.

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

Section 2. Amend Sections 636(a)(6), 3508(a), 3508(b) and 3509(a) of Title 11 of the Delaware Code by striking the word "rape" as it appears variously therein, and by substituting in lieu thereof the phrase "any degree of rape".

Section 3. Amend Section 761(c) of Title 11 of the Delaware Code by adding the word "any" between the phrases "instrument, substance, or" and "part of the body" as they appear in the first sentence of said subsection, and by striking the phrase "other than a tongue or penis" as it appears in the first sentence of said subsection.

Section 4. Amend Section 761(g)(1) of Title 11 of the Delaware Code by inserting between the phrases "victim to submit by" and "force, by gesture, or by threat" as they currently appear in said paragraph the following:

"any act of coercion as defined in §791 and §792 of this Title, or by"

Section 5. Amend Section 761(h) of Title 11 of the Delaware Code by deleting said subsection in its entirety, and by substituting in lieu thereof the following:

"(h) 'Position of trust, authority or supervision over a child' includes, but is not limited to:

(1) familial or custodial authority or supervision; or

(2) a teacher, instructor, coach, babysitter, day care provider, or aide or any other person having regular direct contact with children through affiliation with a school, church or religious institution, athletic or charitable organization or any other organization, whether such a person is compensated or acting as a volunteer."

Section 6. Amend Section 761(g) of Title 11 of the Delaware Code by redesignating said subsection as Section 761(h), and by redesignating Section 761(h) of Title 11 of the Delaware Code as Section 761(i), and by adding to Section 761 a new subsection (g), to read as follows:

"(g) 'Sexual penetration' means:

(1) the unlawful placement of an object, as defined in §761(c) of this title, inside the anus or vagina of another person; or

(2) the unlawful placement of the genitalia or any sexual device inside the mouth of another person."

Section 7. Amend Section 761 of Title 11 of the Delaware Code by adding thereto a new subsection, to be designated as "(j)", to read as follows:

"(j) A child who has not yet reached his or her sixteenth birthday is deemed unable to consent to a sexual act with a person more than 4 years older than said child. Children who have not yet reached their twelfth birthday are deemed unable to consent to a sexual act under any circumstances."

Section 8. Amend Section 762(a) of Title 11 of the Delaware Code by striking the phrase "the age of a person being below the age of 16," as it appears in said subsection, and by substituting in lieu thereof the following:

"whether the person has reached his or her sixteenth birthday," and by striking the phrase "the person to be 16 years old or older." as it appears in said subsection, and by substituting in lieu thereof the following:

"that the person had reached his or her sixteenth birthday."

Section 9. Amend Section 762(d) of Title 11 of the Delaware Code by striking said subsection in its entirety, and by substituting in lieu thereof the following:

"(d) *Teenage defendant*. As to sexual offenses in which the victim's age is an element of the offense because the victim has not yet reached his or her sixteenth birthday, where the person committing the sexual act is no more than four (4) years older than the victim, it is an affirmative defense that the victim consented to the act 'knowingly' as defined in §231 of this title. Sexual conduct pursuant to this section will not be a crime. This affirmative defense will not apply if the victim had not yet reached his or her twelfth birthday at the time of the act."

Section 10. Amend Sections 770, 771 and 772 of Title 11 of the Delaware Code by striking said sections in their entirety, and by substituting in lieu thereof the following:

"§770. Rape in the fourth degree; class C felony.

(a) A person is guilty of rape in the fourth degree when the person:

(1) intentionally engages in sexual intercourse with another person, and the victim has not yet reached his or her sixteenth birthday; or

(2) intentionally engages in sexual intercourse with another person, and the victim has not yet reached his or her eighteenth birthday, and the person is thirty years of age or older, except that such intercourse shall not be unlawful if the victim and person are married at the time of such intercourse; or

(3) intentionally engages in sexual penetration with another person under any of the following circumstances:

a. The sexual penetration occurs without the victim's consent; or

b. The victim has not reached his or her sixteenth birthday; or

(4) intentionally engages in sexual intercourse or sexual penetration with another person, and the victim has reached his or her sixteenth birthday but has not yet reached his or her eighteenth birthday and the defendant stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(b) Paragraph (a)(3) and (a)(4) of this section does not apply to a licensed medical doctor or nurse who places 1 or more fingers or an object inside a vagina or anus for the purpose of diagnosis or treatment or to a law enforcement officer who is engaged in the lawful performance of his or her duties.

(c) Rape in the fourth degree is a class C felony."

Section 11. Amend Section 773 of Title 11 of the Delaware Code by striking said section in its entirety, and by substituting in lieu thereof the following:

"§771. Rape in the third degree; class B felony.

(a) A person is guilty of rape in the third degree when the person:

(1) intentionally engages in sexual intercourse with another person, and the victim has not reached his or her sixteenth birthday and the person is at least 10 years older than the victim, or the victim has not yet reached his or her fourteenth birthday and the person has reached his or her nineteenth birthday and is not otherwise subject to prosecution pursuant to §772 or 773 of this title; or

(2) intentionally engages in sexual penetration with another person under any of the following circumstances:

a. the sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim; or

b. the victim has not reached his or her sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim.

(b) Paragraph (a)(2) of this section does not apply to a licensed medical doctor or nurse who places 1 or more fingers or an object inside a vagina or anus for the purpose of diagnosis or treatment, or to a law enforcement officer who is engaged in the lawful performance of his or her duties.

(c) Notwithstanding any law to the contrary, in any case in which a violation of subsection (a) of this section has resulted in the birth of a child who is in the custody and care of the victim or the victim's legal guardian(s), the court shall order that the defendant, as a condition of any probation imposed pursuant to a conviction under this section, timely pay any child support ordered by the Family Court for such child.

(d) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

(e) Rape in the third degree is a class B felony."

Section 12. Amend Section 774 of Title 11 of the Delaware Code by striking said section in its entirety, and by substituting in lieu thereof the following:

"§772. Rape in the second degree; class B felony.

(a) A person is guilty of rape in the second degree when the person:

(1) intentionally engages in sexual intercourse with another person, and the intercourse occurs without the victim's consent; or

(2) intentionally engages in sexual penetration with another person under any of the following circumstances:

a. the sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight following the commission of, or during an attempt to prevent the reporting of the crime, the person causes serious physical injury to the victim; or

b. the sexual penetration occurs without the victim's consent, and was facilitated by or occurred during the course of the commission or attempted commission of:

(i) any felony; or

(ii) any of the following misdemeanors: reckless endangering in the second degree; assault in the third degree; terroristic threatening; unlawfully administering drugs; unlawful imprisonment in the second degree; coercion or criminal trespass in the first, second or third degree; or

- c. the victim has not yet reached his or her sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes serious physical injury to the victim; or
- d. the sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person displays what appears to be a deadly weapon or dangerous instrument; or
- e. the victim has not yet reached his or her sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person displays what appears to be a deadly weapon or a dangerous instrument; or
- f. the sexual penetration occurs without the victim's consent, and a principal-accomplice relationship within the meaning set forth in §271 of this title existed between the defendant and another person or persons with respect to the commission of the crime; or
- g. the victim has not yet reached his or her twelfth birthday, and the defendant has reached his or her eighteenth birthday; or
- h. the victim has not yet reached his or her sixteenth birthday and the defendant stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust authority or supervision over the child.

