

LAWS
OF THE
STATE OF DELAWARE

ONE HUNDRED AND FORTIETH
GENERAL ASSEMBLY
FIRST SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 13, A.D.
1999

SECOND SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 11, A.D.
2000

VOLUME LXXII
Part I

2001079

CHAPTER 1

FORMERLY

HOUSE BILL NO. 4

AN ACT TO AMEND § 923, TITLE 13 OF THE DELAWARE CODE AS AMENDED BY CHAPTER 481, VOLUME 71, LAWS OF DELAWARE RELATING TO ADOPTION.

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

Section 1. Amend Section 5, Chapter 481, Volume 71, Laws of Delaware, by adding thereto a new subsection, designated as subsection (c), which new subsection shall read as follows:

"(c) If an adoptee 21 years of age or older seeks vital records about any event occurring before January 18, 1999, the Office of Vital Statistics shall consult Family Court to determine whether there is an affidavit on file expressing a desire by either birthparent to keep information about the adoption confidential.

(1) If there is an affidavit on file with Family Court authorizing the release of information, the Office of Vital Statistics shall request a copy of the affidavit and, upon receipt of the affidavit, release the authorized records.

(2) If there is an affidavit on file with Family Court denying the release of information, or if there is no affidavit on file with Family Court, the Office of Vital Statistics shall send notice, as described below, by United States mail to the birthparent(s).

A. The Office of Vital Statistics shall search a computerized telephone or address database, as well as Delaware's Department of Motor Vehicles and voter records in order to determine the most likely address of the birthparent. Such notice shall be sent to that address. If no current address is available, then notice shall be sent to the last known address for the birthparent(s). Such notification shall be mailed within 30 days from when the adoptee requested release of the records.

B. The Office of Vital Statistics shall notify the birthparent(s) of the legal requirements for maintaining confidentiality and shall provide them with the appropriate forms. The Office of Vital Statistics shall also advise the birthparents(s) that in the event that a written notarized statement denying the release of information is not received within 35 days from the date of the mailing of the notification required in subparagraph A. of this subsection then the Office of Vital Statistics will release the records to the adoptee.

i) If the Office of vital Statistics receives a written notarized statement denying the release of information, then it shall not release the records.

ii) If no such written statement is received within 35 days from the date of the mailing of the notification required in subparagraph A. of this subsection or if the birthparent(s) specifically authorizes release, then the Office of Vital Statistics shall release the records to the adoptee."

Approved March 19,1999

CHAPTER 2

FORMERLY

SENATE BILL NO. 13

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO QUALITY IN HIRING OF
EMPLOYEES AND OTHERS WHO PROVIDE SERVICES IN NURSING HOMES AND SIMILAR
FACILITIES.

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

Section 1. Amend Subchapter IV, Chapter 11, Title 16, Delaware Code by deleting Sections 1141, "Criminal Background Checks", and 1142, "Mandatory Drug Testing", in their entirety and inserting in lieu thereof the following:

"§ 1141. Criminal Background Checks.

(a) Purpose.

It is the intent of the General Assembly that the primary purpose of the criminal background check and drug testing requirements of this section and § 1142 is the protection of the safety and well-being of residents of nursing homes and other facilities licensed pursuant to 16 Del. C. Ch. 11. These sections shall be construed broadly to accomplish this purpose.

(b) Definitions.

(1) 'Nursing home' means any facility licensed pursuant to 16 Del. C. Ch. 11, including but not limited to nursing facilities (commonly referred to as nursing homes), assisted living facilities, intermediate care facilities for persons with mental retardation, neighborhood group homes, family care homes, and rest residential facilities;

(2) 'Applicant' means any of the following:

- i.) A person seeking employment in a nursing home;
- ii.) A current employee of a nursing home who seeks a promotion in the facility;
- iii.) A person referred by a temporary agency to a nursing home.

(c) No employer who operates a nursing home or a management company or other business entity that contracts to operate a nursing home may hire any applicant without obtaining a report of the person's entire criminal history record from the State Bureau of Identification and a report from DHSS regarding its review of a report of the person's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544.

(d) No agency, including but not limited to temporary employment agencies, may refer an applicant to a nursing home without obtaining, at said agency's expense, a report of the person's entire criminal history record from the State Bureau of Identification and a written report from DHSS regarding its review of the person's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544.

(e) The State Bureau of Identification shall be the intermediary for the purposes of this section, and DHSS shall be the screening point for the receipt of said federal criminal history records. DHSS shall promulgate regulations regarding the criteria for unsuitability for employment, including the types of criminal convictions which automatically disqualify a person from working in a nursing home, and as to other criminal convictions, the criteria for determining whether a particular individual is unsuitable for such employment. These regulations shall also address the DHSS review of the federal criminal records, and the means for notifying employers of the results of that review.

(f) Conditional Hire.

Notwithstanding the provisions of subsection (c), the employer may hire an applicant on a conditional basis when the employer receives evidence that the applicant has requested his or her state and federal criminal history record, and has been fingerprinted by the State Bureau of Identification. 'Evidence' for purposes of this subsection shall be a verification from the State Bureau of Identification that the person has been fingerprinted and both the state and federal criminal history records have been requested.

The final employment of an applicant pursuant to this subsection shall be contingent upon the employer's receipt of the State Bureau of Identification criminal history record if there are no disqualifying convictions as defined by DHSS regulations and a report by DHSS that there are no disqualifying convictions in such person's federal criminal record. Thus, an employer must immediately terminate a conditionally hired employee upon notification of the employee's conviction of any disqualifying crime (as defined by DHSS regulations) -- whether the information is received from the State Bureau of Identification or from the DHSS report regarding the federal criminal history.

(g) Any employer who hires an applicant for employment and fails to request and/or fails to obtain a report of the person's entire criminal history record from the State Bureau of Identification and/or a written report regarding the suitability of the applicant based on his or her federal criminal history shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation. Any such employer shall also be subject to this penalty if he or she conditionally hires an applicant before receiving verification from the State Bureau of Identification that the applicant has been fingerprinted and that the State and Federal criminal background checks have been requested.

(h) Notwithstanding any requirements of 11 Del. C. Ch. 85 to the contrary, the State Bureau of Identification shall furnish information to the employer, including but not limited to temporary agencies, pertaining to the entire Delaware criminal history record of any applicant to work in a nursing home. Such information shall be provided to the employer and to DHSS pursuant to the procedures established by the Superintendent of the State Police. The criminal history information provided to the employer, to a nursing home by the agency/employer referring an applicant to a nursing home, and to DHSS is strictly confidential. Its use is restricted to the purpose of determining suitability of an applicant for employment in a nursing home.

(i) Every application for employment with a nursing home or for referral to work in a nursing home shall require the applicant to provide any and all information necessary to obtain a report of the person's entire criminal history record from the State Bureau of Identification and a report of the person's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544. In addition, every application for employment shall contain a signed statement from the applicant that the applicant grants full release for the employer to request and obtain any such records or information contained on a criminal history record. If the employer is a temporary agency referring the applicant to work in a nursing home, the applicant must also sign a full release giving the employer permission to provide any criminal history information received about the applicant to any facility to which the applicant is referred to work.

(h) Any individual who either fails to make a full and complete disclosure on an application or a full and complete disclosure of any information required to obtain a criminal history record as required by subsection (c) of this section, shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation.

(i) Except as otherwise noted in this section, the costs for the State Bureau of Identification and Federal Bureau of Investigation background checks made pursuant to this section shall be borne by the State. The State shall pay such costs one time per individual in a 5-year period. Additionally, the State shall pay for any criminal background checks conducted regarding DHSS employees who serve in a regulatory or advocacy capacity regarding nursing homes, again one time per individual in a 5-year period.

(j) Notwithstanding any provision of this Title to the contrary, any applicant who has been fingerprinted and received a qualifying state and federal background check, pursuant to the terms of this section within the previous 5 years, shall be exempt from the provisions of this section. However, employers, at their own discretion and expense, shall have the right to require more frequent background checks.

(a) No employer who operates a nursing home, management company, other business entity contracted to operate a nursing home, or agency that refers employees to work in a nursing home may hire any applicant, as defined in § 1141 of this Title, without first obtaining the results of such applicant's mandatory drug screening.

(b) All applicants, as defined in § 1141 of this Title, shall submit to mandatory drug testing, as specified by regulations promulgated by DHSS.

(c) DHSS shall promulgate regulations, regarding the pre-employment testing of all applicants, for use of the following illegal drugs:

- (1) Marijuana/cannabis;
- (2) Cocaine;
- (3) Opiates;
- (4) Phencyclidine ("PCP");
- (5) Amphetamines;

(6) Any other illegal drug specified by DHSS, pursuant to regulations promulgated pursuant to this section.

(d) Conditional Hire.

Notwithstanding the provisions of Subsection (b), when exigent circumstances exist, and an employer must fill a position in order to maintain the required level of service, the employer may hire an applicant on a conditional basis when the employer receives evidence that the applicant has actually had the appropriate drug screening. The final employment of an applicant pursuant to this subsection shall be contingent upon receipt of the results of the drug screening. In addition, all persons hired pursuant to § 1141 of this Title shall be informed in writing and shall acknowledge, in writing, that his/her results have been requested. Under no circumstances shall an applicant hired on a conditional basis pursuant to this subsection be employed on a conditional basis for more than 2 months.

(e) An agency, including but not limited to temporary agencies, must provide the drug screening results it receives regarding a person referred to work in a nursing home to that particular nursing home so that the facility is better able to make an informed decision whether to accept the referral.

(f) The employer shall provide to DHSS copies of the results of any drug screening required by this section within 10 business days of receipt of the results.

(g) Any applicant or employer who fails to comply with the requirements of this section shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation."

Section 2. If any provisions of this Act or the application thereof to any person, thing, 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. To that end, the provisions of this Act are declared to be severable.

Section 3. The DHSS Division of Long Term Care Residents Protection shall have authority to regulate and enforce the provisions of §§1141 and 1142 of Title 16, Delaware Code.

Section 4. The criminal background check (§1141) and drug testing requirements (§1142) of this Act shall become effective on March 31, 1999. However, except for temporary agency hires, the State will pay for the State Bureau of Identification and Federal Bureau of Investigation criminal background checks conducted between January 1, 1999, (when SB 303 passed by the 139th General Assembly and first took effect) and March 31, 1999, the date to which implementation is now extended.

Approved September 03, 1999

CHAPTER 3

FORMERLY

HOUSE BILL NO. 45

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE REGULATION OF NURSING FACILITIES AND OR SIMILAR FACILITIES AND ABUSE, NEGLECT, MISTREATMENT, OR FINANCIAL EXPLOITATION OF PATIENTS OR RESIDENTS.

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

Section 1. Amend Section 1106, Chapter 11, Title 16 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§ 1106. Issuance of licenses.

(a) Fees for issuance and renewal of licenses issued pursuant to the provisions of this chapter shall be established as stated below and shall be remitted to the General Fund of the State.

(1) Application fees for nursing facilities shall be \$250 for nursing facilities with 100 beds or fewer, and \$375 for nursing facilities with more than 100 beds. Application fees for intermediate care group homes for mentally retarded persons shall be \$50; application fees for neighborhood group homes shall be \$25; application fees for family care homes shall be \$25. The fee must accompany an application for licensure.

(2) A license, unless sooner suspended or revoked, shall be renewed annually upon filing by the licensee and a payment of an annual licensure fee of: \$150 for nursing facilities with 100 beds or fewer; \$250 for nursing facilities with more than 100 beds; \$50 for intermediate care group homes for the mentally retarded; \$25 for neighborhood group homes; and \$25 for family care homes."

Section 2. Amend Section 1106, Chapter 11, Title 16 of the Delaware Code by deleting said section in its entirety and inserting in lieu thereof the following:

"§ 1106. License or renewal fees.

(a) The fees for issuance and renewal of licenses pursuant to this Chapter shall not exceed \$150 plus:

(1) \$250 for facilities with less than 100 units of capacity or bed space for which a license is sought, and \$400 for facilities with more than 100 units of capacity or bed space for which a license is sought; and

(2) A background examination fee for initial applications in an amount set by the Department necessary to defray its expenses in administering its duties under §1104(c) and (d), but not to exceed \$500.

(3) Notwithstanding paragraphs (1) and (2) above, the total fee shall be \$50 for facilities with ten or less units of capacity or bed space for which a license is sought.

(b) The license fee must be paid with each application for initial license, a renewal license, or a change of ownership license. An approved increase in bed space is subject to an additional fee.

(c) The State is not required to pay the license fee for any facilities it operates or owns which require licensure under this chapter.

(d) All license fees collected by the Department shall be remitted to the General Fund."

Section 3. Amend Section 1108, Chapter 11, Title 16 of the Delaware Code by inserting "This section shall become effective on March 31, 1999," after the last sentence therein.

Section 4. Amend Section 1134(d)(13), Chapter 11, Title 16 of the Delaware Code by inserting "This paragraph shall become effective March 31, 1999," after the first sentence of § 1134(d)(13).

Section 5. Sections 1, 3, 4 and 5 of this legislation shall be effective upon enactment. Section 2 of this legislation shall be effective as of March 31, 1999.

Approved September 03,1999

CHAPTER 4

FORMERLY

SENATE BILL NO. 31

AN ACT TO AMEND SECTION 17, CHAPTER 354, VOLUME 71, LAWS OF DELAWARE RELATING TO THE STATE EMPLOYER PENSION RATE FOR FISCAL YEAR 1999.

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

Section 1. Amend Section 17, Chapter 354, Volume 71, Laws of Delaware by deleting "9.68" from the first sentence and inserting in lieu thereof "10.97".

Section 2. Amend Section 17, Chapter 354, Volume 71, Laws of Delaware by deleting "3.90" from the second sentence and inserting in lieu thereof "5.19".

Section 3. This Act shall become effective February 1, 1999.

Approved September 03,1999

CHAPTER 5

FORMERLY

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

AN ACT TO AMEND CHAPTER 189, VOLUME 43 OF THE LAWS OF DELAWARE, AS AMENDED, RELATING TO THE TOWN OF WYOMING.

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

Section 1. Amend Section 14(J), Chapter 189, Volume 43 of the Laws of Delaware, as amended, by striking Section 14(J) in its entirety and substituting in lieu thereof a new Section 14(J) to be read as follows:

"POLICE FORCE

(J) The Council may appoint a Chief of Police and any number of subordinate police officers, whenever the Council may deem it wise to do so. The Chief of Police shall be subject to the direction of the Council, and may be removed by the Council in accordance with 11 Del. C. §9301 or other applicable law. Subordinate police officers may be removed for just cause, by a majority vote of the Council in accordance with 11 Del. C. Chapter 92.

The police force shall preserve peace and order and shall compel obedience within the Town limits to the ordinances of the Town and the laws of the State of Delaware. The police force shall have such other duties as the Council may from time to time prescribe. Operational control of the daily routine and responsibilities of the police force shall be the responsibility of the Chief of Police. The authority of the Chief of Police shall be subordinate and answerable to the Mayor and the Council. The Council may, from time to time, make rules and regulations as may be necessary for the organization, government, and control of the police force.

Within the Town limits of the Town of Wyoming and one mile beyond said limits, each member of the police force shall have all the police powers and authority of a State Peace Officer and shall be conservators of the peace; they shall suppress all acts of violence and enforce all laws relating to the safety of persons and property; they shall compel the enforcement of all ordinances enacted by the Council, and all criminal laws and motor vehicle laws enacted by the State of Delaware; they shall suppress riotous, disorderly, or turbulent assemblages of persons in all public ways and places of the Town; and upon view of the above or upon view of any violation of any ordinance of the Town relating to the peace and good order thereof, the police force shall have the right and power to arrest without warrant. In the case of pursuit of an offender, the power and authority of the police force shall extend outside the territorial limits of the Town and to any part of the State of Delaware."

Section 2. 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 3. This Act shall become effective upon its enactment into law.

Approved September 03,1999

CHAPTER 6

FORMERLY

HOUSE BILL NO. 43

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

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

Section 1. Amend § 1049(1), Title 14 of the Delaware Code, by striking subsection (1) as it appears therein in its entirety and by substituting in lieu thereof the following:

"(1) Determine the hours of daily school sessions, the holidays when district schools shall be closed, and the days on which teachers attend educational improvement activities. This authority is subject to the requirement that all school district calendars must provide for school attendance of at least the following number of hours:

Kindergarten:	440 hours
Grades 1-11:	1060 hours
Grade 12:	1032 hours

The waiver provisions in § 1305 of this title also apply to the district calendar.

The number of hours in a school day for grades 1-12 shall be at least 3-1/2 hours exclusive of lunch, and abbreviated days shall not be scheduled on the last school day prior to a scheduled holiday. In the case of an unplanned delay, or early dismissal caused by weather or other unforeseen emergency conditions, such a delay or early dismissal shall be no more than 2 hours. All district calendars shall be adopted by April 30th for the following school year and may only be amended following a 30-day public notice."

Section 2. Amend § 1023, Title 14 of the Delaware Code, by striking § 1023 in its entirety.

Section 3. Amend § 2702(a), Title 14 of the Delaware Code, by striking the phrase "each day of the minimum school term of 180 days" as it appears in the first sentence therein and by substituting in lieu thereof the following:

"for all hours of school attendance required by the school district calendar".

Section 4. Amend § 2802 and § 2805, Title 14 of the Delaware Code, by striking those two sections in their entireties as they appear therein.

Section 5. Amend § 1703(e), Title 14 of the Delaware Code, by striking the phrase "217 pupil days" as it appears in the second sentence therein and by substituting in lieu thereof the phrase "1282 hours of school attendance"; and by striking the phrase "pupil days to 241." as it appears in the second sentence therein and by substituting in lieu thereof the phrase "school attendance to 1,426 hours."

Section 6. Amend § 1716A(g), Title 14 of the Delaware Code, by striking the phrase "180 pupil days" as it appears therein and by substituting in lieu thereof the phrase "1060 hours of school attendance".

Approved September 03, 1999

CHAPTER 7

FORMERLY

SENATE BILL NO. 32 AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 378, VOLUME 71, LAWS OF DELAWARE; AND PROVIDING FOR THE DEVELOPMENT AND OPERATION OF THE CIVIL AIR TERMINAL, KENT COUNTY AEROPARK AND THE DELAWARE AIR PARK.

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 §3, Chapter 378, Volume 71, Laws of Delaware, by deleting the words "One Hundred Two Million Fourteen Thousand Five Hundred Dollars (\$102,014,500)" as it appears therein and substituting in lieu thereof the following:

"One Hundred Two Million Eight Hundred Eighty Two Thousand Five Hundred Dollars (\$102,882,500)".

Section 2. Amend §3, Chapter 378, Volume 71, Laws of Delaware, by deleting the number "70,737,000" as it appears therein and substituting in lieu thereof the number "71,605,000" and by recalculating all totals as they appear therein.

Section 3. Amend §75, Chapter 378, Volume 71, Laws of Delaware by deleting said subsection in its entirety and substituting in lieu thereof the following:

"Section 75. The Department of Natural Resources and Environmental Control, Division of Parks and Recreation, shall complete the design of a bikeway in Cape Henlopen State Park during Fiscal Year 1999. It is the intent of the General Assembly that the bikeway shall connect the northern and southern facilities of Cape Henlopen State Park that are located east of the Lewes and Rehoboth Canal. The bikeway shall be designed so as not to allow motorized public transportation and in no case shall any road or public thoroughfare be constructed through Cape Henlopen State Park that will serve to connect the towns of Lewes and Rehoboth. The Co-Chairs of the Joint Legislative Committee on Capital Improvement Program shall approve any final alignment and plans before construction begins."

Section 4. Amend §128, Chapter 378, Volume 71 Laws of Delaware by deleting said section in its entirety and substituting in lieu thereof the following:

"Section 128. The Section 1 Addendum contains an appropriation of Three Million Dollars (\$3,000,000) for the Sussex Tech Expansion (60/40).

This appropriation shall be used for the construction of an addition not to exceed 60,883 square feet. This construction project shall be designed to construct sufficient classrooms to eliminate the use of 17 trailers currently used for classroom instruction, window replacement, library and parking facilities and for the completion of critical repairs and renovations to the school. The total cost of this project shall not exceed Ten Million Four Hundred Thousand Dollars (\$10,400,000) with the state share being Six Million Two Hundred Forty Thousand Dollars (\$6,240,000) or 60% of the total project cost, whichever is less. Any previous expenditures made on this project shall be considered appropriate and will be deducted from the Ten Million Four Hundred Thousand Dollar (\$10,400,000) total project cost."

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Section 5. Civil Air Terminal - Dover. For the purpose of complying with the provisions of §1726, Title 17, Delaware Code, requiring the Delaware River and Bay Authority to secure the approval of the General Assembly by an act passed with the concurrence of three-fourths of all the members elected to each House before undertaking any major project (as defined in Article II of the Delaware-New Jersey Compact as set forth in §1701, Title 17, Delaware Code), the Delaware River and Bay Authority is hereby authorized pursuant to the procedures set forth in the Compact and applicable statutory requirements to lease, develop and operate the Civil Air Terminal in Dover, Delaware upon such terms as may be agreed upon by the Department of Transportation and the Authority and such project shall be considered a project of the Authority as defined in Article II of the Compact.

Section 6. Kent County Industrial Park. For the purpose of complying with the provisions of §1726, Title 17, Delaware Code, requiring the Delaware River and Bay Authority to secure the approval of the General Assembly by an act passed with the concurrence of three-fourths of all the members elected to each House before undertaking any major project (as defined in Article II of the Delaware-New Jersey Compact as set forth in §1701, Title 17, Delaware Code), the Delaware River and Bay Authority is hereby authorized pursuant to the procedures set forth in the Compact and applicable statutory requirements the option to lease or acquire and develop a parcel or parcels of land located at the Kent County AeroPark upon such terms as may be agreed upon by the Kent County AeroPark Development Authority and the Authority if it undertakes the project known as the Civil Air Terminal, Dover, Delaware and such project shall be considered a project of the Authority as defined in Article II of the Compact.

Section 7. Delaware Air Park - Cheswold. For the purpose of complying with the provisions of §1726, Title 17, Delaware Code, requiring the Delaware River and Bay Authority to secure the approval of the General Assembly by an act passed with the concurrence of three-fourths of all the members elected to each House before undertaking any major project (as defined in Article II of the Delaware-New Jersey Compact as set forth in §1701, Title 17, Delaware Code), the Delaware River and Bay Authority is hereby authorized pursuant to the procedures set forth in the Compact and applicable statutory requirements to lease, develop and operate the real property, improvements and related facilities of the Delaware Air Park located in Cheswold, Kent County, Delaware upon such terms as may be agreed upon by the Department of Transportation and the Authority and such project shall be considered a project of the Authority as defined in Article II of the Compact.

Section 8. 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.

Approved September 03, 1999

CHAPTER 8

FORMERLY

SENATE BILL NO. 46

AN ACT RELATING TO THE CAPITAL SCHOOL DISTRICT SCHOOL BOARD ELECTION FOR A VACANCY ON SAID BOARD WITH A TERM TO EXPIRE ON JUNE 30, 2001.

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

WHEREAS The Capital School District has a regularly scheduled election which is to take place on May 11, 1999 wherein one school Board position was to be elected;

WHEREAS a resignation of one of the members of the Capital School District Board members has occurred, the term of such position is to end on June 30, 2001.

WHEREAS, Title 14 Section 1075 requires nominations to be filed with the Department of Elections at least 60 days in advance of the election and the pending election is now less than 60 days away;

WHEREAS Title 14 Section 1074 requires 45 days notice to be given by the Department of Election of the impending election;

NOW Therefore:

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

Section 1. The provisions of Title 14 to the contrary notwithstanding, the Capital School District School Board position, the term of which will end on June 30, 2001, shall be elected at the election scheduled for May 11, 1999 and the nominations for said position shall be filed with the Department of Elections, in and for Kent County, on or before March 26, 1999 at 4:30 P.M.

Approved March 16, 1999

CHAPTER 9

FORMERLY

HOUSE BILL NO. 107

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO THE WILMINGTON HOUSING AUTHORITY.

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

Section 1. Amend §4304, Title 31 of the Delaware Code by striking §4304 in its entirety and by substituting in lieu thereof the following:

"§4304. Wilmington Housing Authority.

The Wilmington Housing Authority shall consist of 9 commissioners, 7 of whom shall be appointed by the Mayor of the City of Wilmington, 1 of whom shall be appointed by the Governor, and 1 of whom shall be appointed by the County Executive of New Castle County. Each commissioner shall serve for a term of 3 years unless replaced before 3 years by an interim commissioner. No more than 5 commissioners or interim commissioners shall be of the same political party.

Notwithstanding any provisions of this chapter to the contrary, a Wilmington Housing Authority commissioner or interim commissioner shall serve at the pleasure of the person who appointed him or her, and may be removed, with or without cause, by the appointing person. In the event of death, disability,

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resignation, or removal of a commissioner or interim commissioner before the expiration of his or her term, the appointing person may appoint an interim commissioner to complete the term."

Section 2. This bill shall apply retroactively.

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 March 18,1999

CHAPTER 10

FORMERLY

HOUSE BILL NO. 10

AN ACT AMENDING THE PROVISIONS OF TITLE 26 OF THE DELAWARE CODE RELATING TO THE RESTRUCTURING AND REGULATION OF PUBLIC UTILITIES SUPPLYING ELECTRICITY TO RETAIL CUSTOMERS IN THE STATE.

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

Section 1. This Act shall be known and referred to as the "Electric Utility Restructuring Act of 1999."

Section 2. Declaration of Policy.

It is the policy of this State that a competitive market for the supply of electricity and the availability of customer choice among electric suppliers shall be encouraged and that the generation, supply and sale of electricity shall be deregulated.

Section 3. Amend Title 26 of the Delaware Code by adding a new Chapter 10 as follows:

" Chapter 10. Electric Utility Restructuring.

§1001. Definitions.

As used in this chapter, unless the context otherwise requires:

"Ancillary Services" means services that are necessary for the transmission and distribution of electricity from supply sources to loads and for maintaining reliable operation of the transmission and distribution system.

"Broker" means a person or entity that acts as an agent or intermediary in the sale or purchase of, but that does not take title to, electricity for sale to Retail Electric Customers.

"Commission" means the Delaware Public Service Commission.

"DEC" means the Delaware Electric Cooperative and its successors.

"Direct Access" means the right of Electric Suppliers and their Customers to use an Electric Distribution Company's transmission and distribution system on a nondiscriminatory basis at rates, terms and conditions of service comparable to the Electric Distribution Company's own use of the system to transmit or distribute electricity from any Electric Supplier to any Customer.

"Distribution Facilities" means electric facilities located in Delaware that are owned by a public utility that operate at voltages of 34,500 volts or below and that are used to deliver electricity to Customers, up through and including the point of physical connection with electric facilities owned by the Customer.

"Distribution Services" means those services, including metering, relating to the delivery of electricity to a Customer through Distribution Facilities.

"DP&L" means Delmarva Power & Light Company and its successors.

"Electric Distribution Company" means a public utility owning and/or operating Transmission and/or Distribution Facilities in this State.

"Electric Supplier" means a person or entity certified by the Commission, including municipal corporations which choose to provide electricity outside their municipal limits (except to the extent provided prior to February 1, 1999), Broker, Marketer or other entity (including public utilities and their affiliates), that sells electricity to Retail Electric Customers, utilizing the Transmission and/or Distribution Facilities of an Electric Distribution Company.

"Electric Supply Service" means the provision of electricity and related services to Customers.

"Marketer" means a person or entity that purchases and takes title to electricity for sale to Customers in this State.

"Retail Competition" means the right of a Customer to purchase electricity from an Electric Supplier.

"Retail Electric Customer" or "Customer" means a purchaser of electricity for ultimate consumption and not for resale in this State, including the owner/operator of any building or facility, but not the occupants thereof, that purchases and supplies electricity to the occupants of such building or facility.

"Standard Offer Service" means the provision of Electric Supply Service after the Transition Period by a Standard Offer Service Supplier to Customers who do not otherwise receive Electric Supply Service from an Electric Supplier.

"Standard Offer Service Supplier" means an Electric Supplier that provides Standard Offer Service to Customers within an Electric Distribution Company's service territory after the Transition Period.

"Transition Period" means the period of time beginning with the implementation of Retail Competition and ending on the dates specified in §1004 of this chapter.

"Transmission Facilities" means electric facilities located in Delaware and owned by a public utility that operate at voltages above 34,500 volts and that are used to transmit and deliver electricity to Customers (including any Customers taking electric service under interruptible rate schedules as of December 31, 1998) up through and including the point of physical connection with electric facilities owned by the Customer.

"Transmission Services" means the delivery of electricity from supply sources through Transmission Facilities.

§1002. Standards for Electric Utility Restructuring.

(a) The General Assembly declares that the following interdependent standards shall govern the Commission's review and approval of each public utility's restructuring plan, oversight of the transition process and regulation of the restructured electric utility industry pursuant to this chapter.

(1) The reliability of electric service to all Customers in this State shall be maintained.

(2) On and after the implementation dates set forth in §1003 of this chapter, Customers shall have the right to choose among Electric Suppliers.

(3) Nothing contained herein shall have the effect of abrogating or amending contracts between public utilities and any of their Customers in place on February 1, 1999.

§ 1003. Retail Competition.

(a) General Rule. Except as otherwise expressly provided for in this chapter, on and after October 1, 1999 for DP&L and April 1, 2000 for DEC, the generation, supply and sale of electricity, including all related facilities and assets, shall no longer be regulated by the Commission as a public utility service or function. Customers of Electric Distribution Companies in this State shall have the opportunity, but not the obligation, to purchase electricity from their choice of Electric Suppliers in accordance with the implementation dates set forth in subsection (b).

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(b) Implementation dates.

(1) For Customers of DP&L, the implementation dates shall be as follows: October 1, 1999, for Customers with a peak monthly load of 1,000 kW or more; January 15, 2000, for Customers with a peak monthly load of 300 kW or more; and 18 months after enactment of this chapter for all other Customers.