(b) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this Title, or in the Delaware Code.

(c) Notwithstanding any provision of this title to the contrary, the minimum sentence for a person convicted of rape in the second degree in violation of this section shall be 10 years at Level V.

(d) Rape in the second degree is a class B felony."

Section 13. Amend Section 775 of Title 11 of the Delaware Code by deleting said section in its entirety, and by substituting in lieu thereof the following:

"§773. Rape in the first degree; class A felony.

(a) A person is guilty of rape in the first degree when the person intentionally engages in sexual intercourse with another person and any of the following circumstances exist:

(1) the sexual intercourse occurs without the victim's consent and during the commission of the crime, or during the immediate flight following the commission of the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim; or

(2) the sexual intercourse occurs without the victim's consent and it was facilitated by or occurred during the course of the commission or attempted commission of:

a. any felony; or

b. any of the following misdemeanors: reckless endangering in the second degree; assault in the third degree; terroristic threatening; unlawfully administering drugs; unlawful imprisonment in the second degree; coercion; or criminal trespass in the first, second or third degree; or

(3) in the course of the commission of rape in the second, third or fourth degree, or while in the immediate flight therefrom, the defendant displayed what appeared to be a deadly weapon or dangerous instrument; or

(4) the sexual intercourse occurs without the victim's consent, and a principal-accomplice relationship within the meaning set forth in §271 of this title existed between the defendant and another person or persons with respect to the commission of the crime; or

(5) the victim has not yet reached his or her twelfth birthday, and the defendant has reached his or her eighteenth birthday; or

(6) the victim has not yet reached his or her sixteenth birthday and the defendant stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(b) Nothing contained in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this Title, or in the Delaware Code.

(c) Notwithstanding any law to the contrary, a person convicted of rape in the first degree shall be sentenced to life imprisonment without benefit of probation, parole or any other reduction if:

(1) the victim had not yet reached his or her 16th birthday at the time of the offense and the person inflicts serious physical injury on the victim; or

(2) the person intentionally causes serious and prolonged disfigurement to the victim permanently, or intentionally destroys, amputates or permanently disables a member or organ of the victim's body; or

(3) the person is convicted of rape against three or more separate victims; or

(4) the person has previously been convicted of unlawful sexual intercourse in the first degree, rape in the second degree or rape in the first degree, or any equivalent offense under the laws of this State, any other State or the United States.

(d) Rape in the first degree is a class A felony."

Section 14. Amend Section 4201(c) of Title 11 of the Delaware Code by deleting the following:

"770 Unlawful Sexual Penetration in the Third Degree

771 Unlawful Sexual Penetration in the Second Degree

772 Unlawful Sexual Penetration in the First Degree

773 Unlawful Sexual Intercourse in the Third Degree

774 Unlawful Sexual Intercourse in the Second Degree

775 Unlawful Sexual Intercourse in the First Degree

as it appears in said subsection and substituting in lieu thereof:

770 Former Unlawful Sexual Penetration in the Third Degree or Rape in the Fourth Degree

771 Former Unlawful Sexual Penetration in the Second Degree or Rape in the Third Degree

772 Former Unlawful Sexual Penetration, in the First Degree or Rape in the Second Degree

773 Former Unlawful Sexual Intercourse in the Third Degree or Rape in the First Degree

774 Former Unlawful Sexual Intercourse in the Second Degree

775 Former Unlawful Sexual Intercourse in the First Degree

Section 15. Amend Section 4214 (b) of Title 11 of the Delaware Code by adding the word "former" immediately before each of the following section designations "763", "764", "766", "771", "772", "773", "774" and "775" as they appear in said subsection.

Section 16. Amend Section 4214(b) of Title 11 of the Delaware Code by inserting after the phrase "Unlawful sexual intercourse in the first degree" and before the phrase "Title 16, Section" the following:

"Section 771 Rape in the third degree

Section 772 Rape in the second degree

Section 773 Rape in the first degree"

Section 17. Amend Sections 4331(a) and 4347(f) of Title 11 of the Delaware Code by striking the phrase "murder, rape," as it appears variously therein, and by substituting in lieu thereof the phrase "murder in the first or second degree, rape in the first, second or third degree, "

Section 18. Amend Section 4331 of Title 11 of the Delaware Code by adding a new subsection to said section, to be designated as subsection (h), to read as follows:

"(h) Notwithstanding any statute, rule or regulation to the contrary, upon conviction of any person for any sexual offense, as defined in Section 761 of this Title, and upon request of either party, the court shall direct that a presentence report be prepared by a presentence officer."

Section 19. Amend Section 6533(d)(3) of Title 11 of the Delaware Code by adding the word "former" immediately before each of the following section designations "770", "771", "772", "773" and "774" as they appear in said subsection.

Section 20. Amend Section 6533(d)(3) of Title 11 of the Delaware Code by inserting after the phrase "774 Unlawful sexual intercourse second degree" and before the phrase "778 Continuous sexual abuse of a child" the following:

"770 Rape in the fourth degree;

771 Rape in the third degree;

772 Rape in the second degree;

773 Rape in the first degree;"

Section 21. Amend Section 6703 of Title 11 of the Delaware Code by adding between the phrases "sexual extortion" and "unlawful sexual intercourse in the first degree" as they appear in said section the following:

"rape in the first degree, rape in the second degree, rape in the third degree, rape in the fourth degree"

Section 22. Amend Section 9401(1) of Title 11 of the Delaware Code by adding the word "former" immediately before each of the following section designations "770, 771, 772, 773, 774 and 775" as they appear in said paragraph.

Section 23. Amend Section 9401(1) of Title 11 of the Delaware Code by inserting after the phrase "775 Unlawful Sexual Intercourse in the first degree; class A felony" and "781 Unlawful Imprisonment in the second degree" as they appear in said paragraph the following:

"770 Rape in the fourth degree; class C felony.

771 Rape in the third degree; class B felony.

772 Rape in the second degree; class B felony.

773 Rape in the first degree; class A felony."

Section 24. Amend Section 921(2)a of Title 10 of the Delaware Code by inserting between the phrases "murder in the first or second degree" and "unlawful sexual intercourse in the first degree" the phrase "rape in the first degree, rape in the second degree,"

Section 25. Amend Section 1010(a)(1) of the Title 10 of the Delaware Code by striking the phrase "unlawful sexual intercourse in the first degree or unlawful sexual penetration in the first degree" as it appears therein, and by substituting in lieu thereof the phrase "rape in the first degree or rape in the second degree".

Section 26. Amend Section 1010(a)(3) of Title 10 of the Delaware Code by striking the phrase "unlawful sexual intercourse in the second degree" as it appears therein, and by substituting in lieu thereof the phrase "rape in the third degree".

Section 27. Amend Section 728(d) of Title 13 of the Delaware Code by inserting between the phrases "result of an act of " and "unlawful sexual intercourse" as they appear therein the phrase "rape of any degree or" and by inserting between the phrases "is convicted of" and "unlawful sexual intercourse" as they currently appear therein the phrase "any degree of rape".

Section 28. The repeal or amendment of any statute by this Act shall not have the effect of releasing or extinguishing any penalty, forfeiture or liability incurred under such statute, and such statute shall be treated as remaining in full force and effect for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability. Any action, case, prosecution, trial or other legal proceeding in progress under or pursuant to any statute repealed or amended by this Act shall be preserved and shall not become illegal or terminated, irrespective of the stage of such proceeding. For the purpose of such proceedings, the prior law shall remain in full force and effect.

Section 29. This Act shall become effective 90 days after its enactment into law.

Approved June 11, 1998

CHAPTER 286

FORMERLY

HOUSE BILL NO. 531
AS AMENDED BY HOUSE AMENDMENT NO. 1AN ACT TO AMEND CHAPTER 2 OF TITLE 16 OF THE DELAWARE CODE RELATING
TO EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS.

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

Section 1. Amend Chapter 2, Title 16 of the Delaware Code, by deleting the current chapter heading and inserting in lieu thereof the following:

"BIRTH DEFECTS PROGRAM AND EARLY INTERVENTION SERVICES".

Section 2. Amend Chapter 2, Title 16 of the Delaware Code, by inserting the following new subchapter heading after the chapter heading:

"Subchapter I. Birth Defects Surveillance, Registration and Treatment Program".

Section 3. Amend Sections 201-206, Chapter 2, Title 16 of the Delaware Code, by deleting the term "chapter" wherever it appears therein and substituting in lieu thereof the term "subchapter".

Section 4. Amend Chapter 2, Title 16 of the Delaware Code, by adding thereto a new Subchapter II, which shall read as follows:

"Subchapter II. Infants and Toddlers Early Intervention Program.

§ 210. Short Title.

This subchapter may be cited as the Infants and Toddlers Early Intervention Act.

§ 211. Purpose.

The purposes of this subchapter are as follows:

(a) To enhance the development and minimize the potential for developmental delay of infants and toddlers with disabilities;

(b) To reduce the educational costs to society by minimizing the need for special education and related services after infants and toddlers reach school age;

(c) To minimize the likelihood of institutionalization and maximize the potential for independent living of individuals with disabilities;

(d) To enhance the capacity of families to meet the special needs of infants and toddlers with disabilities; and

(e) To fully implement the infants and toddlers program established by the Individuals with Disabilities Education Act, codified at 20 U.S.C. §§ 1431-1445, or any amendment or reenactment thereof.

§ 212. Definitions.

The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this Section, except where the content clearly indicates a different meaning.

(1) 'Department' means the Department of Health and Social Services.

(2) 'Federal infants and toddlers program' means the program established by the Individuals with Disabilities Education Act, codified in pertinent part at 20 U.S.C. §§ 1431-1445, or any amendment or reenactment thereof.

(3) 'Eligible children' means infants and toddlers from birth through 36 months of age who need early intervention services because they are:

a. Experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, including informed clinical opinion, in one or more of the following domains: (i) cognitive development; (ii) physical development, including vision or hearing; (iii) communication development; (iv) social or emotional development; and (v) adaptive development; or

b. Diagnosed as having a physical or mental condition which has a high probability of resulting in developmental delay; or

c. At risk of developing substantial developmental delay in the absence of early intervention services, to the extent affirmatively authorized by regulations adopted pursuant to Section 218 of this Subchapter.

(4) 'Early intervention services' means developmental services that:

a. are provided under public supervision;

b. are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

c. are designed to meet the developmental needs of eligible children in at least one of the domains identified in Paragraph (3)a of this Section;

d. meet State program standards;

e. are provided by qualified personnel consistent with Department regulations;

f. are provided in conformity with an individualized family service plan adopted pursuant to § 215 of this Subchapter;

g. are provided in conformity with a strong policy promoting service provision in natural environments; and

h. include the following: (i) family training, counseling, and home visits; (ii) special instruction; (iii) speech language pathology and audiology services; (iv) occupational therapy; (v) physical therapy; (vi) psychological services; (vii) service coordination services; (viii) diagnostic or evaluative medical services; (ix) early identification, screening, and assessment services; (x) health services necessary to enable an eligible child to benefit from the other early intervention services; (xi) social work services; (xii) vision services; (xiii) assistive technology devices and services; (xiv) transportation and related costs that are necessary to enable an eligible child or family to receive another service described in this paragraph; and (xiv) such other supportive services identified by the Department through regulation.

§ 213. Powers and duties.

In furtherance of the purposes of this Subchapter, the Department shall have the following powers and duties;

(a) Develop and implement a statewide, comprehensive, coordinated, multi-disciplinary, interagency system which ensures that appropriate early intervention services are available to all eligible children and families;

(b) Clarify system eligibility consistent with Section 212(3) of this Subchapter, including adoption of regulatory guidelines defining 'developmental delay';

(c) Promote public awareness and ensure prompt identification and evaluation of eligible children and their families;

(d) Develop and implement individualized family service plans for eligible children and their families in accordance with Section 215;

(e) Serve as a clearinghouse for information on early intervention services, resources, experts, and research and demonstration projects in the State;

(f) Adopt and implement a comprehensive system of personnel development and qualifications;

(g) Serve as the State's lead agency to implement the federal infants and toddlers program, including providing a single line of responsibility to carry out the following:

(1) the general administration and supervision of programs and activities receiving assistance under the Act;

(2) the monitoring of programs and activities used to implement this State system;

(3) the assignment of financial responsibility among applicable agencies; and

(4) the development and adoption of interagency agreements that define financial responsibility for each agency, procedures to resolve disputes, and procedures to ensure timely provision of early intervention services pending resolution of disputes among public agencies or service providers; and

(h) Otherwise meet and implement funding and eligibility requirements of the federal infants and toddlers program.

§ 214. Cooperation of participating agencies.

All State agencies and contractors participating in the provision of early intervention services under this Subchapter shall cooperate with the Department and Interagency Coordinating Council to ensure effective system implementation, coordination and non-duplication of activities. In furtherance of this duty, the individualized family service plan shall serve as the primary comprehensive service plan for all such agencies and contractors and be accorded deference in determining the developmental, educational and medical necessity of included early intervention services.