(2) For Customers of DEC, the implementation dates shall be as follows: April 1, 2000, for Customers with a peak monthly load of 1,000 kW or more; July 1, 2000, for Customers with a peak monthly load of 300 kW or more; and 24 months after enactment of this chapter for all other Customers.

(c) The Commission may delay any of the above implementation dates for not more than six months for good cause shown and upon a finding that any such delay is in the public interest.

(d) For purposes of this section, peak monthly load shall be measured by the Electric Distribution Company's separate Customer account, not by facility or service location or by customer, in the aggregate or otherwise.

§1004. Transition Period.

(a) The Transition Period for DP&L shall begin on October 1, 1999 and shall end on September 30, 2002 for non-residential Customers and shall begin on October 1, 1999 and end on September 30, 2003 for residential Customers.

(b) The Transition Period for DEC shall begin on April 1, 2000 and shall end on March 31, 2005 for all Customers.

§1005. Restructuring Plan.

(a) Restructuring Plan for DP&L.

(1) Filing and contents of plan. On or before April 15, 1999, DP&L shall file with the Commission a detailed plan for implementing Retail Competition in DP&L's Commission-designated service territory. Such plan shall include: (i) separate prices or rates for Electric Supply, Transmission, Distribution and other Services (which may later be combined for billing purposes); (ii) procedures for providing Direct Access for all Electric Suppliers; (iii) revised tariffs and rate schedules; (iv) an optional residential time of use rate with three daily time of use periods to be available for any residential Customer who elects such a rate structure; and (v) standards for reliability sufficient to measure variations in service reliability after the implementation of Retail Competition.

(2) Commission review of plan. The Commission shall review DP&L's restructuring plan and, after an evidentiary proceeding, issue an order by August 31, 1999, adopting the plan as filed or modifying the plan as appropriate.

(b) Restructuring Plan for DEC.

(1) Filing and contents of plan. On or before September 15, 1999, DEC shall file with the Commission a detailed plan for implementing Retail Competition in DEC's Commission-designated service territory. Such plan shall include: (i) separate prices or rates for Electric Supply, Transmission, Distribution and other Services (which may later be combined for billing purposes); (ii) procedures for providing Direct Access for all Electric Suppliers; (iii) revised tariffs and rate schedules; (iv) DEC's proposed Competitive Transition Charge, including the proposed method, recovery plan and determination of DEC's Stranded and Transition Costs, as such terms are defined in §1007 of this chapter; and (v) standards for reliability sufficient to measure variations in service reliability after implementation of Retail Competition.

(2) Commission review of plan. The Commission shall review DEC's restructuring plan and, after an evidentiary proceeding, issue an order by February 28, 2000, adopting the plan as filed or modifying the plan as appropriate.

§1006. Rates for Customers.

(a) Rates for Customers within DP&L's Service Territory.

(1) Rates in effect during the Transition Period.

For the Transition Period identified in §1004(a) of this chapter, the following Delaware retail rate levels shall be determined by the Commission (without conducting a base rate case) as part of its decision

on DP&L's restructuring plan filed pursuant to § 1005(a) of this chapter and shall thereafter remain in effect as provided below:

(i) The retail market price for Electric Supply Service (including losses to the Customer's delivery point) shall be estimated and applied separately for each Customer rate class for each year of the Transition Period. Such prices shall be based upon and/or representative of regional wholesale electric market prices, plus a reasonable allowance for retail margin to be determined by the Commission. Once established, such prices shall not thereafter be changed by the Commission during the Transition Period, except as the result of an appeal of the Commission's decision.

(ii) For each Customer rate class, the total of the actual base rates (excluding fuel costs) in effect on, and the fuel rates based upon the actual fuel costs for the 12 months ending, September 30, 1999 shall remain in effect for the Transition Period, less: (a) a base rate decrease of 7.5% percent of the total of those base and fuel revenues for each residential rate class; and (b) the above-specified retail market price in each respective year. However, upon application by DP&L, the Commission may change rates in the Transition Period for the recovery of any extraordinary costs as the Commission may, in its discretion, determine.

(iii) For each Customer rate class, the total of the rates established pursuant to subparagraphs (i) and (ii) of this subsection (a)(1) shall be separated (on a revenue-neutral basis) into rates for Electric Supply, Transmission, Ancillary, Distribution, nuclear decommissioning and other Services and may be combined for billing purposes.

(iv) Customers who obtain Transmission and/or Ancillary Services directly from the PJM Independent System Operator or from their Electric Supplier shall receive a credit against DP&L's retail delivery rates equal to the then-applicable Federal Energy Regulatory Commission equivalent retail Transmission and/or Ancillary Services rates paid by that Customer or its Electric Supplier.

(v) For Customers who do not choose an alternate Electric Supplier or have returned to obtaining their electric supply from DP&L, the above-specified retail market price shall be the rate paid for Electric Supply Service for the Transition Period, subject to such regulations as the Commission may adopt pursuant to § 1010(c) of this chapter for returning Customers.

(vi) For Customers who do choose an alternate Electric Supplier, the above-specified retail market price shall not be applicable for such Customer's Electric Supply Service.

(vii) In addition to the above-specified rates and charges, and notwithstanding subparagraph (ii), a deferred fuel true up credit or charge shall be in effect for all Customers for up to 12 months following September 30, 1999, pursuant to § 303(c) of this title.

(2) Rates in effect after the Transition Period.

(i) At the end of the Transition Period set forth in § 1004(a) of this chapter, the retail market price under subparagraph (a)(1)(i) of this section shall become the Standard Offer Service price.

(ii) Such Standard Offer Service price shall be the applicable retail market price for Electric Supply Service for any Customers who have not chosen an alternate Electric Supplier or have returned to obtaining their Electric Supply Service from the Standard Offer Service Supplier, subject to such regulations as the Commission may adopt pursuant to § 1010(c) of this chapter for returning Customers.

(iii) If DP&L is a Standard Offer Service Supplier, the Standard Offer Service price shall be revised by DP&L from time to time for each Customer rate class to be representative of the regional wholesale electric market price, plus a reasonable allowance for retail margin to be determined by the Commission for providing such Electric Supply Service. The Standard Offer Service price may be reviewed from time to time by the Commission to determine whether it represents the regional wholesale electric market price, plus a reasonable allowance for retail margin. If the Commission has elected another Electric Supplier to be the Standard Offer Service Supplier as the result of the bidding process in § 1010(a)(2) of this chapter, the Standard Offer Service price shall be the bid price.

(iv) For Customers who have chosen an Electric Supplier, in addition to the Standard Offer Service price or the alternative Electric Supplier's supply price, each Customer shall pay the separate applicable rates for Transmission, Ancillary, Distribution, nuclear decommissioning and

other Services. Such rates shall not include any generation or electric supply costs. By March 1, 2002, DP&L shall file a rate case quality cost of service study (consistent with the Minimum Filing Requirements in effect on February 1, 1999) and a proposal to reset its regulated rates to be applicable at the end of the Transition Periods. The Commission shall review these filings to determine the appropriate rates DP&L may charge its Customers for regulated services.

(v) Customers who obtain Transmission and/or Ancillary Services directly from the PJM Independent System Operator or from their Electric Supplier shall receive a credit against DP&L's retail delivery rates equal to the then-applicable Federal Energy Regulatory Commission equivalent retail Transmission and/or Ancillary Services rates paid by that Customer or its Electric Supplier.

(vi) To the extent that any nuclear generating unit partially owned by DP&L has been sold, or otherwise disposed of, the nuclear decommissioning costs associated with such unit shall not be recovered from Customers after the Transition Period.

(b) Rates for Customers within DEC's Service Territory.

(1) Rates in effect during the Transition Period.

For the Transition Period identified in §1004(b) of this chapter, the following Delaware retail rate levels shall be determined by the Commission (without conducting a base rate case) as part of its decision on DEC's restructuring plan filed pursuant to §1005(b) of this chapter and shall thereafter remain in effect as provided below:

(i) The retail market price for Electric Supply Service (including losses to the Customer's delivery point) shall be estimated and applied separately for each Customer rate class for each year of the Transition Period. Such prices shall be based upon and/or representative of regional wholesale electric market prices, plus a reasonable allowance for retail margin to be determined by the Commission. Once established, such prices shall not thereafter be changed by the Commission, except as the result of an appeal of the Commission's decision.

(ii) For each Customer rate class, the total of the actual base rates (excluding Purchase Power Costs) and the Purchase Power rates based upon the actual Purchase Power Costs for the 12 months ending March 31, 2000 shall remain in effect for the Transition Period less: (a) the above-specified retail market price in each respective year; and (b) the below-specified Competitive Transition Charge in each respective year. However, upon application by DEC, the Commission may change rates in the Transition Period for the recovery of any extraordinary costs as the Commission may, in its discretion, determine.

(iii) A Competitive Transition Charge shall be established by the Commission to recover Stranded Costs and Transition Costs, if any, pursuant to §1007 of this chapter. The Competitive Transition Charge shall be set as a separate charge at a level that will permit DEC to recover its allowed Stranded Costs and Transition Costs over the Transition Period.

(iv) For each Customer rate class, the total of the rates established pursuant to subparagraphs (i), (ii) and (iii) of this subsection (b)(1) shall be separated (on a revenue-neutral basis) into rates for Electric Supply, Transmission, Ancillary, Distribution nuclear decommissioning, Competitive Transition Charge and other Services and may be combined for billing purposes.

(v) Customers who obtain Transmission and/or Ancillary Services directly from the PJM Independent System Operator or from their Electric Supplier shall receive a credit against DEC's retail delivery rates equal to the then-applicable Federal Energy Regulatory Commission equivalent retail Transmission and/or Ancillary Services rates paid by that Customer or its Electric Supplier.

(vi) For Customers who do not choose an alternate Electric Supplier or have returned to obtaining their electric supply from DEC, the above-specified retail market price shall be the rate paid for Electric Supply Service for the Transition Period, subject to such regulations as the Commission may adopt pursuant to §1010(c) of this chapter for returning Customers.

(vii) For Customers who do choose an alternate Electric Supplier, the above-specified retail market price shall not be applicable for such Customer's Electric Supply Service.

(viii) In addition to the above-specified rates and charges, and notwithstanding subparagraph (ii), a deferred fuel true up credit or charge shall be in effect for all Customers for up to 12 months following March 31, 2000, pursuant to §303(c) of this Title.

(2) Rates in effect after the Transition Period.

(i) At the end of the Transition Period set forth in §1004(b) of this chapter, the retail market price under §1006(b)(1)(i) of this chapter shall become a Standard Offer Service price.

(ii) Such Standard Offer Service price shall be the applicable retail market price for Electric Supply Service for any Customers who have not chosen an alternate Electric Supplier or have returned to obtaining their Electric Supply Service from the Standard Offer Service Supplier, subject to such regulations as the Commission may adopt pursuant to §1010(c) of this chapter for returning Customers.

(iii) If DEC is a Standard Offer Service Supplier, the Standard Offer Service price shall be revised by DEC from time to time for each Customer rate class to be representative of the regional wholesale market price, plus a reasonable allowance for retail margin to be determined by the Commission for providing such Electric Supply Service. The Standard Offer Service price may be reviewed from time to time by the Commission to determine whether it represents the regional wholesale electric market price, plus a reasonable allowance for retail margin. If the Commission has elected another Electric Supplier to be the Standard Offer Service Supplier as the result of the bidding process in §1010(b)(2) of this chapter, the Standard Offer Service price shall be the bid price.

(iv) For Customers who have chosen an Electric Supplier, in addition to the Standard Offer Service price or the alternative Electric Supplier's supply price, each Customer shall pay the separate applicable rates for Transmission, Ancillary, Distribution, nuclear decommissioning and other Services. Such rates shall not include any generation or electric supply costs. By September 1, 2004, DEC shall file a rate case quality cost of service study (consistent with the Minimum Filing Requirements in effect on February 1, 1999) and a proposal to reset its regulated rates to be applicable at the end of the Transition Period. The Commission shall review these filings to determine the appropriate rates DEC may charge its Customers for regulated services.

(v) Customers who obtain Transmission and/or Ancillary Services directly from the PJM Independent System Operator or from their Electric Supplier shall receive a credit against DEC's retail delivery rates equal to the then-applicable Federal Energy Regulatory Commission equivalent retail Transmission and/or Ancillary Services rates paid by that Customer or its Electric Supplier.

§1007. Stranded and Transition Costs for DEC.

For purposes of this Section, the terms listed below shall be defined as follows:

(a) "Competitive Transition Charge" means the wires charge applied to the bill of every Customer receiving electric supply through the Distribution or Transmission Facilities of DEC, to allow DEC to recover its Stranded Costs and Transition Costs as determined by the Commission pursuant to this section.

(b) "Stranded Costs" means DEC's electric generation related costs, including purchased power contract costs, incurred in meeting its public service obligations, that would be recovered under traditional cost of service regulation but which may not be recoverable in a competitive electric supply market, including, but not limited to: net generation plant investment costs, generation plant retirement costs, including nuclear plant decommissioning costs, spent nuclear fuel disposal costs, purchase power contract costs, and any similar or related costs.

(c) "Transition Costs" means the costs DEC incurs during the course of the transition to a competitive electric supply market that would be recovered under traditional cost of service regulation but which may not be recoverable in a competitive electric supply market, including, but not limited to: the costs of implementing a genuinely competitive retail market, personnel costs, the costs of purchasing, replacing or modifying systems, software, and other equipment; the costs of any physical plan rendered no longer used or useful; and any other similar or related costs attributable to the transition to a competitive electric supply market.

(d) DEC shall be permitted to recover all reasonably incurred, non-mitigable Stranded and Transition Costs. The amount and method of determining DEC's Stranded and Transition Costs shall be decided by the Commission. The costs to be recovered shall be allocated in a manner that avoids, to the extent possible, inter-class or intra-class cross-subsidization.

(e) The Commission shall establish procedures for periodic review of the costs recovered through the Competitive Transition Charge.

§1008. Duties of Electric Distribution Companies.

Each Electric Distribution Company shall maintain the reliability of its Distribution Services and shall implement procedures to require all Electric Suppliers to deliver energy to the Electric Distribution Company at locations and in amounts which are adequate to meet each Electric Supplier's obligations to its Customers.

§1009. Reciprocity.

Notwithstanding any other provision of this chapter, unless an electric utility, including a municipally-owned electric utility or a municipal electric company, has implemented a restructuring plan that provides for Retail Competition in its Delaware service territory, such electric utility may not use the Transmission or Distribution Facilities of a nonaffiliated electric utility to make sales to Customers in such nonaffiliated electric utility's Delaware service territory; nor shall such electric utility own or receive, directly or indirectly, any economic interest in any entity which uses the Transmission or Distribution Facilities of a nonaffiliated electric utility to make sales to Customers in such nonaffiliated electric utility's Delaware service territory.

§1010. Electric Distribution Companies' Obligation to Serve Customers.

(a) DP&L's obligation to serve.

(1) During the Transition Period, DP&L shall continue to have the obligation to serve all Customers in its Commission-designated service territory, including the connection of Customers, the delivery of electricity and the generation or acquisition of Electric Supply Service for Customers.

(2) Prior to the end of the Transition Period set forth in §1004(a) of this chapter, the Commission shall determine who the Standard Offer Service Supplier in DP&L's service territory will be following the Transition Period, based on various factors including but not limited to price, reliability and overall quality of the Electric Supply Service offered. In determining the Standard Offer Service Supplier for DP&L's service territory, the Commission may use an auction bidding process. The Commission shall promulgate rules and regulations for the bidding process and may: (i) negotiate directly with bidders; (ii) aggregate various distribution areas to attract more bidders; or (iii) choose more than one Standard Offer Service Supplier to provide Standard Offer Service. Nothing in the Commission's rules or regulations shall prohibit DP&L or its affiliates from participating in the bidding process for post-transition Standard Offer Service. The Commission may also require DP&L to continue to be the Standard Offer Service Supplier or to supply a portion of the Standard Offer Service after the Transition Period. Any Standard Offer Service Supplier arrangement shall be periodically reviewed by the Commission to insure that those who use Standard Offer Service are provided Electric Supply Service that is safe and reliable.

(b) DEC's obligation to serve.

(1) During the Transition Period, DEC, or affiliates thereof, shall have the obligation to serve all Customers in its Commission-designated service territory, including the connection of Customers, the delivery of electricity and the generation or acquisition of Electric Supply Service for Customers.

(2) After the Transition Period, in addition to Transmission and Distribution Service, DEC shall supply Standard Offer Service, as determined in accordance with §1006(b)(2)(iii) of this chapter, to Customers who: (i) have no choice regarding Electric Suppliers, (ii) do not choose another Electric Supplier, or (iii) have contracted for Electric Supply Service that is not delivered. The Commission may choose another Electric Supplier to provide Standard Offer Service to DEC's Customers, through a Commission-supervised competitive bidding process or otherwise, similar to §1010(a)(2) above, only if DEC is unable to provide Standard Offer Service in its service territory or if it is established, after notice and hearing, that the Standard Offer Service rendered by DEC is inadequate to meet the requirements of the public necessity and convenience.

(c) The Commission shall promulgate rules and regulations governing the amount of notice that a Customer who desires to return to the Standard Offer Service Supplier must provide, the minimum amount of time that a Customer must take service from a Standard

Offer Service Supplier, and the amount of charges that may be assessed against a Customer who leaves the Standard Offer Service Supplier and later returns to the Standard Offer Service Supplier, including the appropriate retail market price, which may be higher than the Standard Offer Service price.

§1011. Metering and Billing.

(a) The following provisions shall govern metering and billing for Customers in DP&L's service territory:

(1) Each Customer shall have the right to choose to receive separate bills from DP&L and from its Electric Supplier, or to receive a combined bill from either DP&L or its Electric Supplier, for Electric Supply, Transmission, Distribution, Ancillary and other Services, consistent with the regulations of the Commission.

(2) If the Customer does not elect a billing option, DP&L shall be responsible for billing Customers for all Electric Supply, Transmission, Distribution, Ancillary and other Services, regardless of the identity of the provider of Electric Supply Service.

(3) Customer bills shall contain sufficient detail to enable the Customer to determine the basis for all charges.

(4) During the Transition Period, DP&L shall continue to own all meters and perform all meter-reading functions. After the Transition Period, or earlier if requested by DP&L, the Commission may permit others to provide some or all of such metering functions on a competitive basis.

(b) The following provisions shall govern metering and billing for Customers in DEC's service territory:

(1) DEC shall continue to bill each Customer for: (1) that Customer's Electric Supply Service, regardless of the Electric Supplier, and (2) Transmission, Distribution, Ancillary and other Services.

(2) All Customers in DEC's service territory shall continue to be members of DEC and the revenues for DEC's services shall continue to be treated as member revenue to DEC.

(3) DEC shall continue to own and operate meters and perform meter reading functions in its Commission-designated service territory.

§1012. Certification of Electric Suppliers.

(a) Certification Requirements. Prior to doing business in Delaware, every Electric Supplier seeking to provide Electric Supply Service to Customers shall obtain a certificate from the Commission. The Commission shall promulgate rules and regulations governing the information that Electric Suppliers shall be required to provide and requirements to be satisfied in order to obtain such certificate. The failure by any Electric Supplier to comply with any of the requirements promulgated by the Commission may result in penalties, including monetary assessments, suspension or revocation of the Electric Supplier's certificate, or other sanctions.

(b) Rules and Regulations. The Commission may promulgate rules and regulations with respect to Electric Suppliers and Electric Supply Service to protect Customers after the implementation of Retail Competition, including those related to billing, service terms and conditions, dispute procedures, changing suppliers and standards for suppliers who offer environmentally-advantageous "Green Power" options, such as electricity generated from renewable resources, biomass, hydroelectric and other such generating sources. All Electric Suppliers shall consent to the jurisdiction of the Delaware courts for acts or omissions arising from their activities in the State.

(c) Fees and Assessments.

(1) Electric Suppliers required to obtain a certificate to provide retail Electric Supply Service shall pay an application fee of \$750.00.

(2) For purposes of §§ 114 (Charges and Fees; Costs and Expenses of Proceedings), 115 (Public Safety; Regulatory Assessment; Definition of Revenue; Returns; Collection of Assessment), and 116 (Delaware

Public Service Commission Revolving Fund; Deposit of Moneys Collected) of this title, an Electric Supplier shall be deemed to be a "Public Utility" as defined in §102(2) of this title.

§1013. Market Power Remediation.

(a) On or after October 1, 1999, upon complaint or upon its own motion, for good cause shown, the Commission may conduct an investigation of the retail Electric Supply Service market and whether the function of that market is being adversely affected by market power arising from the ownership or control of facilities and equipment used to provide Electric Supply Service.

(b) If, as a result of an investigation conducted under this section, the Commission has reason to believe that market power in the relevant market under the Commission's jurisdiction is preventing Retail Electric Customers in the State from obtaining the benefits of a Retail Competition, the Commission may take remedial actions to mitigate the impact of such activities, including ordering divestiture. However, in the case of divestiture, the Commission may only order divestiture of generating asset(s) of a public utility and only in an extreme situation and as a last resort measure.

§1014. Public Purpose Programs and Consumer Education.

(a) In separating the rates or prices for DP&L's services under §1005(a) of this chapter, the Commission shall reassign to the separate Transmission and Distribution rates of each rate class from the total base rates \$0.000095 per kilowatt-hour to be deposited each month by DP&L into an environmental incentive fund effective on October 1, 1999. Such fund shall be established and administered by the Delaware Economic Development Office, in consultation with the Division of the Public Advocate, and shall be used to fund environmental incentive programs for conservation and energy efficiency within DP&L's service territory.

(b) The Commission shall further reassign to the separate Transmission and Distribution rates of each rate class from the total base rates \$0.000095 per kilowatt-hour to be deposited each month by DP&L into a low-income program fund effective on October 1, 1999. Such funds shall be administered by the Department of Health and Social Services, Division of State Service Centers and shall be used to fund low-income fuel assistance and weatherization programs within DP&L's service territory.

(c) The Commission shall establish a working group by June 1, 1999 comprised of representatives of the Commission, electric utilities, Electric Suppliers, the Division of the Public Advocate, and other interested parties to design and implement a consumer education program, including "Green Power" options, to prepare the citizens of Delaware for Retail Competition. The Commission may direct the payment of up to a total of \$250,000 from DP&L and DEC (apportioned on the 1998 kWh Delaware retail sales of each entity) for the purpose of providing customer education materials to citizens of Delaware in connection with Retail Competition.

§ 1015. Procedures to Govern Commission Proceedings

(a) The Commission is authorized to enter such orders and adopt such regulations as may be needed to implement Retail Competition in accordance with this chapter. In order to allow the Commission to implement Retail Competition on the implementation dates set forth in §1003(b) of this chapter, the Commission may waive procedures required by 29 Del.C. §§1131-1136 and 29 Del.C. §§10111-10128 with respect to proceedings or rulemakings authorized by this chapter which must be completed prior to the implementation dates. In case of such waiver, the Commission shall provide notice in such a manner to allow all interested and affected persons an opportunity to comment upon and participate in the proposed action or rulemaking and shall conduct such proceedings or rulemakings in accordance with the principles of due process and fundamental fairness. All regulations shall be published in the Delaware Register of Regulations. Such orders and regulations shall become effective on a date designated by the Commission consistent with the requirements of this chapter. Judicial review of such final orders or regulations shall remain available under 29 Del.C. §10141 and §10142.

(b) Matters relating to either DP&L's or DEC's restructuring plans may also be resolved by stipulation and settlement pursuant to §512 of this title.

§1016. Change of Control.

The Commission's regulatory authority over DP&L and DEC shall not be affected by a subsequent change in stock ownership of either utility. In approving any proposed merger, mortgage, transfer, issue, assumption or acquisition, the Commission shall, in addition to considering the factors set forth in §215 of Title 26, take such steps or condition any transfer in such a manner as to insure that any successor will continue safe and reliable Transmission and Distribution Services. Any proceeding reviewing a change of control or transfer shall conclude within 120 days from the date of filing, unless agreed to by the Commission and the applicant.

§1017. Filing Information with Public Advocate.

Nothing in this Act shall be construed to limit or constrain in any way the right of the Division of the Public Advocate to receive information pursuant to 29 Del.C. §8808(5)."

Section 4. Amend §102 of Title 26 of the Delaware Code by deleting subsection (2) in its entirety and replacing it with the following:

"(2) 'Public utility' includes every individual, partnership, association, corporation joint stock company, agency or department of the State or any association of individuals engaged in the prosecution in common of a productive enterprise (commonly called a 'cooperative'), their lessees, trustees, or receivers appointed by any court whatsoever, that now operates or hereafter may operate for public use within this state, any natural gas, electric (excluding Electric Suppliers as defined in §1001 of this title), water, telephone (excluding telephone services provided by cellular technology or by domestic public land mobile radio service) service, system, plant or equipment."

Section 5. Amend §102 of Title 26 of the Delaware Code by adding a new subsection (9) as follows:

"(9) The terms "Ancillary Services," "Distribution Facilities," "Distribution Services," "Electric Distribution Company," "Electric Supplier," "Retail Competition," "Retail Electric Customer," "Transmission Facilities," and "Transmission Services," as used in Chapters 1, 2 and 3 of this title, shall have the same definitions as set forth in §1001 of this title."

Section 6. Amend §202 of Title 26 of the Delaware Code by adding a new subsection 202(f) providing as follows:

"(f) Except insofar as may be necessary to implement Chapter 10 of this title regarding the establishment of Retail Competition, the Commission shall have no supervision or regulation over any Electric Supplier."

Section 7. Amend §203A of Title 26 of the Delaware Code by deleting subsection (a)(1) in its entirety and replacing it with the following:

"(a) (1) Subject to the provisions of subsection (b) of this section and §§102, 201, 202 and Chapter 10 of this title, and excluding Electric Suppliers, no individual, co-partnership, association, corporation, joint stock company, agency or department of the State, cooperative, or the lessees, trustees or receivers thereof, shall begin the business of a public utility nor shall any public utility begin any extension of its regulated public utility business or operations without having first obtained from the Commission a certificate that the present or future public convenience and necessity requires or will require the operation of such regulated public utility business or extension."

Section 8. Amend §203A of Title 26 of the Delaware Code by deleting subsection (c)(1) in its entirety and replacing it with the following:

"(c) (1) Subject to the provisions of Chapter 10 and §706(d) of this title and excluding Electric Suppliers, no public utility shall abandon or discontinue, in whole or in part, any regulated public utility business, operations or services provided under a certificate of public convenience and necessity or otherwise which are subject to jurisdiction of the Commission without first having received Commission approval for such abandonment or discontinuance."

Section 9. Amend §203A of Title 26 of the Delaware Code by adding a new subsection (d) as follows:

"(d) As of the implementation dates specified in §1003(b)(1) and (2) of this title, nothing contained in this section shall be construed to require application for approval of the abandonment or discontinuance of service by an Electric Supplier."

Section 10. Amend §203B of Title 26 of the Delaware Code by deleting subsections (g) and (h) in their entirety and replacing them with the following and inserting a new subsection (i) as follows:

"(g) The exclusive retail electric service territories heretofore established by the Commission pursuant to this section shall continue as exclusive service territories for the transmission and distribution of electricity. Except as otherwise provided herein, each Electric Distribution Company shall have the exclusive right to furnish Transmission and Distribution Services to all electricity-consuming facilities located within its service territory and shall not furnish, make available, render or extend its Transmission and Distribution Services to a consumer located within the service territory of another Electric Distribution Company; provided that any Electric Distribution Company may extend or construct its facilities in or through the service territory of another Electric Distribution Company, if such extension or construction is necessary for such company to connect any of its facilities or to serve its customers within its own service territory. As of the implementation dates as set forth in §1003(b)(1) and (2) of this title, there shall be no exclusive service territories for the supply of electricity, except as otherwise herein provided.

(h) Notwithstanding any other provision of Title 26:

(1) A Retail Electric Customer has the right to lease or own (satisfied by partial ownership) facilities on its own property to transmit or distribute electricity to itself.

(2) Where a Retail Electric Customer owned transmission and/or distribution facilities that, at any time prior to February 1, 1999, were located on property owned by such Customer, and were used to transmit or distribute electricity to buildings, facilities, or equipment on such property, and that Retail Electric Customer sold or leased a portion of such property and/or buildings, facilities or equipment thereon to third parties, then that Customer shall have the right to continue to own such facilities and to transmit or distribute electricity to both itself and to any such third parties, with separate metering for each third party. Furthermore, if such Customer desires to expand such facilities to serve additional buildings, facilities or equipment or additions thereto on such property used by such third party, then that Customer and the Electric Distribution Company shall jointly determine the terms and conditions of the ownership, installation, operation, and maintenance of the expanded facilities. Any disagreement in this regard shall be presented to the Commission for resolution. If the Customer utilizes its own facilities to transmit or deliver electricity to any such third party, the Customer shall not charge the third party any amount that exceeds its actual costs of providing such services.

(3) Any person shall have the right to lease or own transmission and/or distribution facilities to transmit or deliver electricity from an electric generation facility, which qualifies under the Public Utilities Regulatory Policy Act of 1978 or its successor, to its host Customer on the same or on any immediately adjacent property. Should such person desire to have electricity transmitted or delivered to not more than five other nearby Customers who are new Customers or who have been receiving electricity through the then-existing facilities of an Electric Distribution Company, such person must first contact the Electric Distribution Company to jointly determine how such service shall be provided. Should agreement not be jointly reached, the matter shall be presented to Commission for resolution. The options that may be considered including the following:

(i) The Electric Distribution Company may continue to provide such service over its then-existing facilities at Commission-approved rates; or

(ii) New facilities may be installed by the Electric Distribution Company to provide such service, in which case the Customers shall reimburse the Electric Distribution Company for the depreciated book value, plus removal costs less salvage value, of any then-existing facilities that will no longer be used by the Electric Distribution Company. In this case, the regular Commission-approved rates shall not be applicable for such new facilities. Instead, a separate facilities charge rate will be developed and billed monthly to such Customers, based upon the actual installed cost of such new facilities, including normal levels of operating expenses, taxes and return.