§ 215. Individualized Family Service Plan

The Department's system shall ensure that eligible children and their families receive the following in a timely manner:

(a) a multi-disciplinary assessment of the unique strengths and needs of each eligible child and identification of services appropriate to meet such needs;

(b) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the eligible child; and

(c) a written individualized family service plan, whose format shall be specifically prescribed by regulation, developed and approved as follows:

(1) The plan shall be prepared by a multi-disciplinary team which includes the child's parents;

(2) The contents of the individualized family service plan shall be fully explained to the parents and informed written consent obtained prior to the provision of services described in the plan; and

(3) If parental consent to a particular service is withheld, then the early intervention services to which consent is obtained shall be provided.

§ 216. Procedural Safeguards

The Department's system shall include procedural safeguards which include, at a minimum, the following:

(a) availability of mediation and an impartial, timely administrative hearing, in which hearing the burden of proof and persuasion rests with the respondent agency, to resolve parental complaints;

(b) confidentiality of personally identifiable information;

(c) parental option to accept or decline early intervention services without jeopardizing eligibility for other early intervention services;

(d) parental opportunity to examine and obtain copies of relevant records either without charge, or, if authorized by Departmental regulation, at a fee not to exceed actual cost;

(e) procedures to ensure the appointment of a surrogate decision-maker if an eligible child is the ward of the State or the child's parents cannot be identified or located;

(f) prior written parental notice whenever a participating agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, or placement of an eligible child or the provision of early intervention services;

(g) procedures to ensure that notice required under Paragraph (f) fully and effectively informs parents of the procedural safeguards identified in this Section; and

(h) procedures to ensure, in the absence of contrary agreement, the continuation of early intervention services during the pendency of any proceeding or action involving a parental complaint or, in the context of initial application, provision of services not in dispute.

§ 217. Interagency Coordinating Council.

(a) There is hereby established the Interagency Coordinating Council whose members shall be appointed by the Governor.

(b) The Council shall advise and assist the Department with implementation of this subchapter and otherwise fulfill any requirements of an advisory council under the federal Infants and Toddlers Program. The Department shall ensure that the Council is provided with sufficient staff and other supports to effectively meet its obligations.

(c) The Council shall be composed of 23 members who shall be appointed for 3-year terms. Members shall be eligible to serve more than one term. Appointments shall be made to ensure that membership reasonably represents the geographically diversity of

the State and meets composition requirements of the advisory council under the federal Infants and Toddlers Program.

(d) Members of the Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council.

(e) Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall be filled for the remainder of the term.

§ 218. Regulations.

(a) The Department shall prescribe such regulations as may be necessary to carry out this Subchapter and to ensure full funding eligibility and compliance with the federal infants and toddlers program.

(b) Regulations prepared by the Department under this Subchapter shall be subject to review and comment by the Council and shall otherwise be promulgated in conformity with the Administrative Procedures Act, Chapter 101 of Title 29."

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 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 6. This Act shall become effective ninety days after enactment with the exception of portions of this Act which authorize the Department to promulgate rules and regulations, which authorization shall become effective immediately upon enactment.

Approved June 11, 1998

CHAPTER 287

FORMERLY

HOUSE BILL NO. 478
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41 AND CHAPTER 70 OF TITLE 21 OF THE DELAWARE CODE RELATING TO THE ENFORCEMENT OF HANDICAPPED PERSONS' PARKING AREAS AND FIRE LANES.

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

Section 1. Amend §4183, Title 21 of the Delaware Code, by adding new subsections thereto as follows:

"(f) The Superintendent of the State Police is hereby authorized to appoint cadets who shall have authority to enforce the provisions of this section within the unincorporated areas of each county. Cadets appointed pursuant to this subsection must be at least 18 years of age. The Superintendent may establish such other qualifications as are deemed necessary or desirable.

(g) A summons issued by a cadet appointed by the Superintendent pursuant to this subsection shall have the same force and effect as a summons issued by the State Police.

(h) The proceeds of any fine collected from a summons issued by the State Police or a cadet appointed pursuant to this subsection shall be deposited into the General Fund.

(i) The authority of the State Police or a cadet appointed by the Superintendent to enforce the provisions of this section shall not be limited by any jurisdictional agreement between the State Police and any local law enforcement agency."

Section 2. Amend Chapter 70, Title 21 of the Delaware Code, by adding a new section thereto as follows:

"§ 7004. Enforcement by cadets appointed by the Superintendent of the State Police.

(a) The Superintendent of the State Police is hereby authorized to appoint cadets who shall have authority to enforce violations of this chapter within the unincorporated areas of each county. Cadets appointed pursuant to this section must be at least 18 years of age. The Superintendent may establish such other qualifications as are deemed necessary or desirable.

(b) A summons issued by a cadet appointed by the Superintendent pursuant to this section shall have the same force and effect as a summons issued by the State Police.

(c) The proceeds of any fine collected from a summons issued by the State Police or a cadet appointed pursuant to this section shall be deposited into the General Fund.

(d) The authority of the State Police or a cadet appointed by the Superintendent to enforce the provisions of this chapter shall not be limited by any jurisdictional agreement between the State Police and any local law enforcement agency."

Approved June 11, 1998

CHAPTER 288

FORMERLY

HOUSE BILL NO. 515

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE
UNIFORM CONTROLLED SUBSTANCES ACT.

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

Section 1. Amend Section 4701 of Title 16 of the Delaware Code by adding the following as a new subsection (3):

"(3) 'Administration' means the Drug Enforcement Administration, United States Department of Justice or its successor agency."

FURTHER AMEND § 4701 of Title 16 of the Delaware Code and renumbering the remaining Section (5), by striking the current subsection number (5) as follows:

"(5) 'Bureau' means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice or its successor agency."

FURTHER AMEND § 4701 of Title 16 of the Delaware Code by adding the following definition as number (15) as follows:

"(15) 'Drug Detection Animal Trainer' means all persons, not classified as a practitioner, pharmacy, distributor, manufacturer or researcher, but under the classification of 'Other Controlled Substance Registrants'. 'This registrant shall have formal training and may train animals for drug detection using controlled substances listed under the registration. These registrants shall have equipment and a site appropriate for registration'."

FURTHER AMEND § 4701 of Title 16 of the Delaware Code by inserting the following as a new Section 27 and renumbering the remaining sections:

"(27) 'Other Controlled Substance Registrants' means all persons and firms, except persons or firms exempt from registration, who are not classified as pharmacies, distributors, manufacturers, practitioners or researchers. Examples of persons or firms in this classification include, but are not limited to analytical laboratories and drug detection animal trainers, having a legitimate need to use 'controlled substances' as defined in this Act."

FURTHER AMEND § 4701 of Title 16 of the Delaware Code by inserting the following as Subsection 32:

"(32) 'Prescribe' means to give an order for medication or other therapy by authorized personnel which is dispensed to or for an ultimate user but does not include an order for medication which is dispensed for immediate administration to the ultimate user."

FURTHER AMEND § 4701 of Title 16 of the Delaware Code by inserting the following as Subsection 34:

"(34) 'Researcher' means all persons and firms, not a practitioner, who routinely performs scholarly or scientific investigations or inquiries."

Section 7. Amend § 4732 (a), Title 16, Delaware Code by striking the words "Every person who manufactures, distributes or dispenses any controlled substance within this State or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance", as they appear therein and substituting the words "Any pharmacy, distributor, manufacturer, practitioner, researcher or under the classification of 'Other Controlled Substance Registrants', who has or proposes to engage in activities accordingly", in lieu thereof.

FURTHER AMEND § 4732 (b), Title 16, Delaware Code by striking the words "Persons registered by the Secretary under this chapter to manufacture, distribute, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense or conduct research with", as they appear therein and substituting the words "Any pharmacy, distributor, manufacturer, researcher or classified under 'Other Controlled Substance Registrants', are limited to", in lieu thereof.

FURTHER AMEND § 4732 (e), Title 16, Delaware Code by striking the words "or dispenses controlled substances" as they appear therein and substituting the words "dispenses or conducts research with controlled substances. (Includes classification of 'Other Controlled Substance Registrants')", in lieu thereof.

Section 8. Amend § 4733 (2), Title 16, Delaware Code by striking the words "to manufacture or distribute controlled substances as they appear therein and substituting the words "as a pharmacy, distributor, manufacturer, practitioner, researcher or under the classification, 'Other Controlled Substance Registrants'", in lieu thereof.

FURTHER AMEND Section 4733 (a)(2), Title 16, Delaware Code by adding the words "includes such requirements as having a license to practice as a practitioner or having documented training and continuing education as a drug detection animal trainer" after the word "law" as it appears therein.

FURTHER AMEND Section 4733 (a)(6), Title 16, Delaware Code by striking the words "or dispense" as they appear there in and substituting the words "prescribe, dispense or research", in lieu thereof.

FURTHER AMEND Section 4733 (b), Title 16, Delaware Code by striking the words "and distribute controlled substances" as they appear therein and substituting the words "research and distribute controlled substances including the classification of 'Other Controlled Substance Registrants'", in lieu thereof.

Section 9. Amend 4734 (a), Title 16, Delaware Code by striking the words "to manufacture, distribute or dispense a controlled substance" as they appear therein and substituting the words "as a pharmacy, distributor, manufacturer, practitioner, researcher or under the classification of 'Other Controlled Substance Registrants'", in lieu thereof.

FURTHER AMEND Section 4734 (a)(2), Title 16, Delaware Code by adding the words, "including such events as a practitioner losing their license to practice or a drug detection animal trainer not obtaining or maintaining formal training and continuing education" after the word "law" as it appears therein.

FURTHER AMEND Section 4734 (a)(6), Title 16, Delaware Code by striking the words "or dispense" as they appear there in and substituting the words, "prescribe, dispense or research", in lieu thereof.

FURTHER AMEND Section 4734 (d), Title 16, Delaware Code by striking the word "Bureau" as it appears therein and substituting the word "Administration", in lieu thereof.

Section 10. Amend § 4756 (a)(2), Title 16, Delaware Code by striking the words "or dispensing" as they appear therein and substituting the words "prescribing, dispensing or research", in lieu thereof.

Section 11. Amend § 4784 (f)(5) of Title 16 of the Delaware Code by striking the word "Bureau" as it appears there in and substituting the word "Administration", in lieu thereof.

Section 12. The Code revisers are empowered to renumber the subsections in Section 4701 of Title 16 of the Delaware Code in order to keep the subsections in numerical order.

Approved June 16, 1998

CHAPTER 289

FORMERLY

HOUSE BILL NO. 547

AN ACT TO AMEND TITLE 13, DELAWARE CODE, RELATING TO MARRIAGE LICENSES.

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

Section 1. Amend § 107, Chapter 1, Title 13, Delaware Code, by adding a new subsection to read as follows:

“(d) The Clerk of the Peace in each county for good cause being shown may:

- (1) shorten the time periods specified in subsection (a) of this section; or
- (2) lengthen the time period specified in subsection (c) of this section not to exceed 180 days.”

Section 2. Amend § 106, Chapter 1, Title 13, Delaware Code, by inserting the following after the first sentence:

“The Clerk of the Peace in each county for good cause being shown may:

- (1) Allow by written permit within his or her respective county, any duly sworn member of another state's judiciary, to solemnize marriages in the State of Delaware between persons who may lawfully enter into the matrimonial relation.
- (2) Allow by written permit within his or her respective county, the Clerk of the Peace from another county within the State of Delaware to solemnize marriages in the State of Delaware between persons who may lawfully enter into the matrimonial relation.”

Approved June 16, 1998

CHAPTER 290

FORMERLY

HOUSE BILL NO. 517
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO ESTABLISHING THE DIVISION OF STATE SERVICE CENTERS AND AN ADVISORY COUNCIL ON STATE SERVICE CENTERS.

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

Section 1. Amend Chapter 79, Title 29 of the Delaware Code, by adding thereto a new section to read:

"§7919. Division of State Service Centers.

(a) There is hereby established the Division of State Service Centers under the direction and control of the Secretary of the Department of Health and Social Services.

(b) The Division of State Service Centers shall be responsible for the operation of service centers throughout the State as the General Assembly from time to time may provide for.

(c) The Division of State Service Centers shall coordinate the delivery of services and programs of various divisions within the Department of Health and Social Services, other State agencies, and nonprofit providers who are co-located in State service centers.

(d) The Division of State Service Centers shall report from time to time to the Secretary of the Department of Health and Social Services concerning the effectiveness of delivery of services by State service centers.

(e) The mission of the Division of State Service Centers is to alleviate crises, to foster self-sufficiency for vulnerable families, to provide volunteer and community service opportunities for all Delawareans, and to address the causes and conditions of poverty.

(f) The Division of State Service Centers shall operate the State Office of Volunteerism, the Office of Community Services, and the Office of Family Support.

(g) The Division of State Service Centers shall serve as a safety net for Delawareans by facilitating individual and community partnerships for the delivery of human services, and by advocating for vulnerable families.

(h) The Division of State Service Centers shall have the power to promulgate rules and regulations to implement this section."

Section 2. Amend Chapter 79, Title 29 of the Delaware Code, by adding thereto a new section to read:

§ 7919A. Advisory Council on State Service Centers.

(a) There is hereby established an Advisory Council on State Service Centers.

(b) The Council on State Service Centers shall serve in an advisory capacity to the Director of the Division of State Service Centers, and shall consider matters relating to the operation of State Service Centers and other such matters as may be referred to it by the Governor, the Secretary of Health and Social Services, or the Director of the

Division of State Service Centers. The Council may study, research, plan and advise the Director, the Secretary, and the Governor on any matter it deems appropriate.