(i) For purposes of this section only, effective on the implementation dates set forth in §1003(b)(1) and (2) of this title, the term 'retail electric service' shall be construed to be

synonymous with the term 'electric transmission and distribution' and shall not include the generation, supply or sale of electricity itself."

Section 11. Amend §301 of Title 26 of the Delaware Code by deleting the section in its entirety and replacing it with the following:

"§301. Rate schedule and rate classifications.

(a) The Commission may require every public utility to file with the Commission complete schedules of every classification employed and of every individual or joint rate, fare, or charge made, charged or executed by the public utility for any regulated product or service supplied or rendered within this State. Every application for a certificate of public convenience and necessity shall include a proposed tariff for approval by the Commission. A copy of all regulated tariffs then in effect shall be available for inspection by customers at each public office of the utility where applications for service are received.

(b) This section shall not apply to charges made for Electric Supply Service for Transmission or Ancillary Services on and after October 1, 1999 for Delmarva Power & Light Company and April 1, 2000 for Delaware Electric Cooperative.

Section 12. Amend §303 of Title 26 of the Delaware Code by deleting subsection (b) in its entirety and replacing it with the following:

"(b) The Commission shall require all utilities operating within its jurisdiction to produce evidence at a public hearing of the need for a change in the fuel adjustment as a part of the rate-making procedure. Notwithstanding any other provisions of this chapter, such fuel adjustment may include a separate component to adjust for or correct for any difference between actual allowable fuel costs incurred by the utility and fuel costs recovered through base rates and the fuel adjustment. Notice of such hearing shall be advertised in at least 1 newspaper in each of the 3 counties. As in other applications before the Commission, the burden of proof that the fuel adjustment change is required shall be upon the utility. No change in the fuel adjustment shall be authorized by the Commission except by affirmative vote of the majority of all members appointed to the Commission. The Commission shall consider the evidence for and against the proposed change as it would all evidence in any other rate-making procedure. Consistent with the introduction of customer choice in the supply of electricity pursuant to Chapter 10 of this title, and subject to subsection (c) below, this section shall have no application to rates in effect on and after October 1, 1999 for Delmarva Power & Light Company and April 1, 2000 for Delaware Electric Cooperative."

Section 13. Amend §303 of Title 26 of the Delaware Code by redesignating subsection (c) as (d) and inserting a new subsection (c) as follows:

"(c) Notwithstanding subsection (b) above, the Commission shall determine the actual over-recovered or under-recovered deferred fuel balance for each Electric Distribution Company as of September 30, 1999 for Delmarva Power & Light Company and March 31, 2000 for Delaware Electric Cooperative. Such over-recovery or under-recovery shall be either returned to or collected from that Electric Distribution Company's Retail Electric Customers by a mechanism that is designed to provide a full credit or charge of the actual deferred fuel balance and that the Commission shall adopt and order to be effective no later than 90 days after such dates. The Commission shall adopt either a single bill credit or charge mechanism or an alternative per kilowatt-hour credit or charge mechanism to be in effect for up to a period of twelve months, depending upon the relative size of the actual amount to be credited or charged to Retail Electric Customers. No further adjustments of such amounts shall be required."

Section 14. Report to General Assembly.

Beginning on or after January 2000 and continuing through January 2003, unless the General Assembly shall otherwise provide, the Commission shall report to such committees, as the General Assembly may designate and with such frequency and in such manner as the General Assembly shall direct, on Retail Competition.

Section 15. This Act shall become effective upon its enactment into law.

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Section 16. The provisions of this Act are severable. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of this Act which shall be given effect without the invalid provision or application.

Approved March 31,1999

CHAPTER 11

FORMERLY

HOUSE BILL NO. 122

AN ACT WAIVING THE STATUTORY PROVISIONS OF § 107(A), TITLE 13 OF THE DELAWARE CODE, AS IT RELATES TO THE MARRIAGE OF DAVID C. SULLIVAN AND PATRICIA M. LACOMBE, NONRESIDENTS OF THE STATE OF DELAWARE.

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

WHEREAS, Ltjg. Patricia M. Lacombe and Lt. David C. Sullivan are members of the United States Coast Guard and United States Navy, respectively, and are stationed at Corpus Christi, Texas; and

WHEREAS, the prospective bride and groom desire to be married in the State of Delaware at The Atonement Methodist Church on Saturday, April 17, 1999; and

WHEREAS, due to their present military service, it is extremely difficult for them to comply with the provisions of § 107(a), Title 13 of the 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. Ltjg. Patricia M. Lacombe and Lt. David C. Sullivan, both of Corpus Christi, Texas, are hereby exempted from the provisions of § 107(a), Title 13 of the Delaware Code, and are specifically authorized to marry on April 17, 1999. The Clerk of the Peace of New Castle County shall issue one official marriage license to Ltjg. Patricia M. Lacombe and Lt. David C. Sullivan pursuant to this Act, the provisions of § 107(a) of Title 13 of the Delaware Code, or any law of this State to the contrary notwithstanding.

Approved April 01,1999

CHAPTER 12

FORMERLY

HOUSE BILL NO. 9

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE CRIME OF ASSAULT IN A DETENTION FACILITY.

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

Section 1. Amend Section 1254(a), Title 11 of the Delaware Code by deleting the phrase "a correctional officer, other state employee of a detention facility acting in the lawful performance of duties or other person confined in a detention facility" and by inserting in lieu thereof the phrase "a correctional officer, other state employee of a detention facility acting in the lawful performance of duties, any other person confined in a detention facility or any other person at a detention facility or other place having custody of such person".

Section 2. Amend Section 1254(b), Title 11 of the Delaware Code by deleting the phrase "a correctional officer, other state employee of a detention facility acting in the lawful performance of duties or other person confined in a detention facility" and by inserting in lieu thereof the phrase "a correctional officer, other state employee of a detention facility acting in the lawful performance of duties, any other person confined in a detention facility or any other person at a detention facility or other place having custody of such person".

Section 3. Amend Section 1254(c), Title 11 of the Delaware Code by inserting the phrase "or any other person at a detention facility or other place having custody of such person, other than another person confined at a detention facility" between the words "duties" and "shall" as they appear in that subsection.

Section 4. Amend Section 1258, Title 11 of the Delaware Code by adding a new paragraph (5) to said section to read as follows:

"(5) 'Other place having custody of such person' includes, but is not limited to, any building, facility, structure, vehicle or property in which a person may be placed while in custody, whether temporarily or permanently and regardless of whether such building, facility, structure, vehicle or property is owned or controlled by the Department of Correction or any other state agency."

Section 5. 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 April 12, 1999

CHAPTER 13

FORMERLY

HOUSE BILL NO. 12

AN ACT TO AMEND AN ACT BEING CHAPTER 170, VOLUME 57, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE CITY OF LEWES" TO DELETE THE MANDATORY TIME FOR SWEARING IN NEW COUNCIL MEMBERS AT THE ANNUAL ORGANIZATIONAL MEETING.

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

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Section 1. Section 8(a), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking the words "At 8:00 p.m." at the beginning of the second sentence of said subsection so that the second sentence will begin with the phrase "At the first regular meeting following the annual election,..."

Approved April 12,1999

CHAPTER 14

FORMERLY

HOUSE BILL NO. 14
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 189, VOLUME 43 OF THE LAWS OF DELAWARE, AS AMENDED,
RELATING TO THE TOWN OF WYOMING.

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

Section 2. Amend Section 5(B), Chapter 189, Volume 43 of the Laws of Delaware, as amended, by striking Section 5(B), in its entirety and substituting in lieu thereof a new Section 5(B), to be and read as follows:

"(B) Said members of the council shall be nominated as follows:

Nominations shall be filed with the Secretary of the Council no later than 4:00 PM on the last Friday in the month of January immediately preceding the election. Said nominations shall be in writing signed by the nominee or by five other residents of the Town. The Council shall thereafter cause a ballot or ballots to be prepared, and an election to be scheduled and conducted, according to applicable Delaware law and such other standards as may be adopted by the Department of Elections for the State of Delaware from time to time. Ballots shall contain, at a minimum, the names of all persons nominated under headings designating the offices for which nominated."

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 April 12,1999

CHAPTER 15

FORMERLY

SENATE BILL NO. 57

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):

Section 1. This Act may be referred to as the "Banking and Financial Services Amendments Act of 1999".

Section 2. Amend subsection (9) of §101 of Title 5 of the Delaware Code by inserting the words "or person" after the words "or other institution" and before the words "either licensed under this title".

Section 3. Amend §121 of Title 5 of the Delaware Code by adding to the title thereof the words and punctuation "; administration and enforcement of title" after the word "institutions" and before the period, by adding to the beginning of subsection (a) thereof the words "shall have authority to administer and enforce all the provisions of this title and" after the words "The Commissioner" and before the words "shall have supervision", by deleting the period at the end of subparagraph (2) of subsection (a) and inserting in lieu thereof a semi-colon, and by adding a new subparagraph (3) at the end of subsection (a) thereof, as follows:

"(3) All persons who have been issued a license pursuant to any of the provisions of this title."

Section 4. Amend subsection (b) of §127 of Title 5 of the Delaware Code by deleting the eighth and ninth sentences thereof.

Section 5. Amend §137 of Title 5 of the Delaware Code by deleting from the first sentence thereof the words "financial institution organized pursuant to this title" and inserting in lieu thereof the words and punctuation "bank, trust company, building and loan association, or building and industrial development corporation subject to supervision by the Commissioner".

Section 6. Amend Chapter 8 of Title 5 of the Delaware Code by deleting the word "Existing" from the titles of Subchapters III and IV thereof.

Section 7. Amend subparagraph (3) of subsection (b) of §909 of Title 5 of the Delaware Code by deleting all of the words and punctuation after the word "subsidiary" and before the period, and inserting in lieu thereof the words "other than a subsidiary referred to in subsection (e) of this section".

Section 8. Amend §924 of Title 5 of the Delaware Code by adding to subsection (a)(3) thereof the symbol "(i)" after the word "which" and before the words "is established", by further adding to subsection (a)(3) thereof the words and punctuation "(including so-called Totten Trust accounts) or (ii) pursuant to an agreement with the banking organization, is payable on request to the depositor during the depositor's lifetime and, on the depositor's death, to a beneficiary (including so-called payable-on-death accounts)" after the word "decree" and before the period, and by adding to subsection (e) thereof the words and punctuation "or payable on death of all of the depositors to a beneficiary," after the words and punctuation "in trust for another," and before the words "such account".

Section 9. Amend §936 of Title 5 of the Delaware Code by deleting from the first sentence thereof the words "as contained in subdivision (10) of §101 of this title" and inserting in lieu thereof the words and punctuation ", as they relate to the activities of international banking facilities and as defined in §101 of this title," and by deleting from the second sentence thereof the words "in subdivision (10) of §101 of this title" and inserting in lieu thereof the words "within the aforementioned terms 'deposit', 'borrowing' and 'extension of credit'".

Section 10. Amend subparagraph c. of subsection (4) of §941 of Title 5 of the Delaware Code by deleting the words "in installments" and inserting in lieu thereof the words "otherwise in accordance with the agreement governing the plan" after the words "time to time in full or" and before the semi-colon.

Section 11. Amend §951 of Title 5 of the Delaware Code by deleting the text of that section in its entirety and inserting in lieu thereof the following:

"In the event a borrower defaults under the terms of a plan, the bank may, if the borrower's account is referred to an attorney (not a regularly salaried employee of the bank) or to a third party for collection and if the agreement governing the revolving credit plan so provides, charge and collect from the borrower a reasonable attorney's fee. In addition, following a borrower's default, the bank may, if the agreement governing the plan so provides, recover from the borrower all court, alternative dispute resolution or other collection costs (including, without limitation, fees and charges of collection agencies) actually incurred by the bank."

Section 12. Amend §952(a) of Title 5 of the Delaware Code by deleting the words and punctuation "(i) a bank may at any time and from time to time amend the terms of such agreement in any respect and (ii)" and inserting in lieu thereof the words and punctuation "a bank may at any time and from time to time amend such agreement in any respect, whether or not the amendment or the subject of the amendment was originally contemplated or addressed by the parties or is integral to the relationship between the parties. Without limiting the foregoing, such amendment may change terms by the addition of new terms or by the deletion or modification of existing terms, whether relating to plan benefits or features, the rate or rates of periodic interest, the manner of calculating periodic interest or outstanding unpaid indebtedness, variable schedules or formulas, interest charges, fees, collateral requirements, methods for obtaining or repaying extensions of credit, attorney's fees, plan termination, the manner for amending the terms of the agreement, arbitration or other alternative dispute resolution mechanisms, or other matters of any kind whatsoever. Unless the agreement governing a revolving credit plan otherwise expressly provides," and by adding at the end of that section the following new sentence:

"Any notice of an amendment sent by the bank may be included in the same envelope with a periodic statement or as part of the periodic statement or in other materials sent to the borrower."

Section 13. Amend §952(c) of Title 5 of the Delaware Code by deleting existing paragraphs (2) and (3) thereof in their entirety, renumbering existing paragraphs (4) and (5) thereof as new paragraphs (5) and (6), respectively, and by adding thereto new paragraphs (2), (3) and (4), as follows:

"(2) Any change to a plan that increases the rate or rates in effect immediately prior to the change by less than 1/4 of 1 percentage point per annum; provided that a bank may not make more than one such change in reliance on this paragraph with respect to a plan within any 12-month period;

(3) (i) A change in the schedule or formula used under a variable rate plan under §944 of this title that varies the determination date of the applicable rate, the time period for which the applicable rate will apply or the effective date of any variation of the rate, or any other similar change, or (ii) any other change in the schedule or formula used under a variable rate plan under §944 of this title; provided that the initial interest rate that would result from any such change under this paragraph (3), as determined on the effective date of the change or, if notice of the change is mailed or delivered to the borrower prior to the effective date, as of any date within 60 days before mailing or delivery of such notice, will not be an increase from the rate in effect on such date under the existing schedule or formula;

(4) A change from a variable rate plan to a fixed rate, or from a fixed rate to a variable rate plan so long as the initial rate that would result from such a change, as determined on the effective date of the change, or if the notice of the change is mailed or delivered to the borrower prior to the effective date, as of any date within 60 days before mailing or delivery of such notice, will not be an increase from the rate in effect on such date under the existing plan;"

Section 14. Amend §971 of Title 5 of the Delaware Code by deleting the text of that section in its entirety and inserting in lieu thereof the following:

"In the event an individual borrower defaults under the terms of a loan, the bank may, if such borrower's account is referred to an attorney (not a regularly salaried employee of the bank) or to a third party for collection and if the agreement governing, or the bond, note or other evidence of, the loan so provides, charge and collect from the borrower a reasonable attorney's fee. In addition, following an individual borrower's default, the bank may, if the agreement governing, or the bond, note or other evidence of, the loan so

provides, recover from such borrower all court, alternative dispute resolution or other collection costs (including, without limitation, fees and charges of collection agencies) actually incurred by the bank."

Section 15. Amend §1101(h) of Title 5 of the Delaware Code by deleting the reference therein to "§101(7)c. of this title" and inserting in lieu thereof a reference to "§101(4)c. of this title".

Section 16. Amend subparagraph (4) of subsection (c) of §1104 of Title 5 of the Delaware Code by deleting the words and punctuation "provided, however, that this paragraph 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 (b) of this title) of \$200,000 or more for any of the 3 taxable years immediately preceding the taxable year involved" after the words "preceding taxable year" and before the period.

Section 17. Amend Chapter 11 of Title 5 of the Delaware Code by adding thereto new §1113, §1114 and §1115, as follows:

§1113. Secrecy of returns and information; penalty.

(a) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Commissioner or any person who is an officer or employee in the Office of the Commissioner, or for any other officer or employee of this State who has access to tax returns or information from tax returns under this chapter, to disclose or make known to any person in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this chapter.

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

(c) For purposes of this section, the term 'officer or employee' shall include present and former officers and employees, and any person or persons employed or retained by the State on an independent contractor basis.

(d) Any violation of this section shall be a misdemeanor, punishable upon conviction by a fine not to exceed \$1,000, or imprisonment not to exceed 6 months, or both. The Superior Court shall have exclusive original jurisdiction over such misdemeanor.

§1114. Abatements.

(a) The Commissioner is authorized to abate the unpaid portion of the assessment of any tax, interest, penalty, additional amount or addition to the tax, or any liability in respect thereof, which is:

(1) Excessive in amount;

(2) Assessed after the expiration of the period of limitations properly applicable thereto;

or

(3) Erroneously or illegally assessed.

(b) The Commissioner is authorized to abate any portion (whether or not theretofore paid) of the assessment of any tax, interest, penalty, additional amount or additions to the tax, or any liability in respect thereof, if the Commissioner determines under uniform rules prescribed by the Commissioner that the administration and collection costs involved would not warrant collection of the amount due.

§1115. Closing Agreements.

The Commissioner, or any person authorized in writing by the Commissioner, is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of another person for whom such person acts) with respect to any tax imposed under this chapter for any taxable period. Such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

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(1) The case shall not be reopened as to matters agreed upon or the agreement modified by any officer, employee or agent of this State; and

(2) In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund or credit made in accordance therewith, shall not be annulled, modified, set aside or disregarded."

Section 18. Amend §1501 of Title 5 of the Delaware Code by inserting the words and punctuation "including institutions that accept collateral for extensions of credit by holding deposits under \$100,000, and by other means" after the words and punctuation "chartered under the laws of this State," and before the words "that engage only in credit card operations".

Section 19. Amend §1512 of Title 5 of the Delaware Code by deleting from the first sentence thereof the number "3" and inserting in lieu thereof the number "2" after the word "for" and before the words "successive weeks".

Section 20. Amend §1513 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 3rd 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 21. Amend § 1541(a)(4) of Title 5 of the Delaware Code by inserting the words and punctuation ", and to accept collateral for extensions of credit by holding deposits under \$100,000, and by other means" after the words "not less than \$100,000" and before the semi-colon.

Section 22. Amend §1623 of Title 5 of the Delaware Code by deleting from the first sentence thereof the number "3" and inserting in lieu thereof the number "2" after the word "for" and before the words "successive weeks".

Section 23. Amend §1624 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 24. Amend §1703 of Title 5 of the Delaware Code by adding thereto a new subsection "(c)", as follows:

"(c) Notwithstanding any other provision of this title, a building and loan association with less than \$2,000,000 in assets shall be charged no more than the cost of 5 examiner man days for an examination under this section. For the purposes of this section, an examiner man day is the calculated daily rate of pay for an examiner."

Section 25. Amend §1726 of Title 5 of the Delaware Code by deleting the words and punctuation ", and, in default of payment, imprisoned not more than 30 days" after the word "violation" and before the period.

Section 26. Amend §1727 of Title 5 of the Delaware Code by deleting from the first sentence the amount "\$4,000,000" and inserting in lieu thereof the amount "\$5,000,000" after the words "total assets exceed" and before the words "or registered office".

Section 27. Amend Chapter 18 of Title 5 of the Delaware Code by adding thereto new §1807, §1808 and §1809, as follows:

"§1807. Secrecy of returns and information; penalty.

(a) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Commissioner or any person who is an officer or employee in the Office of the Commissioner, or for any other officer or employee of this State who has access to tax returns or information from tax returns under this chapter, to disclose or make known to any person in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this chapter.

(b) Nothing in this section shall be construed to prohibit the publication of statistics classified so as to avoid identification of specific taxpayers, or to prohibit the disclosure of the tax return or return

information of any taxpayer to such person or persons as the taxpayer may designate in a written request or consent to such disclosure.

(c) For purposes of this section, the term 'officer or employee' shall include present and former officers and employees, and any person or persons employed or retained by the State on an independent contractor basis.

(d) Any violation of this section shall be a misdemeanor, punishable upon conviction by a fine not to exceed \$1,000, or imprisonment not to exceed 6 months, or both. The Superior Court shall have exclusive original jurisdiction over such misdemeanor.

§1808. Abatements.

(a) The Commissioner is authorized to abate the unpaid portion of the assessment of any tax, interest, penalty, additional amount or addition to the tax, or any liability in respect thereof, which is:

(1) Excessive in amount;

(2) Assessed after the expiration of the period of limitations properly applicable thereto;

or

(3) Erroneously or illegally assessed.

(b) The Commissioner is authorized to abate any portion (whether or not theretofore paid) of the assessment of any tax, interest, penalty, additional amount or additions to the tax, or any liability in respect thereof, if the Commissioner determines under uniform rules prescribed by the Commissioner that the administration and collection costs involved would not warrant collection of the amount due.

§1809. Closing Agreements.

The Commissioner, or any person authorized in writing by the Commissioner, is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of another person for whom such person acts) with respect to any tax imposed under this chapter for any taxable period. Such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(1) The case shall not be reopened as to matters agreed upon or the agreement modified by any officer, employee or agent of this State; and

(2) In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund or credit made in accordance therewith, shall not be annulled, modified, set aside or disregarded."

Section 28. Amend §2106 of Title 5 of the Delaware Code by deleting from the second sentence thereof the words and punctuation "and the date and place of its organization or formation, if applicable" after the word "licensee" and before the period, by deleting from the fourth sentence thereof the words "endorse the change of location on the license without charge" and inserting in lieu thereof the words "issue without charge an amended license showing the new location" after the word "shall" and before the period, and by deleting from the fifth sentence thereof the words "endorse such name change on the license without charge" and inserting in lieu thereof the words "issue without charge an amended license showing the new name" after the word "shall" and before the period.

Section 29. Amend subsection (2) of §2201 of Title 5 of the Delaware Code by inserting the words and punctuation "and, in addition, means any person or class of persons exempt from any or all of the provisions of this chapter in accordance with §2202(b) of this title, to the extent and for such purposes as determined by the Commissioner in order to effectuate the purposes of this chapter" after the words "pursuant to this chapter" and before the period.

Section 30. Amend subsection (b) of §2202 of Title 5 of the Delaware Code by inserting the words "from any or all of the provisions of this chapter" after the word "exempt" and before the words "such persons", and by adding at the end of that subsection the words and punctuation "The Commissioner may by regulation establish procedures for application, fees and other requirements for an exemption pursuant to this subsection."

Section 31. Amend §2206(a) of Title 5 of the Delaware Code by deleting from the first sentence thereof the words and punctuation ", and the date and place of its incorporation, if applicable" after the word "licensee" and before the period, by deleting from the third sentence thereof the words "endorse the change of location on the

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license without charge" and inserting in lieu thereof the words "issue without charge an amended license showing the new location" after the word "shall" and before the period, and by deleting from the fourth sentence thereof the words "endorse such name change on the license without charge" and inserting in lieu thereof the words "issue without charge an amended license showing the new name" after the word "shall" and before the period.

Section 32. Amend subparagraph c. of subsection (1) of §2214 of Title 5 of the Delaware Code by deleting the words "in installments" and inserting in lieu thereof the words "otherwise in accordance with the agreement governing the plan" after the words "time to time in full or" and before the semi-colon.

Section 33. Amend §2223 of Title 5 of the Delaware Code by deleting the text of that section in its entirety and inserting in lieu thereof the following:

"In the event a borrower defaults under the terms of a plan, the licensee may, if the borrower's account is referred to an attorney (not a regularly salaried employee of the licensee) or to a third party for collection and if the agreement governing the revolving credit plan so provides, charge and collect from the borrower a reasonable attorney's fee. In addition, following a borrower's default, the licensee may, if the agreement governing the plan so provides, recover from the borrower all court, alternative dispute resolution or other collection costs (including, without limitation, fees and charges of collection agencies) actually incurred by the licensee."

Section 34. Amend §2224(a) of Title 5 of the Delaware Code by deleting the words and punctuation "(i) a licensee may at any time and from time to time amend the terms of such agreement in any respect and (ii)" and inserting in lieu thereof the words and punctuation "a licensee may at any time and from time to time amend such agreement in any respect, whether or not the amendment or the subject of the amendment was originally contemplated or addressed by the parties or is integral to the relationship between the parties. Without limiting the foregoing, such amendment may change terms by the addition of new terms or by the deletion or modification of existing terms, whether relating to plan benefits or features, the rate or rates of periodic interest, the manner of calculating periodic interest or outstanding unpaid indebtedness, variable schedules or formulas, interest charges, fees, collateral requirements, methods for obtaining or repaying extensions of credit, attorney's fees, plan termination, the manner for amending the terms of the agreement, arbitration or other alternative dispute resolution mechanisms, or other matters of any kind whatsoever. Unless the agreement governing a revolving credit plan otherwise expressly provides," and by adding at the end of that section the following new sentence:

"Any notice of an amendment sent by the licensee may be included in the same envelope with a periodic statement or as part of the periodic statement or in other materials sent to the borrower."

Section 35. Amend §2224(c) of Title 5 of the Delaware Code by deleting existing paragraphs (2) and (3) thereof in their entirety, renumbering existing paragraphs (4) and (5) thereof as new paragraphs (5) and (6), respectively, and by adding thereto new paragraphs (2), (3) and (4), as follows:

"(2) Any change to a plan that increases the rate or rates in effect immediately prior to the change by less than 1/4 of 1 percentage point per annum; provided that a licensee may not make more than one such change in reliance on this paragraph with respect to a plan within any 12-month period;

(3) (i) A change in the schedule or formula used under a variable rate plan under §2217 of this title that varies the determination date of the applicable rate, the time period for which the applicable rate will apply or the effective date of any variation of the rate, or any other similar change, or (ii) any other change in the schedule or formula used under a variable rate plan under §2217 of this title; provided that the initial interest rate that would result from any such change under this paragraph (3), as determined on the effective date of the change or, if notice of the change is mailed or delivered to the borrower prior to the effective date, as of any date within 60 days before mailing or delivery of such notice, will not be an increase from the rate in effect on such date under the existing schedule or formula;

(4) A change from a variable rate plan to a fixed rate, or from a fixed rate to a variable rate plan so long as the initial rate that would result from such a change, as determined on the effective date of the change, or if the notice of the change is mailed or delivered to the borrower prior to the effective date, as of any date within 60 days before mailing or

delivery of such notice, will not be an increase from the rate in effect on such date under the existing plan;"

Section 36. Amend §2236 of Title 5 of the Delaware Code by deleting the text of that section in its entirety and inserting in lieu thereof the following:

"In the event a borrower defaults under the terms of a loan, the licensee may, if the borrower's account is referred to an attorney (not a regularly salaried employee of the licensee) or to a third party for collection and if the agreement governing, or the bond, note or other evidence of, the loan so provides, charge and collect from the borrower a reasonable attorney's fee. In addition, following a borrower's default, the licensee may, if the agreement governing, or the bond, note or other evidence of, the loan so provides, recover from the borrower all court, alternative dispute resolution or other collection costs (including, without limitation, fees and charges of collection agencies) actually incurred by the licensee."

Section 37. Amend §2308 of Title 5 of the Delaware Code by adding to the title of that section the words and punctuation "; license requirements; acquisition" after the word "approval" and before the period, by designating all of the existing text of that section as subsection "(a)" thereof, and by adding to the text of that section new subsections "(b)" and "(c)", as follows:

"(b) Each license issued under this chapter shall state the address at which the business is to be conducted and shall state fully the name of the licensee. A copy of such license shall be prominently posted in each place of business of the licensee. In case such location be changed, the Commissioner shall issue without charge an amended license showing the new location. In case there is a change of name but no change in corporate structure, the Commissioner shall issue without charge an amended license showing the new name. Such license shall not be otherwise transferable or assignable. No licensee shall maintain an office at any other location than that designated in the license. The Commissioner may issue more than 1 license to the same applicant upon payment of the required fees and compliance with all applicable provisions of law.

(c) 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 when control of the licensee changes and a new application for licensure has been filed in accordance with this chapter."

Section 38. Amend §2718 of Title 5 of the Delaware Code by deleting the words and punctuation "if the licensee is a corporation, the date of its incorporation;"

Section 39. Amend §2724 of Title 5 of the Delaware Code by inserting in the title of that section the words and punctuation "; change of name" after the word "area" 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) In case there is a change in name but no change in corporate structure of a licensee, the Commissioner shall issue without charge an amended license showing the new name."

Section 40. Amend §2744 of Title 5 of the Delaware Code by deleting the first sentence of that section.

Section 41. Amend §2902 of Title 5 of the Delaware Code by deleting from the second sentence of subsection (b) thereof the words and punctuation "date of incorporation, if incorporated;" after the word and punctuation "applicant;" and before the words "the address", by deleting from the second sentence of subsection (d) thereof the words "endorse the change of location on the license without charge" and inserting in lieu thereof the words "issue without charge an amended license showing the new location" after the word "shall" and before the period, and by deleting from the second sentence of subsection (e) thereof the words "endorse such name change on the license without charge" and inserting in lieu thereof the words "issue without charge an amended license showing the new name" after the word "shall" and before the period.

Section 42. 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.

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Section 43. Section 16 of this Act shall be effective for tax years beginning after December 31, 1998. Section 24 of this Act shall be effective as of January 1, 1999. All other provisions of this Act shall be effective upon its enactment into law.

Approved April 09,1999

CHAPTER 16

FORMERLY

SENATE BILL NO. 2
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO MINIMUM WAGE.

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

Section 1. Amend Subsection (a), Section 902, Chapter 9, Title 19 of the Delaware Code by striking it in its entirety and inserting in lieu thereof the following:

"(a) Every employer shall pay wages of a rate of not less than \$5.65 per our effective May 1, 1999 and \$6.15 per hour effective October 1, 2000 to every employee in any occupation, except as may be otherwise provided under this chapter. Upon the establishment of a federal minimum wage in excess of the State minimum wage, the minimum wage in this State shall be equal in amount to the federal minimum wage, except as may otherwise be provided under this chapter."

Section 2. This Act shall take effect May 1, 1999.

Approved April 13,1999

CHAPTER 17

FORMERLY

SENATE BILL NO. 10

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO PROTECTION OF RECORDS.

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

Section 1. Amend Title 11, Chapter 43, Section 4322 of the Delaware Code by creating a subsection "e" which shall provide:

"(e) The Department of Service For Children, Youth and their Families may receive and use, for the purposes of investigating child abuse, neglect, and dependency, providing services to prevent further child abuse, neglect, and dependency or in aiding in reunification of families, information contained in Department records concerning offenders, providing that such information or reports remain privileged for any other purpose. This information may contain, but is not limited to, information concerning program participation in level IV and level V institutions, special conditions of probation or parole, compliance with those conditions and general supervision in the community."

Approved April 09,1999

CHAPTER 18

FORMERLY

SENATE BILL NO. 26
AS AMENDED BY SENATE AMENDMENT NO. 1

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 2109(a), Title 21, of the Delaware Code, by inserting between the first and second sentences the following:

"Any used vehicle not more than 5 model years old may be registered from 6 to 48 months based on a model year and mileage formula established by the Division of Motor Vehicles."

Section 2. Amend 2109(c), Title 21, of the Delaware Code by striking the subsection in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

"(c) Notwithstanding subsections (a) and (b) of this section, any newly manufactured current model year motor vehicle or trailer with a gross registered weight of 10,000 pounds or less not previously registered or titled in any state or country may be initially registered by the owner for 5 years or less. Newly manufactured previous model year motor vehicles or trailers having the above criteria may initially be registered for 4 years or less by a pro-rated formula established by the Division of Motor Vehicles. The effective date of registration shall be the date the vehicle is titled. The registration fee shall be the number of years selected multiplied by the annual registration fee. Thereafter, the registration shall be renewed pursuant to Section 2110 of this Title."

Section 3. Amend 2110(a), Title 21, of the Delaware Code by inserting at the end of the first paragraph in that subsection, the following:

"Vehicles no more than 5 model years old may be renewed for up to 48 months based on a pro-rated model year formula established by the Division of Motor Vehicles."

Section 4. Amend 2143(a), Title 21, of the Delaware Code by striking the second sentence and inserting in lieu thereof the following:

"The Department may waive all inspection requirements with respect to the registration of new motor vehicles and the initial registration or renewal of vehicles no older than five (5) model years."

Approved April 12,1999

CHAPTER 19

FORMERLY

SENATE BILL NO. 9
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT, BEING CHAPTER 166, VOLUME 37, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF SELBYVILLE" TO PROVIDE FOR INDEMNIFICATION OF OFFICERS, AGENTS AND 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):

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Section 1. That Section 4 of Chapter 166, Volume 37, Laws of Delaware, as amended, be and the same is further amended by adding a new subsection to be designated as "25." To read as follows:

"25. Indemnification

a. Indemnification; defense to be provided. The Mayor and Council of the Town of Selbyville shall indemnify, from the general funds of the Town's treasury, to the extent not otherwise covered by the appropriate insurance, any person who is a party to or is threatened to be made a party to any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigate (other than an action by or in the right of the Mayor and Council of the Town of Selbyville itself), by reason of the fact that he or she is or was a Town Council member, Mayor or other duly elected or appointed town official of the Mayor and Council of the Town of Selbyville or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such actions, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the Mayor and Council of the Town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Mayor and Council of the Town of Selbyville and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

b. Monetary settlement to be approved. In the event of a monetary settlement, the Mayor and Council of the Town of Selbyville shall first approve the amount and terms of the settlement before the right to indemnification shall vest.

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

(1) By a majority vote of a quorum of the Mayor and Council of the Town of Selbyville consisting of Council members who were not parties to such action, suit or proceedings; or

(2) If such a quorum is not obtainable, by independent legal counsel in a written opinion."

Approved May 03,1999

CHAPTER 20

FORMERLY

SENATE BILL NO. 38

AN ACT TO AMEND SECTION 2118 OF TITLE 21 OF THE DELAWARE CODE RELATING TO PROOF OF MOTOR VEHICLE INSURANCE FOR OUT-OF-STATE VEHICLES.

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

Section 1. Amend Title 21, Section 2118(b) by adding the following to the end of the subsection:

"However, an owner shall not be convicted under this subsection if, prior to conviction, the owner shall produce to the court in which the offense is to be tried the insurance identification card or in lieu thereof other sufficient proof of insurance showing such insurance to be in full force and effect at all pertinent times when the motor vehicle was being operated in this State."

Approved May 03,1999

CHAPTER 21

FORMERLY

HOUSE BILL NO. 114
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO LEVY OF TAXES BY SCHOOL DISTRICTS.

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

Section 1. Amend Section 1902(a), Title 14 of the Delaware Code by deleting such subsection in its entirety and substituting in lieu thereof the following:

"(a) Any district may, in addition to the amounts apportioned to it by the Department of Education or appropriated to it by the General Assembly, levy and collect additional taxes for school purposes upon the assessed value of all taxable real estate in such district except real estate exempt from taxation under:

- (1) State law;
- (2) A county ordinance adopted prior to June 26, 1995, exempting property for the purpose of attracting or expanding a for-profit business; and
- (3) A county ordinance adopted on or before January 1, 1998, granting, clarifying or expanding any exemption from county taxation."

Approved May 03,1999

CHAPTER 22

FORMERLY

HOUSE BILL NO. 87
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO HIV TESTING IN ASSAULT
OR RELATED OFFENSES AGAINST LAW ENFORCEMENT OFFICERS.

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

Section 1. Amend Chapter 39 of Title 11 of the Delaware Code by adding a new subchapter III as follows:

"Subchapter III. Mandatory Testing of Offenders Charged with Assault or
Related Offenses Against Law Enforcement Officers.

Section 3915.

A person who is charged with any criminal offense in which it is alleged that the person interfered with the official duties of a law enforcement officer by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of a law enforcement officer is subject to a court order requiring testing for the human immunodeficiency virus, any antibody to human immunodeficiency virus, or hepatitis.

Section 3916.

(a) The law enforcement officer or the employing agency or entity may petition the Superior Court for an order authorizing testing for the human immunodeficiency virus, any antibody to human immunodeficiency virus, or hepatitis. The Superior Court shall hear the petition promptly.

(b) If the Court finds that probable cause exists to believe that a possible transfer of blood or other bodily fluid occurred between the person charged and the law enforcement officer, the Court shall order that the person charged provide two specimens of blood for testing.

Section 3917.

(a) Notice of the test results shall be provided as prescribed by the Division of Public Health to the person tested, as well as to the law enforcement officer named in the petition and to the officer's employing agency or entity, who shall otherwise maintain the confidentiality of that information.

(b) The result of any test conducted pursuant to this subchapter shall not be a public record for purposes of Chapter 100 of Title 29.

Section 3918.

(a) If the test indicates the presence of human immunodeficiency virus infection, the Division of Public Health shall provide counseling to the law enforcement officer and the person charged with the criminal offense regarding human immunodeficiency virus disease, and referral for appropriate health care and support services.

(b) The cost of testing under this subchapter shall be paid by the person tested, unless the court has determined that person is indigent."

Approved May 03,1999

CHAPTER 23

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 103

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO RESEARCH AND
DEVELOPMENT TAX CREDIT.

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

Section 1. Amend § 2010, Title 30 of the Delaware Code, by striking the phrase: "As used in this subchapter and subchapter III of this chapter" as it appears at the beginning of said section and substitute in lieu thereof the phrase "As used in this subchapter and in subchapters III and VIII of this chapter."

Section 2. Amend § 2010(13), Title 30 of the Delaware Code, by adding the following sentence to said subsection: "for purposes of subchapter VIII, the term 'taxpayer' shall be applied by taking into account, where appropriate, Section 41(f)(3) of the Internal Revenue Code of 1986."

Section 3. Amend § 2010, Title 30 of the Delaware Code, by adding to said section new subsections (17) through (22) to read as follows:

"(17) 'Gross Receipts' shall have the same definition as that contained in the denominator described in §1903(b)(6)c. of this title plus the amount of federal taxable income of the taxpayer attributable to patent and copyright royalties.

(18) 'Delaware base amount' shall mean the base amount as defined in Section 41(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. Section 41(c)), except that references to 'qualified research expenses' shall mean 'Delaware qualified research and development expenses' and references to 'qualified research' shall mean 'Delaware qualified research and development.' References to 'fixed base percentage' shall mean the percentage which the aggregate Delaware qualified research and development expenses for the four taxable years immediately preceding the taxable year in which the expenses are taken into account for purposes of Delaware income taxation bear to the aggregate gross receipts for such years. The fixed base percentage for a taxpayer who has fewer than four but at least one taxable year with gross receipts and Delaware qualified research and development expenses shall be determined in the same manner using only the number of immediately preceding taxable years in which both existed to arrive at the percentage. In the event the taxpayer has in such four immediately preceding taxable years no year in which it had both gross receipts and Delaware qualified research and development expenses, the fixed base percentage shall be deemed to be zero.

(19) 'Delaware qualified research and development' shall mean qualified research as defined in Section 41(d) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. Section 41(d)) that is conducted in this State. The funding of research and development by any person or entity under common control with the ultimate parent corporation of the taxpayer shall not constitute 'funded research' as described in Section 41(d)(4)(H) of the Internal Revenue Code of 1986 for the purpose of determining Delaware qualified research and development hereunder.

(20) 'Delaware qualified research and development expenses' shall mean qualified research expenses as defined in Section 41(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. Section 41(b)) taken into account for purposes of Delaware income taxation for Delaware qualified research and development.

(21) 'Qualified tax liability' shall mean the liability for taxes imposed under Chapters 19 and 11 of this title on corporations, shareholders of an S corporation, sole proprietors, partners or members of any other pass-through entity eligible to apply for credits under this subchapter remaining after application of all other credits allowed under this chapter.

(22) 'Research and development tax credit' shall mean the credit provided under Section 2070 of this title."

Section 4. Amend Chapter 20, Title 30 of the Delaware Code, by adding thereto a new subchapter VIII to read as follows:

"Subchapter VIII. Credit for research and development expenses.

§ 2070. Amount of credit and applicable procedures.

(a) A taxpayer who takes into account for purposes of Delaware income taxation Delaware qualified research and development expenses in a taxable year may apply for a research and development tax credit as provided in this subchapter. By September 15 of a tax year, taxpayers must submit an application for the credit on a form prescribed by the Director.

(b) Subject to the limitation of § 2075 on overall credits and the limitation described in subsection (c) of this section, a taxpayer may elect a Delaware Research and Development Tax Credit for the taxable year equal to (1) ten percent of the excess of the taxpayer's total Delaware qualified research and development expenses for the taxable year over the taxpayer's Delaware base amount, or (2) 50% of Delaware's apportioned share of taxpayer's federal research and development tax credit calculated using the alternative incremental credit method under Section 41(c)(4) of the Internal Revenue Code of 1986, using Federal definitions and methodology. Delaware's apportioned share of the federal credit shall be the amount of the alternative incremental credit the taxpayer can claim under Section 41(c)(4), multiplied by a percentage equal to the ratio of the taxpayer's Delaware qualified research and development expenses for the taxable year to the taxpayer's total qualified research and development expenses for the taxable year. Taxpayer's Delaware Research and Development Tax Credit determination election shall be an annual election, and shall be independent of Taxpayer's federal research and development tax credit determination.

(c) The Research and Development Tax Credit calculated pursuant to subsection (b) shall not exceed in any one taxable year 50% of the qualified tax liability for that taxable year.

(d) By December 15 following the date of the application, the Director shall notify the taxpayer of the amount of the taxpayer's approved Delaware Research and Development Tax Credit taking into account the limitation contained in § 2075.

(e) A Research and Development Tax Credit approved by the Director shall be applied against the taxpayer's qualified tax liability for the taxable year in which the qualified research and development expenses were taken into account for purposes of Delaware income taxation. In the case of partnerships, the credit shall be allocated among partners as provided in Section 41(f)(2)(B) of the Internal Revenue Code of 1986.

(f) If, by virtue of the limitation described in subsection (c), the taxpayer cannot use the entire amount of the approved Research and Development Tax Credit for the taxable year in which it is first approved, then the approved excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. The approved Research and Development Tax Credit provided by this chapter may be carried over and applied to no more than fifteen succeeding taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(g) A taxpayer is not entitled to carry back or assign an unused Research and Development Tax Credit.

§ 2071. Application of Internal Revenue Code.

Any term used in this subchapter shall have the same meaning as when used in a comparable context in the Internal Revenue laws of the United States, unless a different meaning is clearly required or unless any provision of this subchapter ascribes a different meaning to such term. References to the Internal Revenue Code shall mean the sections of the Internal Revenue Code as existing on any date on which any expenses subject to credit under this subchapter are taken into account for purposes of Delaware income taxation. However, if those sections of the Internal Revenue Code referenced in this chapter are repealed or terminated, references to the Internal Revenue Code shall mean those sections last having full force and effect. If, after repeal or termination, the Internal Revenue Code sections are

revised or reenacted, references herein to Internal Revenue Code sections shall mean those revised or reenacted sections.

§ 2072. Determination of qualified research and development expenses.

In prescribing standards for determining which qualified research and development expenses are considered Delaware qualified research and development expenses for purposes of computing the credit provided by this chapter, the Director may consider the location where the services are performed and other factors that the Director within his sound discretion reasonably determines are relevant for the determination.

§ 2073. Time limitations.

(a) The Director shall not approve a Research and Development Tax Credit under this chapter for taxable years ending after December 31, 2005.

(b) The termination date in Section 41(h) of the Internal Revenue Code does not apply to a taxpayer who is eligible for the Research and Development Tax Credit under this chapter for the taxable year in which the Delaware qualified research and development expenses are taken into account for purposes of Delaware income taxation.

§ 2074. Transitional rule.

For the purpose of calculating Delaware qualified research and development expenses used in calculating the Delaware base amount for taxable years ending after December 31, 1995 and before January 1, 2000, if the taxpayer has taken into account for purposes of Delaware income taxation qualified research and development expenses both inside and outside this State and is unable to determine the amount of Delaware qualified research and development expenses, the taxpayer may file a request with the Director to calculate Delaware qualified research and development expenses by multiplying qualified research and development expenses in all states by the average of the payroll and property factors calculated in accordance with Section 1903 of this title for the corresponding taxable years in question. The request shall set forth reasonable cause for the taxpayer's inability to make such determination and may use the calculation specified in this section only upon approval of the Director.

§ 2075. Limitation on credits.

(a) The total amount of credits approved by the Director with respect to all taxpayers shall not exceed five million dollars (\$5,000,000) in any State of Delaware fiscal year.

(b) If the total amount of Research and Development Tax Credits for which all taxpayers applied in any year exceeds the amount allocated for those credits, then the research and Development Tax Credit to be received by each applicant shall be the product of \$5 million multiplied by a fraction, the numerator of which is the eligible Research and Development Tax Credit applied for by the applicant and the denominator is the total of all eligible Research and Development Tax Credits applied for by all applicants."

Section 5. Amend § 2024, Title 30 of the Delaware Code, by striking the phrase "or § 2041" as it appears in said section and substituting in lieu thereof the phrase "§ 2041, or § 2070".

Section 6. Amend § 2023, Title 30 of the Delaware Code, by striking the phrase "or § 2041" as it appears in said section and substituting in lieu thereof the phrase "§ 2041 or § 2070".

Section 7. This Act shall be effective for Research and Development expenses allowed in accordance with Section 41 of the Internal Revenue Code with regard to tax periods after December 31, 1999 and before January 1, 2006.

Approved May 03, 1999

CHAPTER 24

FORMERLY

HOUSE BILL NO. 74

AN ACT PROPOSING AN AMENDMENT TO ARTICLE III, SECTION 10 OF THE DELAWARE CONSTITUTION OF 1897, AS AMENDED, RELATING TO A RESIDENCY REQUIREMENT FOR THE SECRETARY OF STATE.

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

Section 1. Amend Article III, § 10 of the Delaware Constitution of 1897, as amended, by adding the following new sentence at the end of the existing paragraph:

"The Secretary of State shall become a bona fide resident of the State within six months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional extension of six months. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains office. Failure to obtain or retain such residency shall be an automatic resignation from office."

Approved May 05, 1999

CHAPTER 25

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 94
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO THE NORTHEAST INTERSTATE DAIRY COMPACT.

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

Section 1. Amend Title 3 of the Delaware Code by adding thereto a new chapter, designated as Chapter 32, which new chapter shall read as follows:

"CHAPTER 32. NORTHEAST INTERSTATE DAIRY COMPACT.

§ 3201. The State of Delaware to enter into Compact; provisions thereof.

The State of Delaware hereby enters into the Northeast Interstate Dairy Compact as set forth in this Section. The Compact shall take effect in accordance with Article VIII, § 20 of the Compact, subject to conditions imposed by the consent of the U. S. Congress. The text of the Compact is as follows:

NORTHEAST INTERSTATE DAIRY COMPACT.

Article I. Statement of Purpose, Findings and Declaration of Policy.

Section 1. Statement of purpose, findings and declaration of policy.

The purpose of this Compact is to recognize by constitutional prerequisite the interstate character of the Northeast Dairy Industry and to form an Interstate Commission for the Northeast region. The mission of the Commission is to take such steps as are necessary to assure the continued

viability of dairy farming in the northeast and to assure consumers of an adequate, local supply of pure and wholesome milk.

The participating states find and declare that the dairy industry is the paramount agricultural activity of the northeast. Dairy farms, and associated suppliers, marketers, processors and retailers, are an integral component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

The participating states further find that dairy farms are essential to the region's rural communities and character. The farms preserve open spaces, sculpt the landscape and provide the land base for a diversity of recreational pursuits. In defining the rural character of our communities and landscape, dairy farms also provide a major draw for our tourist industries.

By entering into this Compact, the participating states affirm that their ability to regulate the price which northeast dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the northeast dairy industry, with all the associated benefits.

Recent dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the northeast dairy region. Historically, individual state regulatory action has been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices for dairy products, without preempting the power of states to regulate milk prices above the minimum levels so established. Based on this authority, each state in the region has individually attempted to implement at least one regulatory program in response to the current dairy industry crisis.

In today's regional dairy marketplace, cooperative rather than individual state action may address more effectively the market disarray. Under our constitutional system, properly authorized, states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the Compact clause of the Constitution.

In establishing their constitutional regulatory authority over the region's fluid milk market by this Compact, the participating states declare their purpose that this Compact neither displace the federal order system nor encourage the merging of federal orders. Specific provisions of the Compact itself set forth this basic principle.

Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the Compact also contains a contingency provision should the federal order system be discontinued. In that event, the Interstate Commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this Compact result in discontinuance of the order system.

Article II. Definitions and Rules of Construction.

Section 2. Definitions.

For the purposes of this Compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

- (1) 'Commission' means the Commission established by this Compact.
- (2) 'Compact' means this Interstate Compact.
- (3) 'Region' means the territorial limits of the states which are or become parties to this Compact.
- (4) 'Participating State' means a state which has become a party to this Compact by the enactment of concurring legislation.
- (5) 'Regulated Area' means any area within the region governed by and defined in regulations establishing a Compact over-order price or commission marketing order.

(6) 'Pool Plant' means any milk plant located in a regulated area.

(7) 'Partially Regulated Plant' means a milk plant not located in a regulated area but having class I distribution within such area, or receipts from producers located in such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

(8) 'Compact Over-Order Price' means a minimum price required to be paid to producers for Class I milk established by the Commission in regulations adopted pursuant to §§ 9 and 10 of this Compact, which is above the price established in federal marketing orders or by state farm price regulation in the regulated area. Such price may apply throughout the region or in any part of parts thereof as defined in the regulations of the Commission.

(9) 'Commission Marketing Order' means regulations adopted by the Commission pursuant to §§ 9 and 10 of this Compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in a part or parts thereof as defined in the regulations of the Commission. Such order may establish minimum prices for any or all classes of milk.

(10) 'Milk' means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the Commission for regulatory purposes.

(11) 'Class I Milk' means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in § 3(b).

(12) 'State Dairy Regulation' means any state regulation of dairy prices, and associated assessments, whether by statute, marketing order or otherwise.

Section 3. Rules of Construction.

(a) This Compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the Compact shall be construed to provide the Commission the option to replace them with one or more Commission Marketing Orders pursuant to this Compact.

(b) This Compact shall be construed liberally in order to achieve the purposes and intent enunciated in § 1. It is the intent of this Compact to establish a basic structure by which the Commission may achieve those purposes through the application, adaptation and development of the regulatory techniques historically associated with milk marketing and to afford the Commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this Compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the Commission may further define the terms used in this Compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

Article III. Commission Established.

Section 4. Commission established.

There is hereby created a Commission to administer the Compact composed of delegations from each state in the region. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in, the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four years, and be subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by the Commission. Each state delegation shall be entitled to one vote in the conduct of the Commission's affairs.

Section 5. Voting requirements.

All actions taken by the Commission, except for the establishment or termination of an over-order price or Commission Marketing Order, and the adoption, amendment or rescission of the Commission's bylaws, shall be by majority vote of the delegations present. Establishment or termination of an over-order price or Commission Marketing Order shall require at least a two-thirds vote of the delegations present. The establishment of a regulated area which covers all or part of a participating state shall require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the Commission's business.

Section 6. Administration and Management.

(a) The Commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The Commission shall appoint an executive director and fix the duties and compensation of the executive director. The executive director shall serve at the pleasure of the Commission, and, together with the treasurer, shall be bonded in an amount determined by the Commission. The Commission may establish through its by-laws an Executive Committee composed of one member elected by each delegation.

(b) The Commission shall adopt by-laws for the conduct of its business by a two-thirds vote, and shall have the power by the same vote to amend and rescind these by-laws. The Commission shall publish its by-laws in convenient form with the appropriate agency or officer in each of the participating states. The by-laws shall provide for appropriate notice to the delegations of all Commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

(c) The Commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the Governor, both Houses of the Legislature, and the head of the State Department having responsibilities for agriculture.

(d) In addition to the powers and duties elsewhere prescribed in this Compact, the Commission shall have the power:

- (1) To sue and be sued in any state or Federal Court;
- (2) To have a seal and alter the same at pleasure;
- (3) To acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes;
- (4) To borrow money and to issue notes, to provide for the rights of the holders thereof and to pledge the revenue of the Commission as security therefor, subject to the provisions of § 18 of this Compact.
- (5) To appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties, and qualifications; and
- (6) To create and abolish such offices, employment, and positions as it deems necessary for the purposes of the Compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees. The Commission may also retain personal services on a contract basis.

Section 7. Rulemaking power.

In addition to the power to promulgate a Compact Over-Order Price or Commission Marketing Orders as provided by this Compact, the Commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this Compact.

Article IV. Powers of the Commission.

Section 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation.

The Commission is hereby empowered to:

(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

(2) Prepare and transmit to the participating states model dairy laws and regulations dealing with the inspection of farms and plants, sanitary codes, labels for dairy products and their imitations, standards for dairy products, license standards, producer security programs, and fair trade laws.

(3) Study and recommend to the participating states joint or cooperative programs of the administration of the dairy laws and regulations and to prepare estimates of cost savings and benefits of such programs.

(4) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposiums or conferences designed to improve industry relations, or a better understanding of problems.

(5) Prepare and release periodic reports on activities and results of the Commission's efforts to the participating states.

(6) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve, or promote more efficient assembly and distribution of milk.

(7) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling and for all other services performed with respect to milk.

(8) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

Section 9. Equitable farm prices.

(a) The powers granted in this section and § 10 shall apply only to the establishment of a Compact Over-Order Price, so long as Federal Milk Marketing Orders remain in effect in the region. In the event that any or all such orders are terminated, this article shall authorize the Commission to establish one or more Commission Marketing Orders, as herein provided, in the region or parts thereof as defined in the order.

(b) A Compact Over-Order Price established pursuant to this section shall apply only to Class I Milk. Such over-order price shall not exceed \$1.50 per gallon. Beginning in 1990, and using that year as a base, the foregoing \$1.50 per gallon maximum shall be adjusted annually by the rate of change in the consumer price index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the Commission may prescribe in regulations.

(c) A Commission Marketing Order shall apply to all classes and uses of milk.

(d) The Commission is hereby empowered to establish the minimum price for milk to be paid by pool plants, partially regulated plants and all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a Compact Over-Order Price or by one or more Commission Marketing Orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession or any other factors not related to the purposes of the regulations and this Compact. Producer-handlers as defined in an applicable Federal Market Order shall not be subject to a Compact Over-Order Price. The Commission shall provide for similar treatment of producer-handlers under Commission Marketing Orders.

(e) In determining the price, the Commission shall consider the balance between production and consumption of milk and milk products in the regulated area. The costs of production including, but not limited to the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense, and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public and the price necessary to yield a reasonable return to the producer and distributor.

(f) When establishing a Compact Over-Order Price, the Commission shall take such action as necessary and feasible to ensure that the over-order price does not create an incentive for producer to generate additional supplies of milk.

(g) The Commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the Compact. The Commission may reimburse other agencies for the reasonable cost of providing these services.

Section 10. Optional provisions for pricing order.

Regulations establishing a Compact Over-Order Price or a Commission Marketing Order may contain, but shall not be limited to, any of the following:

(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

(2) With respect to a Commission Marketing Order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the Commission, or a single minimum price for milk purchased from producers or associations of producers.

(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I Milk.

(4) Provisions for establishing either an over-order price or a Commission Marketing Order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustments, zone differentials and for competitive credits with respect to regulated handlers who market outside the regulated area.

(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

(A) With respect to regulations establishing a Compact over-order price, the Commission may establish one equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

(B) With respect to any Commission Marketing Order, as defined in § 2(9), which replaces one or more terminated federal orders or state dairy regulation, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

(6) Provisions requiring persons who bring Class I Milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a Compact Over-Order Price or against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the Compact Over-Order Price or Commission Marketing Order.

(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

(8) Provisions requiring that the account of any person regulated under a Compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

(9) Provisions requiring the payment by handlers of an assessment to cover the cost of the administration and enforcement of such order pursuant to Article VII, § 18(a).

(10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

(11) Other Provisions and requirements as the Commission may find are necessary or appropriate to effectuate the purposes of this Compact and to provide for the payment of fair and equitable minimum prices to producers.

Article V. Rulemaking Procedure.

Section 11. Rulemaking procedure.

Before promulgation of any regulations establishing a Compact Over-Order Price or Commission Marketing Order, including any provision with respect to milk supply under Section 9(f), or Amendment thereof, as provided in Article IV, the Commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by § 4 of the Federal Administrative Procedure Act, as amended (5 U. S. C. Section 553). In addition, the Commission shall, to the extent practicable, publish notice of rulemaking proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a Compact Over-Order Price or a Commission Marketing Order and thereafter before any amendment with regard to prices or assessments, the Commission shall hold a public hearing. The Commission may commence a rulemaking proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or Federal officials.

Section 12. Findings and referendum.

(a) In addition to the concise general statement of basis and purpose required by § 4(B) of the Federal Administrative Procedure Act, as amended (5 U. S. C. Section 553(C)), the Commission shall make findings of fact with respect to:

(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.

(2) What level of prices will assure that producers receive a price sufficient to cover their cost of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in § 13.

Section 13. Producer referendum.

(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a Compact Over-Order Price or a Commission Marketing Order, including any provision with respect to milk supply under Section 9(f), is approved by producers. The Commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the Commission. The terms and conditions of the proposed order or amendment shall be described by the Commission in the ballot used in the

conduct of the referendum. But the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relation thereto.

(b) An order or amendment shall be deemed approved by producers if the Commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period determined by the Commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

(c) For purposes of any referendum, the Commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) hereof and subject to the provisions of subdivisions (2) through (5) hereof.

(1) No cooperative which has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

(2) Any cooperative which is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the Commission.

(3) Any producer may obtain a ballot from the Commission in order to register approval or disapproval of the proposed order.

(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses the producer's approval or disapproval of the proposed order, shall notify the Commission as to the name of the cooperative of which the producer is a member, and the Commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

(5) In order to insure that all milk producers are informed regarding a proposed order, the Commission shall notify all milk producers that an order is being considered and that each producer may register the producer's approval or disapproval, with the Commission either directly or through the producer's cooperative.

Section 14. Termination of over-order price or marketing order.

(a) The Commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this Article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this Compact.

(b) The Commission shall terminate any regulations establishing an over-order price or a Commission Marketing Order issued under this Article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the Commission, have been engaged in the production of milk the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this Article and shall require no hearing, but shall comply with the requirements for informal rulemaking prescribed by § 4 of the Federal Administrative Procedure Act, as amended (5 U. S. C. Section 553).

Article VI. Enforcement.

Section 15. Records, reports, access to premises.

(a) The Commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this Compact. The Commission is authorized to examine the books and records of any regulated person relating to the person's milk business and for that purpose, the Commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the Commission officers, employees, or its agents pursuant to this Section shall be confidential and not subject to disclosure except to the extent that the Commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this Compact Over-Order Price, a Compact Marketing Order, or other regulations of the Commission. The Commission may promulgate regulations further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (2) the publication by direction of the Commission of the name of any person violating any regulation of the Commission, together with a statement of the particular provisions violated by such person.

(c) No officer, employee, or agent of the Commission shall intentionally disclose information, by inference or otherwise, which is made confidential pursuant to this Section. Any person violating the provisions of this Section shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office. The Commission shall refer any allegation of a violation of this Section to the appropriate state enforcement authority or United States Attorney.

Section 16. Subpoena, hearings and judicial review.

(a) The Commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

(b) Any handler subject to an order may file a written petition with the Commission stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. The handler shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Commission. After such hearing, the Commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(c) The District Courts of the United States in any district in which such handler is an inhabitant, or has the handler's principal place of business, are hereby vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within thirty days

from the date of the entry of such ruling. Service of processing such proceedings may be had upon the commission by delivering to it a copy of the bill of complain, if the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the commission with directions either (1) to make sure ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its option, the law required. The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the commission from obtaining relief pursuant to § 17. Any proceedings brought pursuant to § 17 (except where brought by way of counter claim in proceedings instituted pursuant to this Section) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

Section 17. Enforcement with respect to handlers.