(c) The Council on State Service Centers shall be composed of 11 members who shall be appointed for 3-year terms by the Governor. There shall be no more than a bare majority of representation of one major political party over the other major political party. Members of the Council shall include:

- (1) a representative of the Council on Hispanic Affairs;
- (2) a representative of the Council on Volunteer Services; and
- (3) a representative of the Delaware Community Services Commission.

A chairperson of the Council shall be chosen by the members of the Council from among its members and shall serve in the capacity for a term of 1 year and shall be eligible for reelection.

Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall be filled for the remainder of that term."

Section 3. Amend §7903(2), Title 29, Delaware Code by adding thereto the following:

"h. A Director of the Division of State Service Centers, who shall be someone qualified by training, education, experience or ability to perform the duties of Director,".

Approved June 16, 1998

CHAPTER 291

FORMERLY

HOUSE BILL NO. 567

AN ACT TO AMEND CHAPTER 26, TITLE 24 OF THE DELAWARE CODE RELATING TO PHYSICAL THERAPY.

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

Section 1. Amend §2606, Title 24 of the Delaware Code by striking said section in its entirety and by substituting the following in lieu thereof:

"§2606. Qualifications of applicant; foreign-trained applicants; report to Attorney General; judicial review.

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

(1) has graduated from a school offering a program in physical therapy, physical therapy assistant, or athletic training, which program as offered by such school has been approved for the educational preparation of physical therapists, physical therapist assistants or athletic trainers by the appropriate accrediting agency recognized by the Council on Post Secondary Accreditation or the United States Commission of Education, or any successor, at the time of graduation; provided, however, that those applicants for licensure as athletic trainers who apply or who have applied for and been granted a license prior to July 1, 2004, may be licensed if they have been granted a degree from a college or university, successfully completed the internship process through the National Athletic Trainers Association Board of Certification (NATA BOC) and have been approved by NATA BOC to take the national examination;

(2) has passed, to the satisfaction of the Board a national examination, administered or designated by the Board, to determine the applicant's fitness to practice physical therapy, to act as a physical therapist assistant, or to act as an athletic trainer as herein provided; and

(3) meets additional educational requirements set forth in rules and regulations; and

(4) shall not have been the recipient of any administrative penalties from any other jurisdiction(s) regarding his or her practice of physical therapy or athletic training, including but not limited to fines, formal reprimands, license suspensions or revocation (except for license revocations for nonpayment of license renewal fees), probationary limitations, and/or has not entered into any 'consent agreements' which contain conditions placed by a board on his or her professional conduct and practice, including any voluntary surrender of a license in lieu of discipline; and

(5) shall not have any impairment related to drugs, alcohol, or a finding of mental incompetence by a physician that would limit the applicant's ability to undertake the practice of physical therapy or athletic training in a manner consistent with the safety of a patient or the public; and

(6) shall not have been convicted of a felony; and

(7) shall not have a criminal conviction record, nor pending criminal charge relating to an offense, the circumstances of which substantially relate to the practice of physical therapy or athletic training. Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the Board in sufficient specificity to enable the Board to make a determination

whether the record or charge is substantially related to the practice of physical therapy or athletic training.

(b) A physical therapist applicant whose application is based on a diploma issued by a foreign physical therapy school shall furnish evidence satisfactory to the Board of the completion of a physical therapy school or schools' resident course of professional instruction equivalent to that required in subsection (a) of this section, in addition to meeting all other requirements of this section and §2608 of this Chapter.

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

(d) 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."

Section 2. Amend §2610, Title 24, Delaware Code by striking said section in its entirety and by substituting the following in lieu thereof:

"§2610. Reciprocity.

"(a) Upon payment of the appropriate fee and submission and acceptance of a written application on forms provided by the Board, the Board shall grant a license to each applicant who shall present proof of current licensure, in good standing, in another State, the District of Columbia, or territory of the United States, and who, in addition:

(1) meets the criteria for current licensure in good standing as defined in §2606(a)(4),(5),(6) and (7) of this Chapter; and

(2) has received the passing score on the national examination, administered or designated by the Board, for practice as a physical therapist, physical therapy assistant, or athletic trainer.

(b) In addition to meeting the requirements of §2606(a)(4),(5),(6), and (7) of this Chapter, foreign-trained applicants must also meet the requirements of §2606(b), of this Chapter.

(c) In the event a physical therapist, physical therapy assistant, or athletic trainer, who previously was licensed in Delaware and who has let his or her license lapse, is applying for licensure under this subsection, the Board shall grant a license to such applicant, subject to subsection (a) of this section and completion of continuing education requirements, upon payment of the appropriate fee and on submission of a written application on forms provided by the Board."

Approved June 17, 1998

CHAPTER 292

FORMERLY

HOUSE BILL NO. 559

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO REPORTING
OF ABUSE OR NEGLECT IN NURSING HOMES AND SIMILAR FACILITIES.

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

Section 1. Amend §1132 of Title 16 of the Delaware Code by adding a new sub-section
(d) to read as follows:

“(d) Any individual who intentionally makes a false report under this subchapter
shall be guilty of a Class A misdemeanor.”

Approved June 17, 1998

CHAPTER 293

FORMERLY

HOUSE BILL NO. 429
AS AMENDED BY HOUSE AMENDMENT NO. 1AN ACT TO AMEND CHAPTER 20, TITLE 24 OF THE DELAWARE CODE RELATING
TO OCCUPATIONAL THERAPY.

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

Section 1. Amend Title 24 of the Delaware Code by striking Chapter 20 in its entirety and
substituting in lieu thereof the following:

"CHAPTER 20. OCCUPATIONAL THERAPY

Subchapter I. Board of Occupational Therapy Practice§2001. Objectives.

The primary objective of the Board of Occupational Therapy Practice, 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.

Nothing in this Chapter shall be deemed a direct or indirect commitment by the General
Assembly to a present or future requirement that insurers or other third parties must offer or provide
coverage for the services of practitioners licensed under this Chapter.

§2002. 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 Occupational Therapy Practice 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 an occupational therapist or
occupational therapy assistant.

(3) 'Occupational therapist' shall mean a person who is licensed to practice occupational
therapy pursuant to this act and who offers such services to the public under any title incorporating
the words 'occupational therapy,' 'occupational therapist' or any similar title or description of
occupational therapy services.

(4) 'Occupational therapy assistant' shall mean a person licensed to assist in the practice of
occupational therapy, under the supervision of an occupational therapist.

(5) 'Occupational therapy services' shall mean, but are not limited to:

- a. the assessment, treatment and education of or consultation with the individual, family, or other persons, or;
- b. interventions directed toward developing, improving, or restoring daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills; or,
- c. providing for the development, improvement, or restoration of sensorimotor, oralmotor, perceptual or neuromuscular functioning, or emotional, motivational, cognitive, or psychosocial components of performance.