(a) Any violation by a handler of the provision of regulations establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state of federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

(b) With respect to handlers, the Commission shall enforce the provisions of this compact, regulations establishing an over-order price, a Commission Marketing Order or other regulations adopted hereunder by:

(1) Commencing an action for legal or equitable relief brought in the name of the commission in any state or federal court of competent jurisdiction; or

(2) With the agreement of the appropriate state agency of a participating state, by referral to the state agency for enforcement by judicial or administrative remedy.

(c) With respect to handlers, the Commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

Article VII. Finance.

Section 18. Finance of start up and regular costs.

(a) To provide for its start-up costs, the Commission may borrow money pursuant to its general power under §6(d)(4). In order to finance the costs of administration and enforcement of this Compact, including payback of start-up costs, the Commission is hereby empowered to collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the Commission convenes, in an amount not to exceed 0.001% of the applicable federal market order blend price per hundred weight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two-

month period following the date the Commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the commissions ongoing operating expenses.

(b) The Commission shall not pledge the credit of any participating state or of the United States. Noted issued by the Commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

Section 19. Audit and accounts.

(a) The Commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(b) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the Commission.

(c) Nothing contained in this article shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts or on behalf of any participating state or of the United States.

Article VIII. Entry into force; additional members and withdrawal.

Section 20. Entry into Force; Additional Members.

The Compact shall enter into force effective when enacted into law by any three states of the group of states composed of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia, and when the consent of Congress has been obtained. This Compact shall also be open to states which are contiguous to any of the named states and open to states which are contiguous to participating states.

Section 21. Withdrawal from compact.

Any participating state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the Commission and the Governors of all participating states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Section 22. Severability.

If any part or provision of this Compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part of provision 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 Compact.

Congress reserves the right to amend or rescind this interstate compact at any time.

§ 3202. The Delaware Delegation to the Northeast Interstate Dairy Compact.

(a) The Delaware delegation to the Northeast Interstate Dairy Compact Commission consists of the following five members, appointed by the Governor with the advice and consent of the Senate.

(1) Two dairy farmers who are actively engaged in the production of milk at the time of appointment;

(2) One dairy processor who is actively engaged in the production of milk at the time of appointment;

(3) Two consumers.

(b) The members of the delegation shall be selected to represent the diversity of the dairy interests and geographic representation of the State.

(c) (1) The term of a member is 4 years and begins on

October 1 in the year in which the member is appointed.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(3) A member appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(4) The terms of the members are staggered as required by the terms provided for members of the delegation on October 1, 2000.

(5) A member may serve no more than 3 consecutive terms.

(6) The Governor may remove a member for incompetence or misconduct.

(7) If a vacancy arises other than by the expiration of a term, the Governor shall appoint within 30 days a successor to serve the remainder of the term.

(8) Terms of the initial members of the Delaware delegation to the Northeast Interstate Dairy Compact Commission shall expire as follows:

a. one dairy member in 2004;

b. one consumer members and the dairy processor in 2003;

c. one dairy farmer in 2002; and

d. one consumer member in 2001.

(d) A member of the delegation may not receive compensation for serving on the delegation.

§ 3203. Duties of the Secretary of Agriculture.

(a) The Secretary of Agriculture may obtain information by lawful means pertaining to the dairy industry as necessary to carry out the purposes of this Chapter and the Northeast Interstate Dairy Compact. The information may be used by the Secretary, the Delaware delegation to the Commission and the Commission.

(b) the Secretary of Agriculture may adopt regulations necessary to carry out the purposes of this Chapter and the Northeast Interstate Dairy Compact.

§ 3204. Civil Penalties.

(a) A person may not violate a provision of this Chapter, the Northeast Interstate Dairy compact, or a regulation adopted under this Chapter.

(b) Instead of pursuing criminal charges provided in this Compact, the Secretary may impose on any person who violates this compact a civil penalty of:

(1) For a first violation for which a civil penalty is imposed, not more than \$500;

(2) For a second violation for which a civil penalty is imposed, not more than \$1,000; or

(3) for a third or subsequent violation for which a civil penalty is imposed, not more than \$2,000.

(c) Penalties collected by the Secretary under this section shall be deposited into the General Fund of the State.

(d) Each day that a violation continues is a separate violation.

(e) The Secretary shall adopt regulations necessary to carry out the provisions of this Section.

Section 3. This Act may not take effect until a similar act is passed by at least two of the other states listed in Article VIII, § 20 of the compact in § 3201 of the Agriculture Article as enacted by this Act, the United States Congress consents to the compact, and the conditions imposed by that Consent have been met; that the other listed states are required to concur in this Act of the General Assembly of Delaware by the passage of similar Acts; that the United States congress is required to consent to this Act; that the Department of Legislative Services shall notify the appropriated officials of the listed states and the United States Congress of the passage of this Act; that the Department of Legislative Services shall notify the appropriate officials of the listed states and the United States Congress of the passage of this Act; and that upon the concurrence in this Act by at least two of the other listed states, consent by the United States congress and meeting of the conditions imposed by that consent the Governor of the State of Delaware shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Executive director of the Department of Legislative Services.

Section 4. this Act shall take effect October 1, 2000.

Approved May 12, 1999

CHAPTER 26

FORMERLY

HOUSE BILL NO. 40

AN ACT TO AMEND TITLES 9 AND 10 OF THE DELAWARE CODE RELATING TO COUNTIES AND COURTS AND JUDICIAL PROCEDURE.

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

Section 1. Amend § 9613, Title 9 of the Delaware Code by striking § 9613 in its entirety.

Section 2. Amend § 2310, Title 10 of the Delaware Code by striking § 2310 in its entirety.

Section 3. Amend § 2311, Title 10 of the Delaware code by striking § 2311 in its entirety.

Approved May 12,1999

CHAPTER 27

FORMERLY

HOUSE BILL NO. 38

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY.

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

Section 1. Amend § 1602, Title 25 of the Delaware Code by striking in its entirety the last sentence contained therein.

Section 2. Amend § 1606, Title 25 of the Delaware Code by inserting the phrase "and mark the indices accordingly" between the words "pendency" and "if" as they appear in the first sentence of said section.

Section 3. Amend § 1608, Title 25 of the Delaware Code by inserting the phrase "and mark the indices accordingly" between the words "pendency" and "if" as they appear in the first sentence of said section.

Section 4. Amend § 1609, Title 25 of the Delaware Code by inserting the phrase "and mark the indices accordingly" between the words "pendency" and "upon" as they appear in the first sentence of said section.

Section 5. Amend § 1612, Title 25 of the Delaware Code by striking § 1612 in its entirety and by substituting in lieu thereof the following:

"§ 1612. Fee for recording notice as taxable costs.

The fee for recording any notices required under this chapter shall be taxable as a part of the costs in the action."

Section 6. Amend § 1613, Title 25 of the Delaware Code by striking § 1613 in its entirety and by substituting in lieu thereof the following:

"§ 1613. Recording and marginal notation of judgement or stipulation of dismissal.

Whenever a stipulation of dismissal is filed, or whenever a final judgment entered is no longer appealable, notice of the pendency of which action has been filed in the Office of the Recorder of Deeds, the party who filed the notice of pendency shall cause a certified copy of the order of final judgment or a copy of the stipulation to be recorded in the Office of the Recorder of Deeds. Upon payment of the proper fee, the Recorder of Deeds shall record the order or stipulation and mark the indices accordingly. If the party who filed the notice of pendency fails

or refuses to file a certified copy of the final order or stipulation of dismissal, any party aggrieved by the filing of the notice may cause the order or stipulation to be filed."

Approved May 12, 1999

CHAPTER 28

FORMERLY

HOUSE BILL NO. 37

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO COUNTIES.

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

Section 1. Amend § 9604, Title 9 of the Delaware Code by striking § 9604 in its entirety.

Approved May 12, 1999

CHAPTER 29

FORMERLY

HOUSE BILL NO. 36

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY.

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

Section 1. Amend § 2117, Title 25 of the Delaware Code by striking § 2117 in its entirety.

Approved May 12, 1999

CHAPTER 30

FORMERLY

HOUSE BILL NO. 62

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 Subsection 8-501(c), Article 8, Subtitle 1, Title 6 of the Delaware Code by striking the words "without acting in collusion with the securities intermediary in violation of its duties under § 8-504" appearing at the end of said subsection.

Section 2. This Act shall be effective retroactively to January 1, 1998.

Approved May 12, 1999

CHAPTER 31

FORMERLY

HOUSE BILL NO. 105

AN ACT TO AMEND CHAPTER 71 OF TITLE 10 OF THE DELAWARE CODE RELATING TO
INJUNCTIONS AND ABATEMENT OF NUISANCES INVOLVING SOCIAL VICES.

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

Section 1. Amend § 7101, Title 10 of the Delaware Code, by redesignating subsections (2), (3) and (4) as (3), (4) and (5), respectively, and by adding thereto a new subsection (2) to read as follows:

"(2) 'illegal sale of alcoholic beverages' means the unlawful sale or storage with the intent to sell any alcoholic beverage, including but not limited to the sale of any alcoholic beverage without a proper or valid license or in violation of a proper and valid license, and/or any other activity constituting a violation of Chapters 7 and 9 of Title 4, Delaware Code."

Section 2. Amend newly designated § 7101(3), Title 10 of the Delaware Code, by inserting the words and punctuation ", illegal sale of alcoholic beverages" after the words "illegal gambling" appearing therein.

Approved May 12,1999

CHAPTER 32

FORMERLY

HOUSE BILL NO. 49

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO REQUIRED INFORMATION
FOR DRIVER'S LICENSES.

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

Section 1. Amend § 2718(a), Title 21 of the Delaware Code, by deleting the last sentence thereof and inserting in lieu thereof the following:

"For all license documents issued on or after July 1, 2000, the social security number of the licensee shall be visible on the license document by means of a bar code or other method readable only by electronic means."

Approved May 12,1999

CHAPTER 33

FORMERLY

SENATE BILL NO. 83

AN ACT TO AMEND TITLE 12, DELAWARE CODE, RELATING TO INVESTMENTS OF FIDUCIARIES.

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

Section 1. Amend § 3312, Title 12, Delaware Code, by striking said section in its entirety and substituting in its place as follows:

"§ 3312. Investments in affiliated investments.

(a) As used in this section:

(1) 'Fiduciary' means any person, including a bank or trust company, acting as a fiduciary as defined in § 3301(b) of this title, and includes an agent with investment discretion.

(2) 'Investment' shall mean any security as defined in § 2(a)(1) of the Securities Act of 1933 (15 U.S.C. § 77b(a)(1)), any contract of sale of a commodity for future delivery with the meaning of § 2(i) of the Commodity Exchange Act (7 U.S.C. § 2(i)), or any other investment permitted by law or the governing instrument, including by way of illustration and not limitation shares or interests in a private investment fund (including a private investment fund organized as a limited partnership, a limited liability company, a statutory or common law business trust, or a real estate investment trust), joint venture or other general or limited partnership, or an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. § 80a-1 et seq.).

(3) 'Affiliate' means any corporation or other entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with the fiduciary.

(4) 'Affiliated investment' means an investment for which the fiduciary or an affiliate of the fiduciary acts as adviser, administrator, distributor, placement agent, underwriter or in any other capacity for which it receives or has received a fee or commission from such investment.

(5) 'Fee or commission' means compensation paid to a fiduciary or an affiliate thereof on account of its services to or on behalf of an investment.

(b) Subject to the investment standards stated in § 3302 of this title, a fiduciary may purchase, sell, hold or otherwise deal with an interest in an affiliated investment and, upon satisfaction of the conditions stated in subsection (c) of this section, such fiduciary may receive fiduciary compensation from such account at the same rate as the fiduciary would be entitled to be compensated if the account were otherwise invested.

(c) A fiduciary seeking compensation pursuant to subsection (b) hereof shall disclose to each principal in an agency relationship and to all current recipients of account statements of any other fiduciary account all fees or commissions received or to be received from any affiliated investment in which the fiduciary account is invested. The disclosure required under this subsection (c) may be given either in a copy of the prospectus or any other disclosure document prepared for the affiliated investment under federal or state securities laws or in a written summary that includes all fees or commissions received or to be received by the fiduciary or any affiliate of the fiduciary and an explanation of the manner in which such fees or commissions are calculated (either as a percentage of the assets invested or by some other method). Such disclosure shall be made at least annually unless there has been no increase in the rate at which such fees or commissions are calculated since the most recent disclosure. Notwithstanding the foregoing provisions of this subsection (c), no such disclosure is required if the governing instrument or a court order expressly authorizes the fiduciary to invest the fiduciary account in affiliated investments.

(d) A fiduciary that has complied with subsection (c) (whether by making the applicable disclosure or by relying on the terms of a governing instrument or court order) shall have full authority to administer an affiliated investment (including the authority to vote proxies thereon) without regard to the affiliation between the fiduciary and the investment."

Section 2. This Act shall become effective upon the date of its enactment.

Approved May 12, 1999

CHAPTER 34

FORMERLY

SENATE BILL NO. 12

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE CRIME OF CARJACKING.

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

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Section 1. Amend Chapter 5, Title 11 of the Delaware Code by adding a new section §835 to read as follows:

"§835. Carjacking in the second degree; class E felony; class D felony.

(a) A person is guilty of carjacking in the second degree when that person knowingly and unlawfully takes possession or control of a motor vehicle from another person or from the immediate presence of another person by coercion, duress, or otherwise without the permission of the other person.

(b)(1) Except as provided in paragraph (2) of this subsection, carjacking in the second degree is a class E felony.

(2) Carjacking in the second degree is a class D felony if the elements of subparagraph (a) are met and if, while in possession or control of the vehicle, the person:

- a. Recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person; or
- b. Compels a lawful occupant of the vehicle to leave the vehicle; or
- c. Causes the vehicle to be operated recklessly.

(c) It is no defense to a prosecution under this section that the offender did not physically drive or operate the motor vehicle, nor is it a defense under this section that the offender did not intend to permanently deprive the owner or another person of the use of the vehicle.

(d) This section is not a related or included offense of §§831 or 832 of this title. Nothing in this section shall be deemed to preclude prosecution under any other provision of this Code."

Section 2. Amend Chapter 5, Title 11 of the Delaware Code by adding a new section §836 to read as follows:

"§836. Carjacking in the first degree; class C felony; class B felony.

(a) A person is guilty of carjacking in the first degree when the person knowingly and unlawfully takes possession or control of a motor vehicle from another person or from the immediate presence of another person by coercion, duress, or otherwise without the permission of the other person, and:

(1) While in possession or control of such vehicle the person commits or attempts to commit a class D or greater felony; or

(2) While in possession or control of such vehicle the person drives or operates the vehicle in violation of §4177 of Title 21 of this Code; or

(3) While in possession or control of such vehicle the person commits any offense set forth in Chapter 47 of Title 16 of this Code; or

(4) While in possession or control of such vehicle the person displays what appears to be a deadly weapon; or

(5) While in possession or control of such vehicle the person causes physical injury to another person; or

(6) The person from whom possession or control of the vehicle is taken, or an occupant or passenger of such vehicle, is 62 years of age or older or 14 years of age or younger.

(b) Carjacking in the first degree as defined in paragraphs (1),(2) and (3) of subsection (a) of this section is a class C felony. Carjacking in the first degree as defined in paragraphs (4), (5) and (6) of subsection (a) of this section is a class B felony.

(c) It is no defense to a prosecution under this section that the offender did not physically drive or operate the motor vehicle, nor is it a defense under this section that the offender did not intend to permanently deprive the owner or another person of the use of the vehicle.

(d) It is no defense to a prosecution under subsection (a)(6) of this section, that the accused did not know the age of the person from whom possession or control of the vehicle is taken, or an occupant

or passenger of such vehicle, or that the accused reasonably believed such person to be under the age of 62 or over the age of 14.

(e) For the purpose of any prosecution under (a)(5) of this section, it is unnecessary to prove the accused's state of mind with regard to causation of physical injury, notwithstanding the provisions of §251 or §252 of this title or any other statute to the contrary.

(f) This section is not a related or included offense of §831 or §832 of this title. Nothing in this section shall be deemed to preclude prosecution under any other provision of this Code."

Section 3. Amend Chapter 5, Title 11 of the Delaware Code by adding a new section §837 to read as follows:

"§837. Definitions relating to carjacking.

(a) 'Another person' includes the owner of the vehicle or any operator, occupant, passenger of the vehicle, or any other person who has an interest in the use of the vehicle which the offender is not privileged to infringe.

(b) 'Motor vehicle' or 'vehicle,' in addition to its ordinary meaning, includes any watercraft."

Section 4. Amend Section 4214(b), Title 11 of the Delaware Code by inserting the phrase "836 Carjacking in the first degree" between the phrases "832 Robbery in the first degree" and "Former 771 Unlawful sexual penetration in the second degree" as they appear in that subsection.

Section 5. Amend Section 4201(c) of Title 11 of the Delaware Code by inserting between the phrases "832 Robbery in the First Degree" and "846 Extortion" as they appear in said subsection the following:

"835 Carjacking in the Second Degree

836 Carjacking in the First Degree"

Section 6. Amend Section 6533(d) of Title 11 of the Delaware Code by inserting between the phrases "832 Robbery First Degree;" and "1108 Sexual Exploitation of a Child;" as they appear in said subsection the following:

"835 Carjacking in the Second Degree;

836 Carjacking in the First Degree;"

Section 7. Amend Section 9401(1) of Title 11 of the Delaware Code by inserting between the phrases "832 Robbery in the First Degree;" and "840 Shoplifting;" as they appear in said subsection the following:

"835 Carjacking in the Second Degree; Class E felony, Class D felony;

836 Carjacking in the First Degree, Class C felony; Class B felony."

Section 8. Amend Section 222, Title 11 of the Delaware Code by deleting subsection (2) of that section and by redesignating the remaining paragraphs accordingly.

Section 9. Amend Section 604, Title 11 of the Delaware Code by deleting subsection (b) of that section.

Section 10. Amend Section 612(a), Title 11 of the Delaware Code by deleting paragraph (6) of that subsection and by redesignating the remaining paragraphs accordingly.

Section 11. Amend Section 613(a), Title 11 of the Delaware Code by deleting paragraph (8) of that subsection.

Section 12. 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 May 12, 1999

CHAPTER 35

FORMERLY

HOUSE BILL NO. 156

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 (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. This act may be referred to as the "Foreign Banking Amendments Act of 1999".

Section 2. Amend §101(4)e. of Title 5 of the Delaware Code by inserting the phrase "foreign bank branch," between the word "A" and the phrase "foreign bank limited" as they appear therein.

Section 3. Amend §101(11) of Title 5 of the Delaware Code by striking the citation "§1404(a)" as it appears therein and by substituting in lieu thereof the citation "§1404(b)".

Section 4. Amend §101(12) of Title 5 of the Delaware Code by striking the citation "§1404(b)" as it appears therein and by substituting in lieu thereof the citation "§1404(c)".

Section 5. Amend §101 of Title 5 of the Delaware Code by redesignating subsections (12)-(20) as they appear therein as subsections (13)-(21) respectively, and by adding thereto a new subsection (12) to read:

"(12) 'Foreign bank branch' means an office in this State of a foreign bank that is exercising the powers authorized by §1404(a) of this title."

Section 6. Amend §1101(a) of Title 5 of the Delaware Code by striking the last undesignated paragraph in subsection (a) in its entirety and by substituting in lieu thereof the following:

"For purposes of this subsection, a resulting branch in this State of an out-of-state bank or foreign bank, or a foreign bank branch, foreign bank limited purpose branch, foreign bank agency or a federal branch or agency (all as defined in §101 of this title) shall be treated as if it were a corporation. The Commissioner shall prescribe such rules and regulations as may be deemed necessary in order that the tax liability of any resulting branch in this State of an out-of-state bank or foreign bank, or any foreign bank branch, foreign bank limited purpose branch, foreign bank agency or federal branch or agency under this subsection may be returned, determined, computed, assessed, collected and adjusted, in such manner as to clearly reflect the tax liability and the various factors necessary for the determination of such liability, and in order to prevent avoidance of such tax liability."

Section 7. Amend the descriptive heading of Subchapter 1 of Chapter 14 of Title 5 of the Delaware Code by striking the text of the descriptive heading in its entirety as it appears therein and by substituting in lieu thereof the following:

"Foreign Bank Branches, Foreign Bank Limited Purpose Branches, and Foreign Bank Agencies".

Section 8. Amend §1403(a) of Title 5 of the Delaware Code by inserting in the first sentence therein the phrase "foreign bank branch," between the phrases "maintain a" and "foreign bank limited" as they appear therein.

Section 9. Amend §1403(a)(7) of Title 5 of the Delaware Code by inserting the phrase "foreign bank branch," between the phrases "the proposed" and "foreign bank limited" as they appear therein.

Section 10. Amend §1403(d)(4) of Title 5 of the Delaware Code by inserting the phrase "foreign bank branch," between the phrases "the proposed" and "foreign bank limited" as they appear therein.

Section 11. Amend §1404 of Title 5 of the Delaware Code by striking from the second sentence of subsection (a)(3) therein the phrase "subsection (a) of this section" and by substituting in lieu thereof the phrase "paragraph (1) of this subsection"; by striking from subsection (b) the phrase "subsection (a)" and by substituting in lieu thereof the phrase "subsection (b)"; by redesignating subsections (a), (b), and (c) thereof as subsections (b), (c), and (d) respectively; and by inserting therein a new subsection (a) to read:

"(a) A foreign bank holding a certificate of authority pursuant to this subchapter that has elected this State as its home state under the International Banking Act of 1978, 12 U.S.C. §3101 et seq., as

amended, may establish and maintain a foreign bank branch in this State at the location stated therein and may engage in a general banking business thereat."

Section 12. Amend §1405(a) of Title 5 of the Delaware Code by inserting the phrase "foreign bank branch," immediately before the words "foreign bank limited purpose branch or foreign bank agency" at all places where those words appear in subsection (a) therein.

Section 13. Amend §1406(b) of Title 5 of the Delaware Code by inserting the phrase "foreign bank branch," immediately before the words "foreign bank limited purpose branch or foreign bank agency" at all places where those words appear in subsection (b) therein.

Section 14. Amend §1407(2) of Title 5 of the Delaware Code by striking the phrase "foreign bank limited purpose branch or foreign bank agencies pursuant to §1404(a)(3) and (b)" and by substituting in lieu thereof the phrase "foreign bank branches, foreign bank limited purpose branches or foreign bank agencies pursuant to §1404".

Section 15. Amend §1410(b) of Title 5 of the Delaware Code by inserting in the second sentence thereof the phrase "foreign bank branch," immediately before the words "foreign bank limited purpose branch or foreign bank agency".

Section 16. Amend §1416(a) of Title 5 of the Delaware Code by inserting in the first sentence thereof the phrase "foreign bank branch," immediately before the words "foreign bank limited purpose branch or foreign bank agency".

Section 17. Amend §1416(b) of Title 5 of the Delaware Code by inserting in the first sentence thereof the phrase "foreign bank branch," immediately before the words "foreign bank limited purpose branch or foreign bank agency", and by inserting in the third sentence thereof the phrase "foreign bank branches," immediately before the words "foreign bank limited purpose branches or foreign bank agencies".

Section 18. Amend §1426 of Title 5 of the Delaware Code by inserting the phrase "foreign bank branches," immediately before the words "foreign bank limited purpose branches and foreign bank agencies".

Section 19. Amend §1436 of Title 5 of the Delaware Code by inserting the phrase "foreign bank branches," immediately before the words "foreign bank limited purpose branches and foreign bank agencies".

Section 20. 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 May 18, 1999

CHAPTER 36

FORMERLY

HOUSE BILL NO. 44

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

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

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

Section 1. Amend §4177, Title 21 of the Delaware Code by adding the phrase "or with a prohibited alcohol content" between the word "influence" and the first ";", in the catch line of that section.

Section 2. Amend §4177(a), Title 21 of the Delaware Code by striking paragraph "(5)" in its entirety and substituting in lieu thereof the following:

"(5) When the person's alcohol concentration is, within 4 hours after the time of driving .10 or more. Notwithstanding any other provision of the law to the contrary, a person is guilty under this subsection, without regard to the person's alcohol concentration at the time of driving, if the person's

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alcohol concentration is, within 4 hours after the time of driving .10 or more and that alcohol concentration is the result of an amount of alcohol present in, or consumed by the person when that person was driving."

Section 3. Amend §4177(b), Title 21 of the Delaware Code by striking paragraph "(2)" in its entirety and substituting in lieu thereof the following:

"(2)a. No person shall be guilty under subsection (a)(5) of this section when the person has not consumed alcohol prior to or during driving but has only consumed alcohol after the person has ceased driving and only such consumption after driving caused the person to have an alcohol concentration of .10 or more within 4 hours after the time of driving."

b. No person shall be guilty under subsection (a)(5) of this section when the person's alcohol concentration was .10 or more at the time of testing only as a result of the consumption of a sufficient quantity of alcohol that occurred after the person ceased driving and before any sampling which raised the person's alcohol concentration to .10 or more within 4 hours after the time of driving."

Section 5. Amend §4177(g), Title 21 of the Delaware Code, striking the last sentence of paragraph "(2)" in its entirety and substituting in lieu thereof the following:

"However, such evidence may only be admissible in proceedings for the determination of guilt when evidence or argument by the defendant is admitted or made relating to the alcohol concentration of the person at the time of driving."

Section 6. Amend § 4177(g), Title 21 of the Delaware Code, striking paragraph "(1)" in its entirety and redesignating the remaining paragraphs accordingly.

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 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 declared to be severable.

Section 8. This Act shall become effective immediately upon its enactment into Law.

Approved May 18, 1999

CHAPTER 37

FORMERLY

HOUSE BILL NO. 86

AN ACT RELATING TO THE WAIVER OF STATUTORY PROVISIONS OF TITLE 13 OF THE DELAWARE CODE CONCERNING THE SOLEMNIZATION OF MARRIAGES

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

Section 1. Alison S. Neuhaus and Jason A. Rash are hereby exempted from the provisions of 13 Del. C. § 106(a) which designates who may solemnize marriages, and the Honorable Roxana C. Arsht, retired Family Court judge, is hereby authorized to solemnize the marriage between Alison S. Neuhaus and Jason A. Rash on August 8, 1999, in the County of New Castle, State of Delaware. The Clerk of the Peace for the County of New Castle shall issue to Alison S. Neuhaus and Jason A. Rash an official marriage license pursuant to this Act, notwithstanding the provisions of 13 Del. C. § 106 to the contrary.

Approved May 18, 1999

CHAPTER 38

FORMERLY

HOUSE BILL NO. 26

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO JURY COMPENSATION AND REIMBURSEMENT.

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

Section 1. Amend Section 4514(b), Title 10 of the Delaware Code, by striking the first sentence of subsection (b) and by substituting in lieu thereof the following:

"Jurors shall be paid a per diem rate of \$20.00 which shall serve as a daily allowance for reimbursement for travel, parking and other out-of-pocket expenses. An employer shall not consider the reimbursement described in this subsection as pay."

Section 2. Further amend Section 4514(b), Title 10 of the Delaware Code, by striking the word "compensation" as it appears in the second sentence of subsection (b) and substituting the word "reimbursement" in lieu thereof.

Approved May 18, 1999

CHAPTER 39

FORMERLY

HOUSE BILL NO. 18

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(1), Title 30, Delaware Code, by striking the phrase "is a public utility" as it appears in paragraph b. of said subsection and substituting in lieu thereof the phrase "and electricity are public utilities".

Section 2. Amend § 5501, Title 30, Delaware Code, by inserting the phrase "or electricity" following the word "gas" wherever it appears in subsections (3) and (6) of said section.

Section 3. Amend § 5502(b)(3), Title 30, Delaware Code, by inserting the phrase "or electricity" following the word "gas" wherever it appears in said paragraph.

Section 4. Amend § 5503 and § 5504, Title 30, Delaware Code, by inserting the phrase "or electricity" following the word "gas" wherever it appears in said sections.

Section 5. This Act is effective for utility services and commodities delivered after October 1, 1999.

Approved May 18, 1999

CHAPTER 40

FORMERLY

HOUSE BILL NO. 55

AN ACT TO AMEND CHAPTER 21 OF TITLE 29 OF THE DELAWARE CODE RELATING TO THE GOVERNOR'S AUTHORITY TO PROCLAIM SPECIAL DAYS.

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

Section 1. Amend Title 29, Chapter 21, Delaware Code, by adding a new section 2113 as follows:

"§ 2113. Police Officers Appreciation Day.

The Governor may issue annually a proclamation calling upon state officials to display the United States flag on all state and school buildings, and the people of this state to display the flag at their homes, lodges, churches and places of business and other suitable places, on the second Wednesday in June, known as Police Officers Appreciation Day, as a public expression of appreciation for those in our state who dedicate their lives to law enforcement."

Approved June 02,1999

CHAPTER 41

FORMERLY

SENATE BILL NO. 73

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE PRACTICE OF DENTISTRY.

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

Section 1. Amend §1134(b), Title 24, Delaware Code by deleting the period at the end of paragraph (2) thereof and inserting in lieu thereof "; or", and by adding thereto the following:

"(3) A practitioner of dentistry who maintains a lawful dental license to practice in another state, territory or province of the United States or Canada from making a clinical demonstration in connection with the lawful research and development of dental product(s) manufactured by a dental manufacturer complying with guidelines set forth by the United States Food and Drug Administration."

Approved June 02,1999

CHAPTER 42

FORMERLY

HOUSE BILL NO. 184

AN ACT WAIVING THE STATUTORY PROVISIONS OF §107(a), CHAPTER 1, TITLE 13 OF THE DELAWARE CODE, AS IT RELATES TO THE MARRIAGE OF SCOTT PAUL LASCELLES AND DANA MARIE DI SABATINO, NONRESIDENTS OF THE STATE OF DELAWARE.

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

WHEREAS, Scott Paul Lascelles, a resident of San Francisco, California wishes to marry Dana Marie Di Sabatino, a resident of New York, New York; and

WHEREAS, the prospective bride and groom desire to be married in Wilmington on June 4, 1999 with Family Court Chief Judge Vincent Poppiti performing the service; and

WHEREAS, due to the working circumstances of both the bride and groom, it is extremely difficult for them to comply with the provisions on §107(a), Chapter 1, Title 13 of the Delaware Code, which provides that if both parties to be married are nonresidents of the State, they must obtain a marriage license at least 96 hours prior to the time of the ceremony, and to utilize such license within 30 days of acquiring it.

NOW, THEREFORE:

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

Section 1. Scott Paul Lascelles, a resident of San Francisco, California and Dana Marie Di Sabatino, a resident of New York, New York are hereby exempted from the provisions of §107(a), Chapter 1, Title 13 of the Delaware Code and are specifically authorized to marry on June 4, 1999. The Clerk of the Peace of New Castle County shall issue one official marriage license to said Scott Paul Lascelles and Dana Marie Di Sabatino pursuant to this Act, the provisions of §107(a), Chapter 1, Title 13 of the Delaware Code, or any other law of this State to the contrary notwithstanding.

Approved June 03,1999

CHAPTER 43

FORMERLY

HOUSE BILL NO. 124

AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

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 :

Section 1. This Bill shall be known as the 'Chelsea Marie/Sharon Act'.

Section 2. Amend Section 222(23) of Title 11 of the Delaware Code by striking the "." which appears at the end of said subsection, and by inserting in lieu thereof the following:

" , or which causes the unlawful termination of a pregnancy without the consent of the pregnant female."

Section 3. Amend Title 11 of the Delaware Code by adding thereto a new section to be denominated as Section 605, to read as follows:

"§ 605. Abuse of a pregnant female in the second degree; class C felony.

(a) A person is guilty of abuse of a pregnant female in the second degree when in the course of or in furtherance of the commission or attempted commission of assault third degree or any violent felony against or upon a pregnant female, or while in immediate flight therefrom, the person recklessly and without her consent causes the unlawful termination of her pregnancy.

(b) It is no defense to a prosecution under this section that the person was unaware that the victim was pregnant.

(c) Prosecution under this section does not preclude prosecution under any other section of the Delaware Code.

(d) Abuse of a pregnant female in the second degree is a class C felony.:

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Section 4. Amend Title 11 of the Delaware Code by adding thereto a new section to be denominated as Section 606, to read as follows:

"§ 606. Abuse of a pregnant female in the first degree; class B felony."

(a) A person is guilty of abuse of a pregnant female in the first degree when in the course of or in furtherance of the commission or attempted commission of assault third degree any violent felony against or upon a pregnant female, or while in immediate flight therefrom, the person intentionally and without her consent causes the unlawful termination of her pregnancy.

(b) It is no defense to a prosecution under this section that the person was unaware that the victim was pregnant.

(c) Prosecution under this section does not preclude prosecution under any other section of the Delaware Code.

(d) Abuse of a pregnant female in the first degree is a class B felony."

Section 5. Amend Section 612(a) of Title 11 of the Delaware Code by adding a new paragraph to said subsection, said new paragraph to be designated as paragraph "(10)", to read as follows:

"(10) The person recklessly or intentionally causes physical injury to a pregnant female. It is no defense to a prosecution under this subsection that the person was unaware that the victim was pregnant."

Section 6. Amend Section 4201(c) Title 11 of the Delaware Code by inserting between the phrases "604 Reckless Endangering in the First Degree" and "612 Assault in the Second Degree" as they appear therein the following:

"§ 605. Abuse of a Pregnant Female in the Second Degree.

§ 606. Abuse of a Pregnant Female in the First Degree".

Section 7. Amend Section 4214(b) of Title 11 of the Delaware Code by inserting between the phrases "783A Kidnapping in the first degree: and "§ 613 Assault in the first degree" as they appear in the second paragraph of said subsection the following:

"§ 606. Abuse of a Pregnant Female in the First Degree".

Approved June 10, 1999

CHAPTER 44

FORMERLY

SENATE BILL NO. 85

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DESIGNATION OF TIGER SWALLOWTAIL AS THE OFFICIAL STATE BUTTERFLY.

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

WHEREAS, many states across America have designated an official State butterfly to accompany their State flag, State flower, State bird and State bug; and

WHEREAS, the State of Delaware, despite its great wealth of indigenous butterflies, has never made such a designation; and

WHEREAS, the students of the Richardson Park Learning Center, aware of this fact, have suggested that the Tiger Swallowtail because of its beautiful black and orange colors would be especially appropriate as the subject of such designation; and

WHEREAS, the tiger swallowtail, a large, yellow, black-striped butterfly, is one of the most familiar butterflies in North America, is one of the most common and conspicuous butterflies in the Eastern United States; and

WHEREAS, Tiger Swallowtail is indigenous to Delaware and can be seen in deciduous woods, along streams, rivers, and wooded swamps, and in towns and cities throughout Delaware; and

WHEREAS, as a result of voting of 3,175 public and parochial students from all over the state of Delaware, of the three butterflies that were chosen as finalists for adoption by the students of Richardson park learning center the Tiger Swallowtail was chosen by 1,611 students; and

WHEREAS, the butterfly herein designated as the official State butterfly is emblematic and fitting to accompany Delaware's other official symbols, and

WHEREAS, the designation of Tiger Swallowtail would be highly appropriate not only in its own right, but as a means whereby Delaware State government might recognize the increasingly vital role played by natural wildlife in Delaware;

NOW THEREFORE;

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

Section 1. Amend Chapter 3, Title 29, of the Delaware Code by adding thereto a new section designated as Section 315 to read as follows:

"§315. State butterfly.

The tiger swallowtail (*Pterourus glaucus*) is the official butterfly of the State."

Approved June 10,1999

CHAPTER 45

FORMERLY

HOUSE BILL NO. 54

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATED TO ESCHEAT OF UNREDEEMED GIFT CERTIFICATES.

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

Section 1. Amend § 1199(g), Title 12 of the Delaware Code, adding at the end of said subsection after the symbol and figure "\$5,000" and before the period "." the following phrase: "or for gift certificates having a face value of \$5.00 or under issued by a holder whose business is described in § 2906 of Title 30 whether or not such firm conducts business in this state".

Section 2. Amend § 1198(10), Title 12 of the Delaware Code, by adding after the phrase 'whatsoever kind of character.' and before the last sentence of said subsection that following sentence:

"For purposes of this subsection, the phrase 'amounts received in consideration for gift certificates' shall not include amounts received in consideration for gift certificates having a face value of \$5.00 or less and which are issued by a holder whose business is described in § 2906 of Title 30 whether or not such holder conducts such business within this State."

Section 3. This Act shall be effective for gift certificates issued on or after January 1, 1994.

Approved June 14,1999

CHAPTER 46
FORMERLY
HOUSE BILL NO. 89

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE TO SPECIFY LICENSING REQUIREMENTS
FOR MOTORCYCLES AND THREE-WHEELED VEHICLES.

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

Section 1. Amend § 2703(a), Title 21, Delaware Code, by adding the following sentence after the second sentence in paragraph (a) which ends with the words "operate the same", and before the third sentence which begins with "A temporary motorcycle":

"Those persons who possess a valid Class D operators license or CDL license may operate a three-wheeled motor vehicle without special endorsements or examinations under Section 2713."

Approved June 14,1999

CHAPTER 47
FORMERLY
HOUSE BILL NO. 15

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 § 3721, Title 10 of the Delaware Code, by adding a new numbered paragraph thereto as follows:

"(5) 'Sibling' means brothers and sisters of the whole and half blood or by order of adoption."

Section 2. Amend § 3724(a), Title 10 of the Delaware Code, by striking that subsection in its entirety and by substituting in lieu thereof the following:

"(a) An action under this subchapter shall be for the benefit of the spouse, parent, child, and siblings of the deceased person."

Section 3. Amend § 3724(d)(5), Title 10 of the Delaware Code, by inserting the word and punctuation "siblings," between the words "children" and "parents" as the same appear in the second sentence thereof, and by deleting the phrase "(if there is no surviving spouse or children)" appearing therein.

Section 4. This Act shall apply to all wrongful deaths which occur after enactment.

Approved June 14,1999

CHAPTER 48

FORMERLY

HOUSE BILL NO. 96

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 36 of Section (b) ("Powers"), Section 2 ("Body Corporate, Powers"), Chapter 339, Volume 62, Laws of Delaware, by deleting the words "not to exceed the rate of one percent (1%)" and inserting in lieu thereof the words "not to exceed the rate of one and one-half percent (1 ½%)".

Approved June 14, 1999

CHAPTER 49

FORMERLY

HOUSE BILL NO. 165

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 ELIMINATE THE REQUIREMENT FOR A PRACTICING PHYSICIAN FROM THE BOARD OF HEALTH.

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

Section 1. Amend Subsection (a) of Section 22, of Chapter 457, Volume 60, Laws of Delaware, by striking the second sentence thereof and substituting in lieu thereof the following:

"If it is established, the Board of Health shall consist of four (4) members, one (1) of whom may be a practicing physician."

Approved June 14, 1999

CHAPTER 50

FORMERLY

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

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO GENERAL PROVISIONS CONCERNING OFFENSES.

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

Section 1. Amend § 222(14) and §8502(7) of Title 11 of the Delaware Code by deleting "prison guards" and replacing thereto as follows "correctional officers".

Approved June 14, 1999

CHAPTER 51

FORMERLY

HOUSE BILL NO. 143
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO WIRETAPPING AND
ELECTRONIC SURVEILLANCE.

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

Section 1. Amend Subsection (c), Section 1336, Title 11 of the Delaware Code by adding thereto a new paragraph, designated as paragraph (3) and, which new paragraph shall read as follows:

"(3) A person acting under color of law, and employed for such purpose by the Department of Correction, to intercept a wire or oral communication of any individual confined to a State Correctional facility. At the direction of the Commissioner of Correction or his designee, a person performing an official investigation into suspected criminal activity may monitor and intercept the incoming and outgoing wire and oral communications electronic transmissions of any individual incarcerated in a State Correctional facility. The Department may also employ intercepting devices which monitor all incarcerated individuals communications for words or phrases which would justify further investigation. The Department shall not monitor or intercept any communication between an individual confined in a State Correctional facility and his/her attorney"

Approved June 14, 1999

CHAPTER 52

FORMERLY

HOUSE BILL NO. 79

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

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

Section 1. Amend Chapter 7, Title 7 of the Delaware Code, by adding thereto a new section designated as § 741, which new section shall read as follows:

"§ 741. Snow Geese.

Notwithstanding any other provision of this title, a person may hunt snow geese by any method, provided the individual complies with federal laws and regulations."

Approved June 14, 1999

CHAPTER 53

FORMERLY

HOUSE BILL NO. 80

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

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

Section 1. Amend § 1802, Chapter 18, Title 7 of the Delaware Code by adding thereto a new subsection, designated as subsection (i), which new subsection shall read as follows:

"(i) Any person issued a commercial eel license by the Department shall file monthly reports of their catch by area, effort and weight on forms provided by the Department. The monthly report must be filed with the Department by 4:30 p.m. of the last working day of the month following the month for which the information contained in the report reflects. Failure to abide with the filing requirement, set forth in this subsection, will result in:

(1) a warning issued by the Secretary, for the first failure to file;

(2) suspension of the commercial eel fishing license by the Secretary for a period of up to 30 days or until such time as the report is filed, whichever occurs sooner, for the second failure to file; and

(3) revocation of the commercial eel license by the Secretary until such time when all reporting requirements are fulfilled in a manner acceptable to the Secretary, for a third or subsequent failures to file."

Approved June 14,1999

CHAPTER 54

FORMERLY

SENATE BILL NO. 56

AN ACT TO AMEND SECTION 927 OF TITLE 10 OF THE DELAWARE CODE RELATING TO THE JURISDICTION OF FAMILY COURT BY GIVING CONCURRENT JURISDICTION TO THE JUSTICE OF THE PEACE COURT FOR 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 Title 10, Section 927 by adding the following to subsection (a)(2):

"except that the Justice of the Peace Court shall have concurrent jurisdiction for purposes of dismissing a case if proof of insurance is shown pursuant to Title 21, Section 2118(b) or (p)."

Approved June 14,1999

CHAPTER 55

FORMERLY

SENATE BILL NO. 116

AN ACT TO AMEND TITLE 12 SECTION 3302 OF THE DELAWARE CODE, RELATING TO INVESTMENT OF FIDUCIARIES.

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

Amend Title 12 of the Delaware Code by adding a new subsection (g) to Section 3302 to read as follows:

"(g) A fiduciary is authorized, in the absence of an express provision to the contrary, whenever a law, regulation, governing instrument or order directs, requires, authorizes or permits investment in United States government obligations, to invest in those obligations, either directly or in the form of securities of, or other interests in, any open-end or closed end management investment company or investment trust registered under the 'Investment Company Act of 1940,' 54 Stat. 847 (15 U.S.C. §80a-1 et seq.), if the portfolio of that investment company or investment trust is limited to United States government obligations and to repurchase agreements fully collateralized by United States government obligations, which collateral shall be delivered to or held by the investment company or investment trust, either directly or through an authorized custodian."

Approved June 14,1999

CHAPTER 56

FORMERLY

SENATE BILL NO. 41

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE TO CLARIFY COMMERCIAL DRIVER'S LICENSE (CDL) INFORMATION:

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

Section 1. Amend §2621(a), Title 21, Delaware Code by adding the words "of drivers who operate" in the first sentence after the word "groups" and before the ":".

Section 2. Amend §2621(a), Title 21, Delaware Code by deleting subparagraphs a. and b. of paragraph (2) and replacing them as follows:

"a. Used by any fire company in this State which is necessary for the preservation of life or property or the execution of emergency governmental functions, or other authorized uses by the fire company.

b. Being operated by firefighters and other persons qualified to operate the equipment under subparagraph (2)a. when operating such equipment in other functions such as parades, special events, repair, service or other authorized movements."

Section 3. Amend §2611(a)(5), Title 21, Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(5) Any number or identifier deemed appropriate by the Division of Motor Vehicles;"

Approved June 14,1999

CHAPTER 57

FORMERLY

SENATE BILL NO. 40

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 :

Section 1. Amend §2707(b)(7), Title 21, Delaware Code by deleting the last two sentences in the first paragraph, which begin with the words, "Each person licensed" and inserting the following sentences in their place:

"Each person licensed to operate a motor vehicle on the basis of such certificate shall furnish the Department with a new certificate each year not later than the last day of the holder's birth month and not earlier than 45 days before said date. The certificate shall show that on the basis of an examination within said period a physician duly licensed to practice medicine and surgery has determined that the infirmity remains under sufficient control to permit the person to operate a motor vehicle with safety to person and property. Except as provided below, if such certificate is not received by the Department, the Department shall suspend said license and shall notify its holder."

Approved June 14,1999

CHAPTER 58

FORMERLY

SENATE BILL NO. 39

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO PENALTIES FOR OPERATING A MOTOR VEHICLE WITHOUT INSURANCE.

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

Section 1. Amend §2118, Title 21, Delaware Code by inserting in the second sentence of subsection (s)(1) the words "and shall have that person's driver's license and/or driving privilege suspended for 6 months" after the words, "nor more than \$4,000".

Section 2. Amend §2118, Title 21, Delaware Code by deleting the word "revoked" as it appears in the first paragraph of subsection (s)(3) and inserting in its place the word "suspended".

Approved June 14,1999

CHAPTER 59

FORMERLY

SENATE BILL NO. 67

AN ACT TO AMEND SUBCHAPTER VI OF CHAPTER 35, TITLE 12 OF THE DELAWARE CODE RELATING TO QUALIFIED DISPOSITIONS IN TRUST.

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

Section 1. Amend Section 3570, Title 12, Delaware Code, by adding a new §3570(7) thereto to read as follows:

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"(7) 'Spouse' and 'former spouse' means only persons to whom the transferor was married at, or before, the time the qualified disposition is made."

Section 2. Renumber §§3570(7) through 3570(9) as §§3570(8) through 3570(10) and make corresponding changes to the cross references appearing in §3570(8)d., §3571, §3572(c), and §3572(d).

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

Approved June 14, 1999

CHAPTER 60

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 250

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO NUTRIENT MANAGEMENT.

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

Section 1. Amend Title 3 of the Delaware Code by adding a new chapter thereto, designated as Chapter 22, to read as follows:

"Chapter 22. Nutrient Management.

Subchapter I. General Provisions.

§ 2201. Declaration of purpose.

The purposes of this chapter are:

- (1) To regulate those activities involving the generation and application of nutrients in order to help improve and maintain the quality of Delaware's ground and surface waters and to meet or exceed federally mandated water quality standards, in the interest of the overall public welfare;
- (2) To establish a certification program that encourages the implementation of best management practices in the generation, handling or land application of nutrients in Delaware; and
- (3) To establish a nutrient management planning program, and
- (4) To formulate a systematic and economically viable nutrient management program which will both maintain agricultural profitability and improve water quality in Delaware.

§ 2202. Definitions.

For the purposes of this chapter:

- (1) 'Agricultural Commodity' means any agricultural product, including, but not limited to plants and animals and plant and animal products, grown, raised or produced within the State for use as food, feed, seed, or any aesthetic, industrial or chemurgic purpose.
- (2) 'Animal unit' shall be as defined by the United States Department of Agriculture.
- (3) 'Applicant' means any person seeking a certificate from the Commission.
- (4) 'Best management practices' means those practices that have been identified as such by the Commission.

- (5) 'Certification' means the recognition by the DNMC that a person has met the qualification standards as established by the DNMC and has been issued a written certificate authorizing them to perform certain functions.
- (6) 'Commercial processor' means an individual, partnership, corporation, association, or other business unit that controls, through contracts, vertical integration, or other means, several stages of production and marketing of any agricultural commodity.
- (7) 'Commission' or 'DNMC' means the Delaware Nutrient Management Commission.
- (8) 'Commissioner' means a member of the DNMC.
- (9) 'Critical area targets' means watersheds, sub-watersheds, or sectors where water quality conditions merit special attention and where resources should be directed and for which incentives should be provided.
- (10) 'Environmental coordinator' means an employee of the Department of Agriculture who acts on behalf of the commission, as a liaison between the commission and persons against whom a complaint for a violation of this chapter or commission regulation has been brought.
- (11) 'Nutrient management plan' or 'plan' means a plan by a certified nutrient consultant to manage the amount, placement, timing, and application of nutrients in order to reduce nutrient loss or runoff and to maintain the productivity of soil when growing agricultural commodities and turfgrass.
- (12) 'Nutrients' means nitrogen, nitrate, phosphorus, organic matter, and any other elements necessary for or helpful to plant growth.
- (13) 'Person' means any individual, partnership, association, fiduciary, corporation or any organized group of persons whether incorporated or not.
- (14) 'Program administrator' or 'NMPA' means the one, exempt employee of the Department of Agriculture who is responsible for the operation of the State Nutrient Management Program.
- (15) 'Secretary' means the Secretary of the Delaware Department of Agriculture or his/her designee.
- (16) 'State nutrient management program' or 'SNMP' means all the program elements developed by the Commission including, but not limited to, establishing critical areas for targeting programs, establishing best management practices to reduce nutrient losses, developing educational and certification programs, nutrient management plan requirements, developing incentive programs that encourage compliance, making recommendations for transportation of nutrients and determining appropriate alternative uses.

Subchapter II. Delaware Nutrient Management Commission.

§ 2220. Delaware Nutrient Management Commission; general powers and duties.

(a) The Delaware Nutrient Management Commission is hereby established. The Commission shall have the power to develop, review, approve and enforce regulations governing the certification of individuals engaged in the business of land application of nutrients and the development of nutrient management plans as set forth in this Chapter. In addition, the Commission shall:

- (1) consider the establishment of critical areas for targeting of other voluntary or regulatory programs;
- (2) establish best management practices to reduce nutrient losses to the environment;
- (3) develop educational and awareness programs designed to voluntarily curtail use of nutrients by persons not otherwise covered by this Chapter;
- (4) consider the development of a transportation and alternative use incentive program to move nutrients from areas with overabundance to areas needing nutrient sources;
- (5) make such other recommendations to the Secretary that it deems important for the furtherance of the goals of this Chapter; and
- (6) establish the elements and general direction of the State Nutrient Management Program.

- (b) The Commission, in carrying out its duties under this Chapter, shall consider comments from affected stakeholders and others interested in the activities of the Commission, including, but not limited to, the University of Delaware and other state and federal agencies, non-profit groups and others with an interest in nutrient management. In addition, the Commission shall consider prior work of the Governor's Agricultural Industry Advisory Committee on Nutrient Management.
- (c) Notwithstanding the foregoing, the Commission shall not hold any person or persons certified pursuant to this Chapter responsible for violations committed by another person.

§ 2221. Adoption of regulations; voting; considerations.

- (a) With the guidance, advice, and consent of the Commission, the Secretary shall, by July 1, 2000, develop and adopt regulations to implement this Chapter. A majority vote of the full Commission shall constitute consent for purposes of this subsection. Regulations shall be adopted in accordance with the provisions of the Delaware Administrative Procedures Act.
- (b) In developing regulations concerning nutrient management planning, the Secretary and the Commission shall consider any waste management planning requirements imposed on animal producers or nutrient users through their commercial processor and shall, to the maximum extent possible, strive to reduce any duplication in effort on the part of the contractor or property owner.
- (c) The Commission may not approve any regulation and the Secretary may not promulgate any regulation that requires tilled lands to be converted for grass filter strips, vegetated and/or forested buffer strips along Delaware's lakes, streams, rivers, ponds, drainage ditches or any other natural or man-made conveyance system.

§ 2222. Composition; appointment; qualifications and term; compensation; vacancies; civil liability.

- (a) The Delaware Nutrient Management Commission shall consist of 15 voting members and 4 ex-officio members. The 15 voting members shall consist of the Director of the Division of Soil and Water Conservation of the Delaware Department of Natural Resources and Environmental Control or his/her designee, 4 members appointed by the Governor, 3 members appointed by the President Pro Tempore of the Senate and 2 members appointed by the Senate Minority Leader, and 3 members appointed by the Speaker of the House and 2 members appointed by the House Minority Leader.
- (b) The 14 appointed members of the Commission shall be residents of the State of Delaware, shall have participated in the industry or organization they represent for at least 5 years, and shall consist of 7 full-time farmers (2 from New Castle County, 2 from Kent County, and 3 from Sussex County), 1 commercial/agricultural nutrient applicator, 1 member of the commercial nursery industry, 1 golf course/lawn care industry representative, 2 members from one or more community based environmental advocacy groups, 1 Nutrient Consultant, and 1 public citizen. The 7 full-time farmers shall further consist of:
 - (1) 1 dairy farmer;
 - (2) 1 swine producer;
 - (3) 3 poultry farmers; and
 - (4) 2 row-crop farmers (1 grain and 1 vegetable).
- (c) The Governor shall appoint 1 farmer from Sussex County, the representatives from the commercial nursery industry, the golf course/lawn care industry, and the public citizen. The Senate shall appoint 3 farmers (1 from each county), the nutrient consultant and one member from a community based environmental group. The House shall appoint 3 farmers (1 from each County) the commercial applicator, and 1 member from a community based environmental advocacy group.
- (d) The Governor shall appoint the Chairman of the Commission from the 7 full time farmers whose duty it will be to call, adjourn, and preside over all Commission meetings.
- (e) The term of office of each appointed member of the Commission shall be 3 years from the 15th day of March in the year of his appointment and until his successor shall qualify.

- (f) Each appointed member of the Commission shall receive compensation of \$100.00 per meeting and shall be entitled to be paid his reasonable expenses for traveling to and from any meeting of the Commission on official business.
- (g) Vacancies in any appointed position on the Commission, for any reason other than the expiration of term of office, shall be filled by the previous appointing authority for the unexpired term of any Commissioner. In each year where there are five appointed positions available, the Governor, the President Pro Tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House, and the Minority Leader of the House shall each appoint one Commissioner to the Commission. In each year where there are four appointed positions available, the Governor shall appoint two Commissioners and the Speaker of the House and the President Pro Tempore of the Senate shall each appoint one Commissioner to the Commission.
- (h) All appointed Commissioners shall remain eligible for reappointment upon the expiration of their term with the exception of the public citizen who may serve only one term, unless rendered ineligible for reappointment by the provisions of this Code or Commission regulations. The public citizen appointment shall be alternated between the three counties.
- (i) Any appointed member of the Commission who misses three consecutive meetings or is otherwise recommended for removal by the Commission, may be removed by the appointing authority.
- (j) Appointed commissioners shall be appointed to their first terms in the following manner:
 - (1) 5 commissioners shall be appointed for a term of one year;
 - (2) 5 commissioners shall be appointed for a term of two years; and
 - (3) 4 commissioners shall be appointed for a term of three years.
 - (4) Thereafter, each appointed commissioner shall be appointed for a term of 3 years.
- (k) The Nutrient Management Program Administrator (NMPA) shall be a full time, exempt State position selected by the Commission and created within the Department of Agriculture who shall act as the administrator of, and be responsible for the operation of, the State Nutrient Management Program.
- (l) The 4 ex-officio members of the Commission shall include the Secretary of the Department of Agriculture, the Secretary of the Department of Natural Resources and Environmental Control, the Secretary of the Department of Health and Social Services, or their respective designees, and the Nutrient Management Program Administrator.
- (m) In any civil action against the Commission, or any of its members, civil liability shall be determined pursuant to the provisions of 10 Del. C. Ch. 40.

Subchapter III. State Nutrient Management Program.

§ 2240. State Nutrient Management Program; powers and duties of the Commission.

The State Nutrient Management Program (SNMP) shall consist of:

- (1) Certification of persons directly involved with the generation or application of nutrients within the State of Delaware as limited by §2241 of this title;
- (2) The development of and implementation of best management practices designed to improve water quality, optimize nutrient use and maintain a profitable agricultural industry in the State;
- (3) Educational programs through which applicants shall be instructed in the best management practices established by the Commission; and
- (4) A method developed by the Commission, and instituted prior to granting of any certificate, to evaluate an applicant's comprehension of the best management practices established by the Commission, and
- (5) Any other program elements instituted by the Commission.

§ 2241. Requirement for certification; classifications.

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- (a) Beginning January 1, 2004, all persons who conduct the following activities shall be duly certified by the Commission in accordance with Commission regulations or shall utilize a duly certified person or firm:
- (1) operate any animal feeding operation in excess of eight animal units, or
 - (2) apply nutrients to lands in excess of 10 acres or waters as a component of a commercial venture or lands that he or she owns, leases, or otherwise controls; or
 - (3) advise or consult with persons required by this chapter to be certified by the Commission.
- (b) The Commission shall establish by regulation the following classifications for certification of nutrient handlers for use in the SNMP:
- (1) Nutrient Generator: a person within the State of Delaware who operates a facility that produces organic or inorganic nutrients;
 - (2) Private Nutrient Handler: A person in this State who applies organic or inorganic nutrients to lands or waters he or she owns, leases, or otherwise controls;
 - (3) Commercial Nutrient Handler: A person in this State who applies organic or inorganic nutrients to lands or waters as a component of a commercial or agricultural business in exchange for a fee or service charge.
 - (4) Nutrient Consultant: A person in this State who is engaged in the activities of advising or consulting regarding the formulation, application, or scheduling of organic or inorganic nutrients within the State of Delaware.
- (c) The Commission may subclassify any certificates described in subsection (b) of this section as necessary. Separate subclassifications may be specified as to the method used by nutrient handlers to apply nutrients, the use of specific quantities or types of nutrients, or any other identifiable characteristics of nutrient management the Commission deems necessary.
- (d) These certification requirements shall not apply to individuals who are performing nutrient application services under the direct supervision of a certified person as a private or commercial nutrient handler.

§ 2242. Certification; applications.

- (a) Applications for certification shall be made to the Commission in writing on a form designated by the Commission.
- (b) The Commission shall develop and approve minimum criteria for certification which shall be included in Regulations promulgated by the Secretary.
- (c) The Commission may establish by regulation a yearly fee not to exceed \$100.00 for each certificate.
- (d) If the Commission finds the applicant qualified to handle nutrients in the classifications he has applied for, the Commission may issue a certificate limited to the classifications for which the applicant is qualified. The Commission may limit the certificate of the applicant based on any subclassification the Commission has established. If a certificate is not issued as applied for, the Commission shall inform the applicant in writing of the reasons therefor.

§ 2243. Same – Denial.

- (a) The Commission may refuse to grant any certificate if the applicant fails to meet the minimum criteria for certification or has been found to have violated this chapter or Commission regulations related to the generation or application of nutrients in this State.
- (b) All decisions of the Commission relating to the denial of a certificate shall be final and conclusive unless the person who was denied a certificate shall appeal that denial pursuant to provisions of § 2262 of this Chapter.

§ 2244. Same; Suspension, modification; revocation.

- (a) The Commission may, after notice and opportunity for a hearing, suspend or modify any certificate granted under this chapter, or fine any person against whom a complaint has been brought, or both, where the Commission has reasonable grounds to believe that the person against whom a complaint has been brought is responsible for any violations of this chapter or Commission regulation. The

Commission shall furnish the person accused of a violation with notice of the time and place of hearing, which notice shall be served personally or by registered mail directly to his place of business or last known address with postage fully paid no sooner than 10 days, but within 21 days of the time fixed for the hearing.

- (b) The Commission may, after notice and opportunity for a hearing, suspend, modify or revoke any certificate granted under this chapter if the person certified has been found guilty of any violation of this chapter or Commission regulations.
- (c) All decisions of the Commission relating to suspension, modification or revocation of a certificate shall be final and conclusive unless the person whose certificate was suspended, modified or revoked appeals according to the provisions of § 2263 of this Chapter.

§ 2245. Same – Renewal.

- (a) The Commission shall establish the length of time that certificates shall remain in full force and effect, and if they are to expire, the procedure for renewal.
- (b) All decisions of the Commission relating to the refusal of the Commission to renew a certificate shall be final and conclusive unless the person whose certificate was not renewed shall appeal pursuant to the provisions of § 2262 of this Chapter.