These services may require assessment of the need for use of interventions such as the design, development, adaptation, application, or training in the use of assistive technology devices; the design, fabrication, or application of rehabilitative technology such as selected orthotic devices; training in the use of assistive technology, orthotic, or prosthetic devices; the application of thermal agent modalities, including, but not limited to, paraffin, hot and cold packs and fluído therapy, as an adjunct to, or in preparation for, purposeful activity; the use of ergonomic principles; the adaptation of environments and processes to enhance functional performance; or the promotion of health and wellness.

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

(6) 'Practice of occupational therapy' shall mean the use of goal-directed activities with individuals who are limited by physical limitations due to injury or illness, psychiatric and emotional disorders, developmental or learning disabilities, poverty and cultural differences or the aging process, in order to maximize independence, prevent disability and maintain health.

(7) 'Supervision' shall mean the interactive process between the licensed occupational therapist and the occupational therapy assistant. It shall be more than a paper review or cosignature. The supervising occupational therapist is responsible for insuring the extent, kind, and quality of the services rendered by the occupational therapy assistant.

§2003. Board of Occupational Therapy Practice: appointments: qualifications: term: vacancies: suspension or removal: unexcused absences: compensation.

(a) There is created a State Board of Occupational Therapy Practice which shall administer and enforce this Chapter.

(b) The Board shall consist of five members appointed by the Governor, who are residents of this state: Three professional members, two of whom shall be occupational therapists licensed under this Chapter, one may be a licensed occupational therapy assistant, and two public members. The public members shall not be, nor ever have been, occupational therapists or occupational therapy assistants, nor members of the immediate family of an occupational therapist or occupational therapy assistant; shall not have been employed by an occupational therapist or occupational therapy assistant; shall not have a material interest in the providing of goods and services to occupational therapists or occupational therapy assistants; nor have been engaged in an activity directly related to occupational therapy. 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 three 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 two consecutive terms; but no such person shall thereafter be eligible for two consecutive appointments.

No person, who has been twice appointed to the Board or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one 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, or malfeasance. 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 occupational therapists or occupational therapy assistants; this includes a prohibition against serving as head of the professional association's Political Action Committee (PAC).

(h) The provisions of Chapter 58, Title 29 of the Delaware Code shall apply to all members of the Board.

(i) Any member who is absent without adequate reason for three 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, according to Division policy; 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.

§2004. 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 Chair deems necessary; or, at the request of a majority of the Board members.

(b) The Board shall elect annually from its members a chair, vice-chair and secretary. Each officer shall serve for one year, and shall not succeed himself or herself for more than two consecutive terms. In the event of a vacancy in one of the offices, a replacement shall be elected at the next Board meeting.

(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 three 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.

§2005. Records.

The Division of Professional Regulation shall keep a register of all approved applications for license as an occupational therapist and occupational therapy assistant, 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.

§2006. Powers and duties.

(a) The Board of Occupational Therapy Practice 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 as approved by the National Board for Certification in Occupational Therapy, Inc., or its successor, to be taken by all persons applying for licensure; applicants who qualify for licensure by reciprocity shall have achieved a passing score on the national examination;

(4) The Board shall adopt the administration, grading procedures, and passing score of the National Board for Certification in Occupational Therapy, Inc., or 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 occupational therapists and occupational therapy assistants;

(6) Evaluate the credentials of all persons applying for a license to practice occupational therapy and to practice as occupational therapy assistants in Delaware, in order to determine whether such persons meet the qualifications for licensing set forth in this Chapter.

(6) Grant licenses to, and renew licenses of, 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) Evaluate certified records to determine whether an applicant for licensure, who has been previously licensed, certified, or registered in another jurisdiction to practice occupational therapy or to act as an occupational therapy assistant, 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.

(9) Refer all complaints from licensees and the public concerning licensed occupational therapists and occupational therapy assistants, or concerning practices of the Board or of the profession, to the Division of Professional Regulation for investigation pursuant to §8807 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;

(10) Conduct hearings and issue orders in accordance with procedures established pursuant to this Chapter, Chapter 101 of Title 29 of the Delaware Code, and §8807 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 an occupational therapist or occupational therapy assistant shall be subject to a disciplinary hearing, and, if so, shall conduct such hearing in accordance with this Chapter and the Administrative Procedures Act.

(11) 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.

Subchapter II. License

§2007. License required.

(a) No person shall engage in the practice of occupational therapy or hold himself or herself out to the public in this State as being qualified to practice as an occupational therapist or occupational therapy assistant; 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 occupational therapy, unless such person has been duly licensed under this Chapter.

(b) Whenever a license to practice as an occupational therapist or occupational therapy assistant in this state has expired or been suspended or revoked, it shall be unlawful for the person to practice occupational therapy in this state.

(c) It shall be unlawful for any person, or for any business entity, its employees, agents or representatives to use in connection with his or its name or business activity the words occupational therapist, occupational therapist registered, licensed occupational therapist, occupational therapy assistant, licensed occupational therapy assistant, the letters of OT, OT/L, OTR, OTR/L, OTA, COTA, COTA/L, or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that occupational therapy services are rendered unless such person is licensed under this Chapter.

§2008. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as an occupational therapist or occupational therapy assistant under this Chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(1) has successfully completed the academic requirements of an educational program in occupational therapy recognized by the Board; and

a. The occupational therapy educational program shall be accredited by the Accreditation Council for Occupational Therapy Education (ACOTE);

b. The occupational therapy assistant educational program shall be accredited by the Accreditation Council for Occupational Therapy Education (ACOTE).

(2) has successfully completed a period of supervised field work experience arranged by the recognized educational institution where he or she has met the academic requirements, or by the nationally recognized professional association;

(3) has achieved the passing score on the written standardized examination developed by the National Board for Certification in Occupational Therapy, Inc., or its successor; and,

(4) shall not have been the recipient of any administrative penalties regarding his or her practice of occupational therapy, including but not limited to fines, formal reprimands, license suspensions or revocation, (except for license revocations for nonpayment of license renewal fees), probationary limitations, and/or has not entered into any 'consent agreements' which contain conditions placed by a Board on his or her professional conduct and practice, including any voluntary surrender of a license;

(5) shall not have any impairment related to drugs, alcohol, or a finding of mental incompetence by a physician that would limit the applicant's ability to undertake the practice of occupational therapy in a manner consistent with the safety of the public;

(6) shall not have been convicted of a felony;

(7) shall not have a criminal conviction record, nor pending criminal charge relating to an offense, the circumstances of which substantially relate to the practice of occupational therapy. Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of occupational therapy.

(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.

§2009. Applicability of Chapter.