§ 2246. Commercial Processors.

- (a) On or before July 1, 2000, or prior to commencing operations, each commercial processor operating in the State shall file with the Commission a plan under which the commercial processor either directly or under contract with a third party shall:
 - (1) provide, or assist in providing, technical assistance to growers with whom it contracts on the proper management and storage of waste in accordance with best management practices approved by the Commission;
 - (2) provide, or assist in providing, continuing education programs on proper waste management that is protective of Delaware's environment for the growers with whom it contracts as well as other persons who may handle or utilize such waste;
 - (3) conduct or fund research and demonstration programs that will contribute to improved waste management practices;
 - (4) formulate and implement nutrient reduction strategies that effectively minimize the addition of nutrients to the environment without having adverse health impacts on animals or reduction in the growth of animals; and
 - (5) report annually to the commission on the activities it has undertaken pursuant to its plan and any amendments thereto.
- (c) This section is not to be construed as a mandate to involve commercial processors in farm activities not related to waste management.

§ 2247. Nutrient Management Plans.

- (a) All animal feeding operations with greater than 8 animal units or any person who owns, leases or otherwise controls property in excess of 10 acres upon which nutrients are applied, shall develop and implement a nutrient management plan in accordance with the schedule outlined in this section. All Nutrient Management Plans shall include, but not be limited to:
 - (1) field maps showing reference points (such as buildings, stream, irrigation equipment, etc.) number of acres and soil types;
 - (2) soil and organic waste analyses;
 - (3) current and planned crop rotations;
 - (4) expected yields based on best 4 out of 7 year data or, in the absence thereof, soil productivity charts; and
 - (5) recommended rates, timing and methods of nutrient applications.

- (b) Nutrient management plans shall specify the level of nutrient applications that are needed to attain expected crop yields as defined in (a)(4) above. Applications of phosphorus to high phosphorous soils cannot exceed a 3 year crop removal rate. Nitrogen applications cannot exceed the expected yield, as defined in (a)(4) above of the specific crop.

(c) All animal waste management plans, nutrient management plans and records of implementation shall be kept by the land owner or person responsible for the plans or records. Animal waste management plans, nutrient management plans and records of implementation shall not be considered as public records under the Freedom of Information Act and shall not be disclosed, except however that they shall be made available for inspection by the Delaware Department of Agriculture and the Commission. Records of implementation shall include:

- (1) Soil test results and recommended nutrient application rates,
- (2) Quantities, analyses and sources of nutrients applied,
- (3) dates and methods of nutrient applications,
- (4) Crops planted, yields and crop residues removed, and
- (5) Certification statement, signed by the operator, to document the intention of Nutrient Management and/or Animal Waste Management Plan Implementation.

(d) Nutrient Management Plans shall be updated a minimum of every three years or upon significant alterations in facility operations, or upon a 25% or greater increase in facility operations. Such Plans shall be reported to the Commission no later than December 15th of the year in which it must be updated.

(e) If a person implementing a Nutrient Management Plan intends to store manure, other than in an approved manure storage structure or facility, such outdoor storage shall:

- (1) be reflected in the persons Nutrient Management Plan;
- (2) be at least 100 feet from any body of water or drainage ditch;
- (3) be at least 100 feet from any public road;
- (4) be at least 200 feet from any residence that is not located on the person's property; and
- (5) be at least 6 feet high and in a conical shape.

(f) In situations where persons other than the land owner are responsible for nutrient applications, nutrient management plans as required in this section shall be the responsibility of the person actually managing the application of nutrients to that property.

(g) Upon completion and implementation of a nutrient management plan, the owner/operator/planner shall notify the Commission, within 60 days, of the completion of the plan.

(h) In the event of circumstances that are beyond the control of the person implementing a Nutrient Management Plan pursuant to this section, such person shall notify the Department of any actions he or she intends to take as a result of those circumstances.

(i) In the case of animal feeding operations where no other nutrients are used for farming and the animal waste is not land applied, the operator of the facility may substitute an animal waste management plan for a nutrient management plan. At a minimum, the animal waste management plan shall include:

- (1) information concerning how the waste is stored prior to transport;
- (2) records of where and to whom the animal waste was transported and the amount of such waste; and
- (3) mortality disposal method.

(j) The State shall make nutrient consultants available through the Conservation Districts to provide free nutrient management plans assistance to anyone requesting such assistance. For those persons wishing to hire private Nutrient Consultants, the State, through the Conservation Districts, shall reimburse any person establishing a Nutrient management Plan or updating an established Nutrient Management Plan at a rate and amount that shall be determined annually by the Commission and subject to annual appropriations.

(k) County, municipal and industrial facilities discharging solid or liquid waste and permitted by the Department of Natural Resources and Environmental Control under The Guidance and Regulations Governing the Land Treatment of Wastes, shall be exempt from the provisions of this Act. Provided, however that they provide the Commission with an annual report as required by their land treatment permit.

§2250. Confined Animal Feeding Operations Subject to Clean Water Act Section 402 Requirements

(a) Section 301(a) of the Clean Water Act (CWA) establishes statutory requirements for the discharge of pollutants from point sources to waters of the United States. Under the CWA Section 502(14) and implementing regulations at 40 CFR Section 122.23 and 40 CFR Part 122, Appendix B, and "concentrated animal feeding operations" are point sources subject to the National Pollutant Discharge Elimination System (NPDES) program. Generally, these regulations define a CAFO as an animal feeding operation where more than 1000 animal units are confined at the facility.

(b) Within six months of the enactment of this Act the Secretary, in consultation with the Commission and the Secretary of the Department of Natural Resources and Environmental Control, shall prepare and submit for approval a State NPDES program for Confined Animal Feeding Operations in accordance with 40 CFR Part 123.21 to the Administrator of the U.S. Environmental Protection Agency.

(c) In preparing the State's NPDES program submission for CAFOs, the Secretary shall rely to the maximum extent practicable on the authorities, requirements, and procedures established in this Act. The State NPDES Program submission shall include the following provisions in addition to those specified in this Act:

(1) Each person covered by this section shall develop a nutrient management plan (NMP) which is signed and kept under their control. This NMP shall be developed per §2247 and shall also include, as necessary, the following additional site specific handling and storage considerations: diverting clean water from contacting animal waste or litter; preventing storage, collection, and conveyance systems from leaking organic matter, nutrients, and pathogens to ground or surface water; providing adequate storage to prevent polluted runoff; handling manure and litter to reduce nutrient losses; managing dead animals to protect ground and surface waters; and tillage and crop residue management practices.

(2) The NMP shall be amended per §2247(d) or whenever there is any significant change in the design, construction, or operation which has a significant effect on the potential for the discharge of pollutants to State waters.

(3) NMPs developed under this Subsection shall be made available per §2247(c).

d) Upon approval of the State NPDES program for Confined Animal Feeding Operations, the Secretary shall give first priority to the issuance of statewide or watershed general permits for operations covered by subsection (a). With the guidance, advice and consent of the Commission, the Secretary may use individual NPDES permits for exceptionally large operations, new operations or those undergoing significant expansion, operations with historical compliance problems, or operations with significant environmental concerns.

e) With the guidance, advice and consent of the Commission, the Secretary is hereby authorized to require any person otherwise covered by this Act to apply for and obtain an NPDES permit if that person:

(1) is in significant noncompliance with the provisions of the SNMP; and

(2) there is evidence indicating that person is a significant contributor of a pollutant to waters of the State.

The Secretary shall notify a person in writing that an NPDES permit is required. Such notice shall include a brief statement of the reasons for the decision, an application form, a deadline for submission of the application and a statement regarding the effective date of coverage. A person's obligation to independently seek and secure an NPDES permit is

not conditioned upon or qualified by the Secretary's duty to notify a person that an NPDES permit is required.

Subchapter IV. Complaints, Hearings and Appeals

§ 2260. Complaints; investigations; enforcement.

- (a) The Commission shall establish by regulation a process whereby any person may file a complaint with the Commission against any person for a violation of any of the provisions of this chapter or any regulations promulgated pursuant thereto.
- (b) The Commission shall establish by regulation the procedure for investigating any complaints brought before the Commission and the manner in which those complaints shall be resolved.
- (c) The Commission shall, when requested, keep confidential the names of complainants, and shall not investigate or respond to anonymous complaints.

§ 2261. Hearings; procedural requirements.

- (a) The Commission shall examine all complaints meeting the criteria of §2260(a) brought before it for violations of this chapter or Commission regulations within 60 days of receipt of the complaint. The Commission shall conduct a hearing on any matter that on its face presents a colorable claim that a violation has occurred.
 - (b) Hearings on violations shall be held within 120 days of the date the Commission received a complaint and shall be conducted in the county in which the alleged violation occurred.
 - (c) The Commission shall send 10 days notice of any hearing to all named parties together with a recital of the complaint or issue brought before the Commission. Such notice shall be sent via certified mail and it shall be sufficient to send such notice to the attorneys of those who are represented by counsel.
 - (d) All hearings shall be conducted by the Commission. A record of each shall be kept by the Commission and shall include:
 - (1) A recitation of the evidence before the Commission;
 - (2) the Commission's findings of fact;
 - (3) the Commission's decision; and
 - (4) a brief statement of the reasons therefor.
 - (e) The Commission's decision shall recite:
 - (1) the manner in which the Commission construed the law and applied it to the facts;
 - (2) any remunerative action a violator must take, or has taken;
 - (3) any fine a violator must pay pursuant to Department regulations, and a reference to the applicable regulations; and
 - (4) any revocation, suspension, or modification to any certificate that has occurred.
 - (f) The Commission shall have the power to compel the attendance of witnesses whose testimony is related to the alleged violation under review and the production of records related to the alleged violation under review by filing a praecipe for a subpoena, through the Attorney General or a Deputy Attorney General, with the Prothonotary of any county of this State, such a subpoena to be made by any sheriff of the State; failure to obey said subpoena will be punishable according to the rules of the Superior Court.
 - (g) All decisions of the Commission pursuant to this subsection shall be final and conclusive unless a party to such hearing shall appeal pursuant to the provisions of § 2263 of this Chapter.
- § 2262. Certification Appeals.
- (a) All decisions of the Commission pursuant to § 2243 or § 2245 of this Chapter shall be final and conclusive unless within 15 days after notice thereof, the person who was denied a certificate, or whose certificate was not renewed, shall appeal to the Commission for a hearing on the matter. The Commission shall hold a hearing within 60 days of receipt of the appeal and develop a record on the

case upon which they shall base their decision on the appeal. The Commission may uphold, modify or reverse their decision to issue or renew the certificate.

§2263 Appeals to the Secretary.

(a) All decisions of the Commission pursuant to this Chapter shall be final and conclusive unless within 15 days after notice thereof, the Secretary receives an appeal for a review of any Commission decision. Such appeal shall state the nature of the appeal, the reasons therefor, and the remedy sought. The Secretary may uphold the action of the Commission, remand the decision back to the Commission for further consideration, or repeal the action of the Commission. The Secretary may appoint a hearing officer who shall hold a hearing pursuant to the Administrative Procedures Act. The Secretary shall base his decision solely on the record developed by the Commission at the hearing unless the Secretary finds that additional evidence should be taken. If the Secretary finds that additional evidence should be taken, the Secretary may take the additional evidence or remand the cause to the Commission for completion of the record.

(b) All decisions of the Secretary on appeals brought pursuant to this section shall be final and conclusive unless, within 10 days after notice thereof, a party appeals to the Superior Court of the county in which the violation occurred. In every appeal from a decision of the Secretary, the cause shall be decided by the Court on the record, without aid of the jury; and may affirm, reverse, or modify the Secretary's decision. The findings of fact made below shall not be set aside unless the Court determines that the record contains no substantial evidence that would reasonably support the findings. If the Court finds that additional evidence should be taken, the Court may take the additional evidence or remand the cause to the Secretary for completion of the record. If the Court finds that an error of law has been made, the Court shall reverse or modify the Secretary's decision and render an appropriate judgement.

Subchapter V. Enforcement, Suits for Enforcement, and Incentives.

§ 2280. Enforcement; fines and penalties

(a) Whoever violates this chapter or any rule or regulation duly promulgated thereunder, or any condition of a certificate issued pursuant to this chapter or any order of the Secretary issued pursuant to this Chapter, shall be subject to the following fines and penalties, as well as any other remedy, described elsewhere in this Chapter.

(1) A civil penalty shall be imposed by the Justice of the Peace Court of not less than \$25 nor more than \$1,000 for each violation. Each day of continued violation shall be considered as a separate violation up to a limit of \$10,000. The Justice of the Peace Court shall have jurisdiction of a violation in which a civil penalty is sought. In setting penalty amounts under this section, consideration shall be given to offsetting any economic benefit from noncompliance or any delayed or avoided costs to any person. Further, penalty assessments shall be sufficient to deter recurrence of noncompliance. If there is a substantial likelihood that noncompliance will reoccur, the Commission may recommend that the Secretary also seek a permanent or preliminary injunction or temporary restraining order in the Court of Chancery. Civil penalties imposed under this section may not be suspended.

(2) In its discretion, the Commission may recommend that the Secretary impose an administrative penalty of not more than \$1,000 for each violation. Prior to assessment of an administrative penalty, written notice of the Secretary's proposal to impose such penalty shall be given to the violator and the violator shall have 30 days from receipt of said notice to request a public hearing. Any public hearing, if requested, right of appeal and judicial appeal shall be conducted pursuant to this chapter. Assessment of an administrative penalty shall be determined by the nature, circumstances, extent, and gravity of the violation, or violations, ability of the violator to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation and such other matters as justice may require.

(b) Any expenses or civil administrative penalties collected by the Department of Agriculture under this chapter are hereby appropriated to the Department for use in assisting persons in achieving compliance or to demonstrate the application of research that may be of substantial benefit to many individuals seeking compliance with this chapter.

§ 2281. Suits for Enforcement.

Any person may file suit in Chancery Court for injunctive relief against:

- (a) Any person found pursuant to Section 2260 to have violated this Chapter or regulations promulgated thereunder;
- (b) The Department of Agriculture for any alleged failure to perform any act or duty mandated to the Department under this Chapter; or
- (c) The Commission for any failure to perform any act or duty mandated to the Commission under this Chapter or for failure to enforce the Chapter or regulations promulgated thereunder.

§ 2282. Protection From Enforcement.

The Commission shall establish a list of best management practices for which funding is available from the Department and/or other local, state or federal agencies. Should any person be required under this Chapter or regulations promulgated hereunder to undertake any of the activities for which funding is available and fail to receive funding due to insufficient funds available through those local, state or federal agencies, the Commission shall not begin any enforcement action under §2280 of this Chapter until such funding becomes available. Provided, however that the owner-operator must accept the first available funding after a period of three years dated from nutrient management plan acceptance.

Subchapter VI. Program Reports

§ 2290. Annual reports.

- (a) The Commission shall prepare and submit an annual report of its activities and the environmental results that have accrued during the previous year for the Governor and the General Assembly by the first day of April each year. Each annual report shall include: specific recommendations for incentives to promote best management practices within the industry; a complete list and delineation of all critical areas identified jointly with the Secretary of the Department of Natural Resources and Environmental Control that will be targeted for action and the reasons therefor; a listing of all nutrient management training and education opportunities that were available in the State or within a reasonable travel distance and any records of participation in those events; and best management practices implemented and the amount of acres under nutrient management plans by watershed.
- (c) Each person required to maintain a nutrient management plan or animal waste management plan shall submit to the Commission, by March 1st of every calendar year, on a form developed and supplied by the Commission, a report detailing, at a minimum, the following:
 - (1) The amount of animal wastes applied to the land and the quantity of land it was applied to;
 - (2) The amount of animal wastes transferred for alternative uses (if applicable), and
 - (3) The amount of inorganic fertilizers applied to the land.

All reports submitted under this subsection, shall not be considered public records under Delaware's Freedom Of Information Act and shall not be disclosed. Such data may be used for data compilation."

Section 4. Within 6 months of enactment of this Act, the Department of Agriculture shall develop a comprehensive list of entities and industries within this State who may be required to become certified or required to develop nutrient management plans pursuant to this Act and shall provide such list to the Commission.

Section 5. The Commission shall select, by a random method to be determined by the Commission, those persons who shall report a Nutrient Management Plan to the Commission in the years 2003, 2004, 2005, 2006 and 2007. Except those persons already in possession of nutrient management plans which meet or exceed Commission standards, one fifth (1/5) of these plans shall be reported by January 1, 2003, 1/5 by January 1, 2004, 1/5 by January 1, 2005, 1/5 by January 1, 2006, and 1/5 by January 1, 2007. Contingent upon adequate funding the Commission shall have fully implemented the SNMP by the year 2007.

Section 6. Continuation of the SNMP is dependent upon continued adequate funding.

Section 7. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to the extent the provisions of this Act are severable.

Section 8. This Act shall become effective upon the date of its enactment into law.

Approved June 17,1999

CHAPTER 61

FORMERLY

HOUSE BILL NO. 161

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

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO DEADLY WEAPONS.

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

Section 1. Amend § 1448(a)(4), Title 11 of the Delaware Code, by striking the word "or" as it appears therein as the last word of paragraph (4).

Section 2. Amend § 1448(a), Title 11 of the Delaware Code, by adding thereto two new paragraphs to read:

"(6) Any person who is subject to a Family Court Protection from Abuse order (other than an ex parte order), but only for so long as that order remains in effect or is not vacated or otherwise terminated, except that this paragraph shall not apply to a contested order issued solely upon 10 Del. C. § 1041(1)d., e., or h., or any combination thereof; or (7) Any person who has been convicted in any court of any misdemeanor crime of domestic violence. For purposes of this paragraph, the term 'misdemeanor crime of domestic violence' means any misdemeanor offense that:

(a) was committed by a member of the victim's family, as 'family' is defined in § 901(9) of Title 10 of the Delaware Code (regardless, however, of the state of residence of the parties); by a former spouse of the victim; by a person who co-habitated with the victim at the time of the offense; or by a person with a child in common with the victim; and

(b) is an offense as defined under Title 11, § 601, § 602, § 603, § 611, § 614, § 621, § 625, § 628, § 763, § 765, § 766, § 767, § 781, § 785, or § 791, or any similar offense when committed or prosecuted in another jurisdiction.

Section 3. It is the intent of this Subsection (7) to create a period of prohibition which is not to be extended past five (5) years. Nothing contained in this section is designed to, nor may it be interpreted as, extending the definition of "misdemeanor crime of domestic violence" so as to invoke existing or future federal law so as to cause a person to be a "person prohibited" for a period exceeding that 5-year term, and nothing contained therein may be construed as having that effect.

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. The provisions of Section 2 of this bill shall become effective thirty (30) days after signature by the Governor, and no person shall be deemed to be a 'person prohibited' pursuant to Section 2 of this bill unless the Protection From Abuse Order referred to in the new subsection (6) created by said Section 2 was signed and issued after the effective date of this bill and no person convicted of a misdemeanor offense the type referred to in the new subsection (7) created by Section 2 of this bill shall be a 'person prohibited' unless the conviction for that misdemeanor offense occurred after the effective date of this bill..

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Section 6. Amend § 1441, Title 11 of the Delaware Code, by adding a new subsection (i) thereto to read as follows:

"(I) Notwithstanding anything contained in this section to the contrary, an adult person who, as a successful petitioner seeking relief pursuant to Part D of Subchapter III of Chapter 9, of Title 10 of the Delaware Code, has caused a Protection From Abuse Order containing a firearms prohibition authorized by Section 1045(a)(8) of that part or a firearms prohibition pursuant to Section 1448(a)(6) of Title 11 to be entered against a person for alleged acts of domestic violence as defined in Section 1041 of Title 10 of the Delaware Code, shall be deemed to have shown the necessity for a license to carry a deadly weapon concealed for protection of themselves pursuant to Section 1441 of Title 11. In such cases, all other requirements of subsection (a) of this section must still be satisfied."

Approved June 24, 1999

CHAPTER 62

FORMERLY

HOUSE BILL NO. 46
AS AMENDED BY HOUSE AMENDMENT NO. 2 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO DOMESTIC VIOLENCE.

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

Section 1. Amend Chapter 39, Title 11 of the Delaware Code, by adding a new section which shall read as follows:

"§ 3906. Domestic Violence Offenses.

The sentence for a second conviction for any crime or attempt to commit any crime hereinafter specifically named when such crime is committed by a member of the victim's family as defined by §901(9) of Title 10, regardless of the state of residence of the parties; by a former spouse of the victim; by a person who cohabited with the victim at the time of the offense; or by a person with a child in common with the victim shall include completion of a psychosocial assessment. Such crimes shall be:

- (1) any offense set forth in subchapter II of chapter 5 of Title 11 of this Code;
- (2) any offense set forth in subparts A and B of subchapter III of Title 11 of this Code;
- (3) any offense set forth in subpart A of subchapter V of Title 11 of this Code;
- (4) any offense set forth in sections 1301, 1311, 1312 or 1312A of Title 11 of this Code, administered by any agency or batterer's intervention treatment provider certified by the Domestic Violence Coordinating Council, and adherence to all recommendations made in the completed assessment. The court shall impose any other appropriate legal sanction, including fines or incarceration, along with the required completion of the assessment.

Nothing in this section shall be construed to preclude a court from mandating this treatment in any first offense situation."

Approved June 24, 1999

CHAPTER 63

FORMERLY

SENATE BILL NO. 99

AN ACT TO AMEND TITLES 10 AND 11 OF THE DELAWARE CODE RELATING TO DOMESTIC VIOLENCE PROTECTIVE ORDERS.

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

Section 1. Amend §1271A of Title 11 of the Delaware Code by striking the section in its entirety and substituting the following therefor:

"§1271A. Criminal Contempt of a Domestic Violence Protective Order; class A misdemeanor.

(a) A person is guilty of criminal contempt of a domestic violence protective order when the person knowingly violates or fails to obey any provision of a protective order issued by the Family Court or a court of any State, Territory, or Indian Nation in the United States.

(b) Criminal contempt of a domestic violence protective order is a class A misdemeanor.

(c) A person found guilty of criminal contempt of a domestic violence protective order shall receive a minimum sentence of 15 days incarceration if:

(1) Such contempt resulted in physical injury; or

(2) Such contempt involved the use or threatened use of a deadly weapon; or

(3) The defendant was convicted of criminal contempt of a domestic violence protective order under this section on 2 or more occasions prior to this violation.

(d) The 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."

Section 2. Amend §1904(a)(5) of Title 11 of the Delaware Code by adding after the words "Family Court" the phrase "or a court of any State, Territory, or Indian Nation in the United States".

Section 3. Amend §1046(b) of Title 10 of the Delaware Code by deleting the second sentence thereof.

Section 4. Amend §1046(c) of Title 10 of the Delaware Code by deleting the subsection in its entirety and substituting in lieu thereof the following:

"(c) It shall be the duty of any law enforcement officer to arrest with or without a warrant any person whom the officer has probable cause to believe has violated a protective order issued by the Family Court or a court of any State, Territory or Indian Nation in the United States, and of which the person arrested has notice or knowledge. Probable cause for arrest may be established by a good faith reliance on information contained in DELJIS or on the existence of a foreign protective order. If an officer acts in good faith upon information contained in DELJIS or on reasonable belief in the existence of a domestic or foreign protective order, the officer shall be immune from suit. The person arrested shall be immediately taken before the Family Court. If the Family Court is not in session, the arrested person shall be taken before the nearest justice of the peace until bail is fixed. If bail is fixed the justice of the peace or judge shall take into consideration in determining the amount of bail whether the defendant has previously violated an existing protective order."

Approved June 24, 1999

CHAPTER 64

FORMERLY

SENATE BILL NO. 74

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HEALTH PLANNING AND
RESOURCES MANAGEMENT.

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

Section 1. Amend Chapter 93, Title 16 of the Delaware Code by striking all references to "Certificate of Need" and substituting in lieu thereof "Certificate of Public Review".

Section 2. Amend §9301, Chapter 93, Title 16 of the Delaware Code by striking §9301 in its entirety and substituting in lieu thereof the following:

"§9301. Purpose

It is the purpose of this chapter to assure that there is continuing public scrutiny of certain health care developments which could negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent. This public scrutiny is to be focused on balancing concerns for cost, access and quality."

Section 3. Amend the first sentence of §9302(4), Chapter 93, Title 16, of the Delaware Code, by striking the "," between the phrases "freestanding surgical center" and "freestanding emergency center" and substituting in lieu thereof the word "and" and by striking "prescribed pediatric extended care center, medical detoxification setting, blood bank, kidney disease treatment center and alcoholism rehabilitation facility".

Section 4. Amend §9302(4) by striking from the listing of health care facilities, items f, g, h, i and j.

Section 5. Amend §9302(6), Chapter 93, Title 16 of the Delaware Code by striking "\$1,500,000 increasing to \$3,000,000 effective January 1, 1998" and substituting in lieu thereof "\$5,000,000" and by striking the sentence, "Prior to such designation of medical technology by the Board, medical technology previously designated by the Health Resources Management Council shall continue to be subject to review."

Section 6. Amend §9303(b), Chapter 93, Title 16 of the Delaware Code by striking the sentence, "Members shall serve no more than 2 full terms consecutively.", and by further amending §9303(b) by striking "Association of Delaware Hospitals" and substituting in lieu thereof "Delaware Healthcare Association".

Section 7. Amend §9303(d)(2), Chapter 93, Title 16 of the Delaware Code by inserting after the "," the sentence, "Decisions shall reflect the importance of assuring that health care developments do not negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent."

Section 8. Amend §9304, Chapter 93, Title 16 of the Delaware Code by striking subdivision (1) in its entirety and substituting in lieu thereof the following:

"(1) The construction, development or other establishment of a health care facility or the acquisition of a nonprofit health care facility;

Section 9. Amend §9304(2), Chapter 93, Title 16 of the Delaware Code by striking "\$1,500,000 increasing to \$3,000,000 effective January 1, 1998" wherever it appears and substituting in lieu thereof "\$5,000,000".

Section 10. Amend §9304(2) by inserting immediately after the first ",", the sentence, "A capital expenditure for purposes of constructing, developing or otherwise establishing a medical office building shall not be subject to review under this Chapter."

Section 11. Amend §9304(4), Chapter 93, Title 16 of the Delaware Code by inserting immediately after the first "," the sentence, "The replacement of major medical equipment with similar equipment shall not be subject to review under this chapter."

Section 12. Amend the first sentence of §9309(b), Chapter 93, Title 16 of the Delaware Code by inserting after the ",", the phrase "failure to comply with conditions established by the Board pursuant to §9303(d)(2) of this title."

Section 13. Amend §9311, Chapter 93, Title 16 of the Delaware Code by striking "June 30, 1999" and substituting in lieu thereof, "June 30, 2002".

Section 14. Continuity.

Any application for which a decision is pending on the effective date of this Act shall continue to be reviewed in accordance with the previously established time limitations. Any holder of a Certificate of Need issued under the provisions of this Chapter shall have the same rights and obligations as if holding a Certificate of public Review issued pursuant to this Act.

Section 15. Severability.

If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgement shall not impair, invalidate or affect the remainder of this Act which shall remain in full force and effect.

Approved June 24, 1999

CHAPTER 65

FORMERLY

SENATE BILL NO. 114

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO NOTARIES PUBLIC.

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

Section 1. Amend §4306, Title 29, Delaware Code, by deleting the text of this section in its entirety and inserting in lieu thereof:

"Notaries public shall be commissioned for the term of 2 years. The fee for a 2-year term is \$50. Any notary public who wishes to renew his or her commission may request a 2-year reappointment for \$50 or a 4-year reappointment for \$75. In addition, there is a \$3 charge per term for use of the Great Seal which is affixed to the Notary Public Commission from the Governor pursuant to §2315 of Title 29 of the Delaware Code."

Section 2. Amend §4309, Title 29, Delaware Code, by deleting subsection (a) in its entirety and inserting in lieu thereof:

"(a) The seal required by §4308 of this title shall be used in the transaction of official business by notaries public. Each notary public shall provide, keep and use a seal that is either an engraved embossed seal or a black inked rubber stamp seal to be used on the document being notarized. The seal shall contain the notary's name exactly as it appears on the commission, the words "My Commission expires on" and the commission expiration date and the words "Notary Public" and "State of Delaware".

Section 3. Amend §4310 (a), Title 29, Delaware Code, by striking subsection (a) in its entirety and inserting in lieu thereof the following:

"(a) The maximum fee any notary public can charge for any notarial act is \$5."

Section 4. Amend §4310 (b), Title 29, Delaware Code, by deleting the word "minimum" and inserting in lieu thereof the word "maximum".

Section 5. Amend §4310 (c), Title 29, Delaware Code, by striking subsection (c) in its entirety and inserting in lieu thereof the following:

"(c) Any notary public may choose to waive any fee for any notarial act."

Section 6. Amend §4310, Title 29, Delaware Code, by deleting subsections (d) and (e) in their entirety.

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Section 7. Amend §4311, Title 29, Delaware Code, by deleting it in its entirety.

Section 8. Amend §4321, Title 29, Delaware Code, by deleting this section in its entirety and inserting in lieu thereof the following:

"As used in this chapter:

- (1) 'Acknowledgment' shall mean a statement by a person that the person has executed an instrument for the purposes stated therein. If the instrument is executed in a representative capacity, an acknowledgement certifies that the person who signed the instrument did so with proper authority and executed the instrument as the act of the person or entity stated therein.
- (2) 'Affirmation' shall mean a promise of truthfulness that is a solemn, spoken pledge on one's own, personal honor without reference to a Supreme Being.
- (3) 'Identification Document' shall mean a current identifying instrument that contains the following elements:
 - (a) The signer's photograph;
 - (b) The signer's personal description and signature;
 - (c) An official seal; and
 - (d) An identifying number.
- (4) 'Notarial Act' shall mean any act that a notary public of this State is authorized to perform and includes:
 - (a) Taking an acknowledgement;
 - (b) Administering an oath or affirmation;
 - (c) Taking a verification upon oath or affirmation;
 - (d) Witnessing or attesting a signature;
 - (e) Certifying or attesting a copy;
 - (f) Noting a protest of a negotiable instrument.
- (5) 'Notarial Officer' shall mean a notary public or any other officer authorized to perform notarial acts.
- (6) 'Oath' shall mean a promise of truthfulness that is a solemn, spoken pledge to a Supreme Being.
- (7) 'Prima-Facie Evidence' shall mean evidence that would, if uncontested, establish a fact or raise a presumption of a fact.
- (8) 'Representative Capacity' shall mean:
 - (a) For and on behalf of a corporation, partnership, trust or other entity as an authorized officer, agent, partner or other representative;
 - (b) As a public officer, personal representative, guardian or other representative in the capacity recited in the instrument;
 - (c) As an attorney in fact for a principal; or
 - (d) In any other capacity as an authorized representative of another.
- (9) 'Verification upon oath or affirmation' shall mean a statement by a person who asserts that the statement is true and makes the assertion upon oath or affirmation."