Nothing in this Chapter shall be construed as preventing or restricting the practice, services or activities of:

(1) Any person registered or licensed in this State by any other law from engaging in the profession or occupation for which he or she is licensed;

(2) Any person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program if such activities and services constitute a part of a supervised course of study and if such a person is designated by a title which clearly indicates his or her status as a student or trainee;

(3) Any person fulfilling the supervised field work experience requirements of this Chapter, if such activities and services constitute the requirements for licensure; or

(4) Any visiting occupational therapist who teaches temporarily at an accredited or approved educational program, or who lectures or instructs participants at seminars sanctioned by the Delaware Occupational Therapy Association.

§2010. Foreign-trained Applicants.

In addition to the requirement of §2008 of this Chapter, a foreign-trained applicant shall be eligible for licensure as an occupational therapist or as an occupational therapy assistant after submitting to the Board satisfactory evidence of graduation from a school offering a program in occupational therapy or occupational therapy assistant which has been approved for the educational preparation of occupational therapists or occupational therapy assistants by the appropriate accrediting agency recognized by the National Board for Certification in Occupational Therapy, Inc.

§2011. Reciprocity.

Upon payment of the appropriate fee and submission and acceptance of a written application on forms provided by the Board, the Board shall grant a license to each applicant who shall present proof of current licensure in good standing in another state, the District of Columbia, or territory of the United States, whose standards for licensure are substantially similar to those of this State, and who meets the following criteria:

(a) his or her license is in good standing as defined in §2008(a)(4),(5),(6), and (7) of this Chapter; and

(b) has achieved the passing score on all parts of the written, standardized examination administered by the National Board for Certification in Occupational Therapy, Inc., or its successor.

§2012. Temporary license.

a) Upon submission to the Board of a written application on forms provided by it, the Board may issue a temporary license to an applicant who has applied for licensure under this title and who is, in the judgment of the Board, eligible to take the examination provided for in §2008 of this Title. In the case of occupational therapists or occupational therapy assistants, such temporary licensure may be available to an applicant only with respect to his or her first application for licensure; and the applicant may only use the temporary licensure while under the direct supervision of a licensed

occupational therapist. In all cases, such temporary license shall expire automatically in the event the applicant fails the examination; and, upon such expiration, the temporary license shall be surrendered to the Board.

b) A licensee, upon written request, may be placed in an inactive status. The renewal fee of such person shall be prorated in accordance with the amount of time such person was inactive. Such person may reenter practice upon written notification to the board of the intent to do so and completion of continuing education as required in the Board's rules and regulations.

§2013. 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 licensure biennium, 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 licensure biennium.

§2014. Issuance and renewal of licenses.

The Board shall issue a license to each applicant, who meets the requirements of this Chapter for licensure as an occupational therapist or occupational therapy assistant and who pays the fee established under §2013 of this Chapter.

Each license 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 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 occupational therapist or occupational therapy assistant may still renew his or her license, notwithstanding the fact that such licensee has failed to renew on or before the renewal date.

§2015. Grounds for discipline.

(a) A practitioner licensed under this Chapter shall be subject to disciplinary actions set forth in §2017 of this Chapter, if, after a hearing, the Board finds that the occupational therapist or occupational therapy assistant:

(1) has employed or knowingly cooperated in fraud or material deception in order to acquire a license as an occupational therapist or occupational therapy assistant; has impersonated another person holding a license or registration, or allowed another person to use his or her license, or aided or abetted a person not licensed as an occupational therapist or occupational therapy assistant to represent himself or herself as an occupational therapist or occupational therapy 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 either in the past two years 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 the practitioner's ability to perform the work of an occupational therapy or occupational therapy assistant;

(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 violated a lawful provision of this Chapter, or any lawful regulation established thereunder;

(6) has had his or her license, certification, or registration as an occupational therapist or occupational therapy assistant 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 an occupational therapist or occupational therapy assistant in this state shall be deemed to have given consent to the release of this information by the Board of Occupational Therapy Practice 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 an occupational therapist or occupational therapy 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 occupational therapist, has failed to supervise and take reasonable steps to see that occupational therapy assistants and temporary licensees perform services responsibly, competently, and ethically, in accordance with rules and regulations established by the Board. Supervising occupational therapists 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 occupational therapy assistant or temporary licensee acting under the supervising occupational therapist'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 shall be restricted, suspended or revoked by the Board, and no practitioner's right to practice occupational therapy or to act as an occupational therapy 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.

§2016. Complaints.

All complaints shall be received and investigated by the Division of Professional Regulation in accordance with §8807 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 occupational therapy or is using the title occupational therapist or occupational therapy assistant 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.

§2017. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that one or more of the conditions or violations set forth in §2015 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.

(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) 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.

§2018. Hearing Procedures.

(a) If a complaint is filed with the Board pursuant to §8807 of Title 29 of the Delaware Code, alleging violation of §2015 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.

§2019. Reinstatement of a suspended license; removal from probationary status; replacement of license.

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

(b) Applicants for reinstatement shall 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.

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

§2020. Penalty.

A person not currently licensed under this Chapter as an occupational therapist or occupational therapy assistant when guilty of engaging in the practice of occupational therapy, 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 occupational therapy, 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. For a second or subsequent conviction, the fine shall be not less than \$1000.00 nor 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. Existing Terms of Office Preserved.

All members of the Board of Occupational Therapy Practice will continue to serve as members unless or until replaced by the Governor.

Section 4. 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 17, 1998

CHAPTER 294

FORMERLY

SENATE BILL NO. 156
AS AMENDED BY SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO CHILD
IMMUNIZATIONS.

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

Section 1. Amend Chapter 35, Title 18, by adding a new Section to read as follows:

"§3556. Child Immunizations.

All group and blanket health insurance policies which are delivered or issued for delivery in this State by any health insurer or health service corporation shall provide coverage for each child of the insured, from birth through the date such child is eighteen (18) years of age for:

1. Immunization against:

- a. diphtheria,
- b. hepatitis B,
- c. measles,
- d. mumps,
- e. pertussis,
- f. polio,
- g. rubella,
- h. tetanus,
- i. varicella,
- j. haemophilus influenzae B, and
- k. hepatitis A."

Section 2. This bill shall become effective six (6) months after its enactment.

Approved June 17, 1998

CHAPTER 295

FORMERLY

HOUSE BILL NO. 521

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

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO
CONTROLLED SUBSTANCES.

BE IT 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 4718 of Title 16 of the Delaware Code by redesignating
subsection (k) as subsection (l) and by redesignating subsection (l) as subsection (m) and by
inserting a new subsection to read:

"(k) Ketamine".

Section 2. Amend Section 4720 of Title 16 of the Delaware Code by inserting after
subsection (k) the following:

"(l) flunitrazepam".

Section 3. Amend Section 4714 of Title 16 of The Delaware Code by inserting in
subsection (e) the following:

"(2) Gamma Hydroxybutyrate (GHB)".

Approved June 17, 1998

**END
OF
VOLUME**