Section 9. Amend §4322 (d), Title 29, Delaware Code, by deleting the words "or other item, the notarial officer must determine that the proffered copy is a full, true and accurate transcription or reproduction of that which was copied" and inserting in lieu thereof the words "the notary public must supervise the making of a photocopy of an original document and shall attest to the authenticity of such copy. Notaries public, however, shall not attest to copies of official or public records, only of documents that cannot be certified by a public official."

Section 10. If any provision of this Act or the application of any section or part thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this Act that can be given effect without the invalid provision or application.

Approved June 24, 1999

CHAPTER 66

FORMERLY

SENATE BILL NO. 102

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO DOMESTIC VIOLENCE
COORDINATING COUNCIL MEMBERSHIP AND REPORTING REQUIREMENTS.

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

Section 1. Amend §2102 of Title 13 of the Delaware Code by striking the section in its entirety and substituting the following therefor:

"§2102. Composition.

The Council shall consist of 16 members as follows:

- (1) The Chief Judge of the Family Court;
- (2) One member of the House of Representatives appointed by the Speaker of the House of Representatives;
- (3) One member of the Senate appointed by the President Pro Tempore of the Senate;
- (4) the Attorney General;
- (5) the Public Defender;
- (6) A cabinet level official designated by the Governor;
- (7) A representative of the law enforcement community appointed by the Secretary of the Department of Public Safety;
- (8) The Chairperson of the Domestic Violence Task force of the Delaware Commission for Women;
- (9) A representative of the health care community designated by the Board of Medical Practice;
- (10) The president Judge of the Superior Court;
- (11) An at large member representing the advocacy community appointed by the Commission on Family Law;
- (12) The Commissioner of the Department of Correction;
- (13) The Director of the Division of Family Services;
- (14) Three at large members elected by the Council at the first meeting of each calendar year."

Section 2. Amend §2104(g) of Title 13 of the Delaware Code by striking "March" as it appears therein and by inserting in lieu thereof "September".

Approved June 24, 1999

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CHAPTER 67

FORMERLY

HOUSE BILL NO. 118

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO MILEAGE RATES FOR PRIVATE VEHICLES.

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

Section 1. Amend § 7102, Title 29 of the Delaware Code, by striking the language "25 cents per mile" as it appears therein, and by inserting in lieu thereof:

"28 cents per mile effective July 1, 1999; 31 cents per mile effective July 1, 2000."

Approved June 21, 1999

CHAPTER 68

FORMERLY

HOUSE BILL NO. 97

AN ACT TO AMEND CHAPTER 174, VOLUME 71, LAWS OF DELAWARE RELATING TO THE BOOT CAMP INMATE TRAINING PROGRAM.

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

Section 1. Amend Section 5, Chapter 174, Volume 71, Laws of Delaware by striking said section in its entirety.

Section 2. All other provisions of Chapter 174, Volume 71, Laws of Delaware are hereby re-enacted and re-established.

Approved June 25, 1999

CHAPTER 69

FORMERLY

HOUSE BILL NO. 73
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 4 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SALE AND DISTRIBUTION OF TOBACCO PRODUCTS.

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

Section 1. Amend § 1123, Title 11, Delaware Code by deleting that section in its entirety and replacing it as follows:

"(a) If a sale or distribution of any tobacco product or coupon is made in violation of § 1116, § 1118, § 1119, or § 1120 of this title, the owner, proprietor, franchisee, store manager or other person in charge of the establishment where the violation occurred shall be guilty of the violation and shall be subject to the fine only if the

retail licensee has received written notice of the provisions of Sections 1116 through 1121 of this Title by the Department of Public Safety. For purposes of determining the liability of a person who owns or controls franchises or business operations in multiple locations, for a second or subsequent violation of this subpart, each individual franchise or business location shall be deemed a separate establishment.

(b) Notwithstanding any other provision of this subpart, in any prosecution for a violation of §§ 1116, 1118, and 1120, the owner, proprietor, franchisee, store manager or other person in charge of the establishment where the alleged violation occurred shall have an affirmative defense if such person or entity can establish that prior to the date of the violation:

- (1) Had adopted and enforced a written policy against selling tobacco products to persons under 18 years of age;
- (2) Had informed its employees of the applicable laws regarding the sale of tobacco products to persons under 18 years of age;
- (3) Required employees to sign a form indicating that they have been informed of and understand the written policy required herein;
- (4) Required employees to verify the age of tobacco product customers by means of photographic identification; and
- (5) Had established and enforced disciplinary sanctions for noncompliance.

(c) The affirmative defense established in subsection (b) may be used by an owner, proprietor, franchisee, store manager or other person in charge of the establishment no more than twice at each location within any twelve-month period."

Approved June 23,1999

CHAPTER 70

FORMERLY

HOUSE BILL NO. 53

AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE DISCLOSURE OF RECORDS.

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

Section 1. Amend § 3110, Title 16 of the Delaware Code, by adding thereto a new subsection, designated as subsection (g), to read as follows:

"(g) The State Registrar of Vital Statistics shall submit a monthly report of all births to women under 16 years of age to the Division of Child Support Enforcement of the Department of Health and Social Services, and to the Division of Family Services of the Department of Services for Children, Youth and Their Families for informational, investigative and/or child support purposes. The monthly report shall include the name, address, date of birth, and Social Security number of the mother and father, if available, the date of birth and sex of the child."

Approved June 25,1999

CHAPTER 71

FORMERLY

HOUSE BILL NO. 48
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 15, DELAWARE CODE RELATING TO VOTER REGISTRATION
INFORMATION.

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

Section 1. Amend § 1302, Title 15 of the Delaware Code, by renumbering paragraphs (5) through (13) as (6) through (14), and by adding a new paragraph (5) to read as follows:

"(5) The applicant's home telephone number; provided, however, that the provision of a telephone number shall be annotated on the form as being optional, and no application shall be rejected for lack thereof. Any registered voter may have his/her telephone number removed from the electronic voter registration files by making the request of his/her local Department of Elections, either by telephone or in writing."

Section 2. Amend § 1305, Title 15 of the Delaware Code, by adding the following new paragraph at the end thereof:

"The department shall, upon request, provide lists of registered voters, as determined by the Commissioner of Elections, at no cost, that shall include relevant voter registration information, including phone numbers previously obtained through the voter registration process, to (1) any candidate for election who has qualified to appear on the upcoming primary or general election ballot and/or (2) any member of his or her candidate committee. Any registered voter may have his/her telephone number removed from the electronic voter registration files by making the request of his/her local Department of Elections, either by telephone or in writing."

Approved June 28, 1999

CHAPTER 72

FORMERLY

HOUSE BILL NO. 179
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 2 OF THE DELAWARE CODE RELATING TO THE POWERS OF THE
DELAWARE TRANSPORTATION AUTHORITY.

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

Section 1. Amend Section 1309(28)(b), Title 2 of the Delaware Code by deleting the phrase "after a public hearing (except in the case of changes in schedules or routes for a period not exceeding 30 days) and without approval of the Public Service Commission or any other agency of the State, schedules, routes, rates, or fares, and charges for the use of public transportation services furnished or operated by the Delaware Transit Corporation pursuant to this chapter" appearing therein, and inserting in lieu thereof the following:

"without approval of the Public Service Commission or any other agency or political subdivision of the State, schedules, routes, rates, or fares, and charges for use of public transportation services furnished or operated by the Delaware Transit Corporation ('Corporation') pursuant to this chapter subject to the following provisions:

1. The Corporation will provide an opportunity for a public hearing or public meeting whenever it proposes either to increase the basic fare structure or a major reduction in service (defined herein as affecting 15 percent or more of the ridership within the county for which the reduction is proposed, or at least 15 percent of the service miles currently operating in the affected county, or at least 25 percent of the revenue service trips of any one route). The Corporation shall publish a legal notice in two newspapers of general circulation announcing the opportunity for a public hearing or public meeting at least 20 days prior to any such proposed public hearing or meeting, as well as post on-board passenger notices of the proposed changes, directing those interested to the location where the details of the proposals can be reviewed. A verbatim transcript will be made of all comments made for the record at any such public hearing or meeting. The Corporation must first review this transcript and all other received comments before it makes a final decision whether to approve such proposals, make an adjustment in such proposals to respond to received public comments, or reject such proposals.

2. For other changes not subject to subsection 1. Hereof, including by way of example and not by limitation adjustments to running times to reflect current travel times, decreases in fares, or additions to service, at least two weeks prior to the implementation date the Corporation shall publish statewide a legal notice in at least one newspaper of general circulation, as well as post on-board passenger notices of the proposed changes on all normally scheduled bus service, directing those interested to the location where the details of the proposals can be reviewed and where comments concerning the change can be sent.

3. No public comment period shall be required when making a change in service to avoid hazardous or potentially hazardous conditions that may exist along a route, or to initiate a temporary service or customer benefit for a defined period or for a service that is designed to change its routing and pick-up times with fluctuating demands."

Section 2. Amend Section 1309(28)c., Title 2, Delaware Code, by inserting the following between the word "services" and the semicolon (";") appearing at the end of said subsection:

"; provided that no reduction in service area, span of service hours, increase in basic fares, or changes in rules (not mandated by federal regulations) on eligibility that would reduce the ability of those that qualify as being disabled by reason of physical or mental infirmity from utilizing available specialized transportation (except in cases where the individual engages in violent, seriously disruptive, or illegal conduct) shall be implemented by the Corporation without first providing an opportunity for a public hearing or public meeting; further provided that all such public hearings or public meetings shall be preceded by the Corporation publishing a legal notice in two newspapers of general circulation announcing the opportunity for a public hearing or public meeting at least 20 days prior to such proposed public hearing or meeting, as well as posting on-board passenger notices of the proposed changes, directing those interested to the location where all details of the proposal can be reviewed; and further provided that a verbatim transcript shall be made of all comments made for the record at any such public hearings or meetings, and that the transcript and all other received comments shall be reviewed by the Corporation prior to making a final decision on whether to approve such proposals, make an adjustment in such proposals that respond to received public comments, or reject such proposals."

Approved June 28, 1999

CHAPTER 73
FORMERLY
HOUSE BILL NO. 203

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKER'S COMPENSATION.

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

Section 1. Amend Title 19, Section 2301(15) by adding the following as subpart (c) to wit:

"c. Shall, however, cover any personal injury to an off-duty employee of the State of Delaware who demonstrates by a preponderance of the evidence that the injury was the result of an intentional act by a person associated with the employee in that employee's official capacity who committed the act because of that association. It is an affirmative defense in the case of an off-duty injury that the injured employee initiated the incident that resulted in the injury."

Approved June 28,1999

CHAPTER 74
FORMERLY
HOUSE BILL NO. 13

AN ACT TO AMEND TITLE 28, DELAWARE CODE RELATING TO THE DELAWARE STANDARD BRED DEVELOPMENT FUND.

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

Section 1. Amend Chapter 5, Title 28 of the Delaware Code by deleting Subchapter V. in its entirety.

Approved June 28,999

CHAPTER 75
FORMERLY
HOUSE BILL NO. 63

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

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 § 1325, Title 11 of the Delaware Code, by adding the following sentence after the existing subparagraph (a)(3):

"By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal's own excrement is not removed from the animal's living area and/or other living conditions which are injurious to the animal's health."

Approved June 28,1999

CHAPTER 76

FORMERLY

HOUSE BILL NO. 142
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21 OF TITLE 29 OF THE DELAWARE CODE RELATING TO THE GOVERNOR'S AUTHORITY TO PROCLAIM SPECIAL DAYS.

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

Section 1. Amend Title 29, Chapter 21 of the Delaware Code, by adding a new section to be titled "Correctional Officers and Employees Recognition and Appreciation Week", and stating as follows:

"The Governor may issue annually a proclamation designating the first week in May as Correctional Officers and Employees Recognition and Appreciation Week and calling upon State officials to display the United States flag on all State and school buildings, and the people of this State to display the flag at their homes, lodges, churches and places of business and other suitable places as a public expression of recognition and appreciation for those in our State who have dedicated their lives to protecting the rights of the public to be safeguarded from criminal activity and who are responsible for the care, custody, and dignity of human beings in their charge."

Approved June 28, 1999

CHAPTER 77

FORMERLY

HOUSE BILL NO. 164

AN ACT TO AMEND TITLE 10 AND TITLE 31 OF THE DELAWARE CODE RELATING TO PROCEEDINGS IN THE INTEREST OF A CHILD AND CHILD WELFARE.

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

Section 1. Amend § 1009(b)(3) of Title 10 by adding the following at the end of the current § 1009(b)(3) before the semicolon (;) and after the word "Families":

" However, if and only if the following conditions are met, the Court shall not order the Department of Services for Children Youth and Their Families ('DSCYF') to perform an evaluation and report on investigation of the child's placement:

(i) When the child is placed in a home of an 'adult individual' who fails to meet the definition of relative in § 901(13) of Title 10 but the 'adult individual' is by marriage, blood, or adoption the child's great grandparent, stepgrandparent, great uncle or aunt, half brother or sister, stepbrother or sister, stepparent, stepuncle or aunt to the extent not already included in the definition of relative, or first cousin once removed;

(ii) When DSCYF has not currently filed for custody of the child on the basis of dependency or neglect and DSCYF does not plan to;

(iii) When there have been no allegations of abuse or neglect with respect to the child regarding the 'adult individual' with whom the child is placed;

(iv) When DSCYF is not currently a party to a custody or visitation dispute regarding the child;

(v) When DSCYF does not hold or seek custody of the child; and

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(vi) When the child meets the definition of dependent child solely because the child has been placed on a permanent basis in the home of an 'adult individual' as described in subsection (b)(3)(i) above and has been placed with such individual without the consent and approval of DSCYF".

Section 2. Amend Section 351 of Title 31 by adding the following at the end of the second paragraph:

"Also, this section shall not apply to and the Department of Services for Children Youth and Their Families shall not be required to give its consent, in written or otherwise, for the placement of a dependent child if and only if the following conditions are met:

1. When the child is placed in a home of an 'adult individual' who fails to meet the definition of relative in § 901(13) of Title 10 but the 'adult individual' is by marriage, blood, or adoption the child's great grandparent, stepgrandparent, great uncle or aunt, half brother or sister, stepbrother or sister, stepparent, stepuncle or aunt to the extent not already included in the definition of relative, or first cousin once removed;

2. When DSCYF has not currently filed for custody of the child on the basis of dependency or neglect and DSCYF does not plan to;

3. When there have been no allegations of abuse or neglect with respect to the child regarding the 'adult individual' with whom the child is placed;

4. When DSCYF is not currently a party to a custody or visitation dispute regarding the child;

5. When DSCYF does not hold or seek custody of the child; and

6. When the child meets the definition of dependent child solely because the child has been placed on a permanent basis in the home of an 'adult individual' as described above and has been placed with such individual without the consent and approval of DSCYF."

Approved June 28,1999

CHAPTER 78

FORMERLY

HOUSE BILL NO. 229

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO LIENS.

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

Section 1. Amend Subchapter XIV, Chapter 49, Title 10 of the Delaware Code by adding thereto a new section, designated as § 5095, which shall read as follows:

"§ 5095. Mistaken Identity of Judgment Debtor

Where a judgment is entered upon the wrong person by any Court by reason of mistaken identity, that person shall at anytime after the entry be permitted to petition the Court that entered the judgment to challenge the validity of the judgment entered against him. If the court determines that a judgment against such person was erroneously entered, the court shall issue an order correcting the error in whatever manner it deems appropriate to correct the mistake, including the release of any liens against real estate and personal property."

Approved June 28,1999

CHAPTER 79

FORMERLY

SENATE BILL NO. 16

AN ACT TO AMEND CHAPTER 23, TITLE 19 OF THE DELAWARE CODE RELATING TO THE WORKERS' COMPENSATION FUND.

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

Section 1. Amend Section 2396(b), Title 19, Delaware Code by deleting the existing second sentence and adding after the first sentence a new second sentence to read as follows:

"The Fund shall be a party to and shall be represented by a Deputy Attorney General in any proceeding involving possible reimbursement to or from the Fund, and if the decision is against the Fund, the Fund may secure judicial review thereof by commencing an action in Superior Court in the county in which the hearing was held."

Approved June 25,1999

CHAPTER 80

FORMERLY

SENATE BILL NO. 17

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO ADMINISTRATIVE ASSESSMENTS.

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

Section 1. Amend Chapter 23 of Title 19, Delaware Code by striking §2392(c)(4) in its entirety and substituting a new sub-section which shall read as follows:

"(4) A portion of the Division of Industrial Affairs' administration costs which shall be computed by first adding paragraphs (1), (2) and (3) of this subsection set forth immediately above; this sum shall then be divided by the amount of all expenses of the Division of Industrial Affairs; the quotient yielded shall be set forth as a percentage rate which shall then be multiplied by the total expenses of the administrative function of the Division of Industrial Affairs, and the product shall be the portion of the Division's administration costs.

In determining these expenses, the Division of Industrial Affairs shall include in addition to the direct cost of personal service, the cost of maintenance and operation, the cost of retirement contributions made and workers' compensation premiums paid by the State for and on account of personnel, rentals for space occupied in state-owned or state-leased buildings and all other direct and indirect costs incurred during the preceding calendar year. An itemized statement of the expenses so ascertained shall be open to public inspection in the office of the Department from January 16 to January 31 and from July 16 to July 31 at which time any insurance carrier may challenge said amount of expenses. An appeal of said expenses must be made in writing and received by the Secretary of Labor within five days of the closing date of the inspection period. The Secretary or his/her designee shall render a decision of the appeal in writing."

Approved June 25,1999

CHAPTER 81

FORMERLY

SENATE BILL NO. 35

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE COLLECTION OF ENROLLMENT INFORMATION.

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

Section 1. Amend §2704(a), Title 14, Delaware Code by inserting the words "which includes homeschools and homeschool associations" after the words "private schools," as they appear therein.

Approved June 25, 1999

CHAPTER 82

FORMERLY

SENATE BILL NO. 68

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO SOLEMNIZATION OF MARRIAGES.

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

Section 1. Amend §106(a), Title 13, Delaware Code by inserting between "religion," and "members" the following: "current and former".

Approved June 25, 1999

CHAPTER 83

FORMERLY

SENATE BILL NO. 103

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMINAL JURISDICTION OF JUSTICE OF THE PEACE COURTS.

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

Section 1. Amend §2702(42), Title 11, Delaware Code by deleting "; class A misdemeanor)" as it appears therein and by inserting in lieu thereof the following:

") only if punishable as a class A misdemeanor".

Approved June 25, 1999

CHAPTER 79

FORMERLY

SENATE BILL NO. 16

AN ACT TO AMEND CHAPTER 23, TITLE 19 OF THE DELAWARE CODE RELATING TO THE WORKERS' COMPENSATION FUND.

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

Section 1. Amend Section 2396(b), Title 19, Delaware Code by deleting the existing second sentence and adding after the first sentence a new second sentence to read as follows:

"The Fund shall be a party to and shall be represented by a Deputy Attorney General in any proceeding involving possible reimbursement to or from the Fund, and if the decision is against the Fund, the Fund may secure judicial review thereof by commencing an action in Superior Court in the county in which the hearing was held."

Approved June 25, 1999

CHAPTER 80

FORMERLY

SENATE BILL NO. 17

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO ADMINISTRATIVE ASSESSMENTS.

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

Section 1. Amend Chapter 23 of Title 19, Delaware Code by striking §2392(c)(4) in its entirety and substituting a new sub-section which shall read as follows:

"(4) A portion of the Division of Industrial Affairs' administration costs which shall be computed by first adding paragraphs (1), (2) and (3) of this subsection set forth immediately above; this sum shall then be divided by the amount of all expenses of the Division of Industrial Affairs; the quotient yielded shall be set forth as a percentage rate which shall then be multiplied by the total expenses of the administrative function of the Division of Industrial Affairs, and the product shall be the portion of the Division's administration costs.

In determining these expenses, the Division of Industrial Affairs shall include in addition to the direct cost of personal service, the cost of maintenance and operation, the cost of retirement contributions made and workers' compensation premiums paid by the State for and on account of personnel, rentals for space occupied in state-owned or state-leased buildings and all other direct and indirect costs incurred during the preceding calendar year. An itemized statement of the expenses so ascertained shall be open to public inspection in the office of the Department from January 16 to January 31 and from July 16 to July 31 at which time any insurance carrier may challenge said amount of expenses. An appeal of said expenses must be made in writing and received by the Secretary of Labor within five days of the closing date of the inspection period. The Secretary or his/her designee shall render a decision of the appeal in writing."

Approved June 25, 1999

CHAPTER 81

FORMERLY

SENATE BILL NO. 35

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE COLLECTION OF ENROLLMENT INFORMATION.

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

Section 1. Amend §2704(a), Title 14, Delaware Code by inserting the words "which includes homeschools and homeschool associations" after the words "private schools," as they appear therein.

Approved June 25,1999

CHAPTER 82

FORMERLY

SENATE BILL NO. 68

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO SOLEMNIZATION OF MARRIAGES.

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

Section 1. Amend §106(a), Title 13, Delaware Code by inserting between "religion," and "members" the following: "current and former".

Approved June 25,1999

CHAPTER 83

FORMERLY

SENATE BILL NO. 103

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMINAL JURISDICTION OF JUSTICE OF THE PEACE COURTS.

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

Section 1. Amend §2702(42), Title 11, Delaware Code by deleting "; class A misdemeanor)" as it appears therein and by inserting in lieu thereof the following:

") only if punishable as a class A misdemeanor".

Approved June 25,1999

CHAPTER 84

FORMERLY

SENATE BILL NO. 14

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO BRAKE FLUIDS.

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

Section 1. Amend Chapter 43, Title 21, Delaware Code by striking Subchapter V thereof in its entirety.

Approved June 25,1999

CHAPTER 85

FORMERLY

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

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO MILEAGE REIMBURSEMENT FOR EMPLOYEES.

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

Section 1. An Act to amend 19 Del.C. §2322 by adding a new subsection (g) as follows:

"(g) An employee shall be entitled to mileage reimbursement in an amount equal to the State of Delaware specified mileage allowance rate in effect at the time of travel, for travel to obtain:

(1) Reasonable surgical, medical, dental, optometric, chiropractic, and hospital services; and

(2) Medicine and supplies, including repairing and replacing damaged dentures, false eyes or eyeglasses, and providing hearing aids and prosthetic devices."

Approved June 28,1999

CHAPTER 86

FORMERLY

SENATE BILL NO. 95

AN ACT TO AMEND THE CHARTER OF THE TOWN OF MILLSBORO, CHAPTER 457, VOLUME 60, LAWS OF DELAWARE, AS AMENDED, ENTITLE "AN ACT TO REINCORPORATE THE TOWN OF MILLSBORO", TO CORRECT AN ERROR AND TO CLARIFY BY ADDING AUTHORIZATION TO COLLECT PENALTIES AND INTEREST ON DELINQUENT 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 28(e), of Chapter 457, volume 60, Laws of Delaware, as amended, by adding the following after the second sentence thereof:

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"On all taxes paid on or after the expiration of ninety (90) days next succeeding the delivery of the duplicate Annual tax List to the Town Manager, there shall be added interest at the rate of 0.5% per month and an additional sum of 1% per month as a penalty for each month or fraction thereof such taxes shall remain unpaid and said penalties shall be collected in the same manner as the original amount of the tax."

Approved June 28,1999

CHAPTER 87

FORMERLY

SENATE BILL NO. 170

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

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

Section 1. Amend §112, Chapter 1, Title 23, Delaware Code, by rewording said section to read as follows:

"§112. Classes of licenses.

Six classes of licenses shall be granted:

- (1) First class, to persons capable of piloting ships or vessels of any practical draft of water;
- (2) Second class, to persons capable of piloting ships or vessels drawing 45 feet of water or under;
- (3) Third class, to persons capable of piloting ships or vessels drawing 40 feet of water or under;
- (4) Fourth class, to persons capable of piloting ships or vessels drawing 35 feet of water or under;
- (5) Fifth class, to persons capable of piloting ships or vessels drawing 32 feet of water or under; and
- (6) Sixth class, to persons capable of piloting ships or vessels drawing 27 feet of water or under; provided, however, that during the 180 day period beginning with the day a sixth class license is issued, such license shall be limited to piloting ships or vessels drawing 25 feet of water or under."

Section 2. Amend §113, Chapter 1, Title 23, Delaware Code by striking §113(a) thereof and substituting in lieu thereof the following:

"(a) No license of the first, second, third, fourth, fifth or sixth class shall be granted to any person unless that person has heretofore held or does now hold such license under the laws of this State or shall have served an apprenticeship as specified herein and by the Board, nor shall any license be granted until the person applying shall have arrived at the age of 21 years, nor shall any license be granted to any person until the number of pilots licensed under the laws of this State, excluding those pilots holding inactive licenses issued per §102(13) of this title, shall have been reduced to less than 42, and thereafter such number shall not be exceeded. The whole number of licensed pilots, excluding those pilots holding inactive licenses issued per §102(13) of this title, shall not exceed 42 at any 1 time."

Approved June 28,1999

CHAPTER 88

FORMERLY

SENATE BILL NO. 82

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

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

Section 1. Amend §1132, Title 29, Delaware Code by revising said section to read as follows:

"§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) 'Official Regulation' means a regulation in its final form as adopted by an order as defined in Section 10118 of this title and filed with the Registrar of Regulations.
- (4) '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.
- (5) 'Registrar' means an employee of the Division charged with the responsibility of compiling, maintaining and publishing the Register of Regulations.
- (6) 'Regulation' means as defined in §10102 of this title."

Section 2. Amend §1133, Title 29, Delaware Code by revising 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 or summary 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 3. Amend §1134, Title 29, Delaware Code by revising said section to read as follows:

"§1134. Powers and duties of the Registrar in preparation and maintenance of the Register of Regulations.

(a) The Registrar in the course of compiling and maintaining the Register of Regulations shall:

- (1) In writing, notify all agencies authorized to make regulations that they are to submit to the Division copies of all proposed regulations as well as all subsequent amendments, repeals, additions or new or proposed regulations as they are proposed and statements of purpose thereof;

(2) Advise agencies as to the form and style of the regulations, as well as, to the extent practicable, the classification thereof into categories of substance, procedure and organization;

(3) 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:

- a. Renumbering and rearranging sections or parts of sections;
- b. Transferring of sections or dividing of sections so as to give to distinct subject matters a separate section number, but without changing the meaning;
- c. Inserting or changing the wording of headnotes;
- d. Change reference numbers to agree with renumbered regulations or sections thereof;
- e. Substituting the proper section or regulation number for the terms 'this regulation', 'the preceding section' and the like;
- f. Striking out figures where they are merely a repetition of written words and vice versa;
- g. Changing capitalization for the purpose of uniformity;
- h. Correcting of manifest typographical and grammatical errors; and
- i. Making any other purely formal or clerical changes in keeping with the purpose of the revision.

(4) Have the authority to promulgate rules and regulations.

(5) Have authority to publish the full text or a summary of proposed, final or emergency regulations; and

(6) Publish the following month all proposed regulations received by the 15th of the month preceding.

(b) The Registrar may include in the Register of Regulations such other governmental information as the Registrar deems appropriate."

Section 4. Amend §10115(a), Title 29, Delaware Code by rewording the first sentence thereof to read as follows

"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 full or as a summary, in the Register of Regulations pursuant to §1134 of this title."

Section 5. Amend §10118, Title 29, Delaware Code by revising said section to read as follows:

"§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 agency shall file such order with the Registrar of Regulations which shall become the Official Regulation as defined in Section 1132 of this title.

(f) No agency shall adopt a regulation if more than 12 months have elapsed since the end of the public comment period or the last public hearing, whichever is later, on the proposed regulation.

(g) 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 full or as a summary, in the Register of Regulations, unless such adoption, amendment or repeal qualifies as an emergency under §10119."

Approved June 28,1999

CHAPTER 89

FORMERLY

SENATE BILL NO. 21

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO ADULT PROTECTIVE SERVICES.

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 §3902(16)a. of Title 31 of the Delaware Code, by deleting the words "intentionally and" as they appear therein.

Section 2. Amend §3902(18) of Title 31 of the Delaware Code, by deleting the word "intentional" where it appears after the phrase "means the", and further by deleting the phrase "intentional," as it appears in said subsection.

Section 3. Amend §3902(19) of Title 31 of the Delaware Code by deleting the word "intentional" where it appears in paragraph (a) and paragraph (b) of said subsection.

Section 4. Amend §3913(a)(b) and (c) of Title 31 of the Delaware Code by deleting the word "intentionally" wherever it appears in said subsections and by substituting in lieu thereof the words "knowingly or recklessly".

Section 5. Amend §3913(b) of Title 31 of the Delaware Code by deleting the period and the end of the subsection and substituting in lieu thereof the following:

"but less than \$5,000. If the value of the resources is \$5,000 or more but less than \$10,000, the person shall be guilty of a Class E felony. If the value of the resources is \$10,000 or more but less than \$50,000, the person shall be guilty of a Class D felony and if the value of the resources is \$50,000 or more the person shall be guilty of a Class C felony. Any subsequent conviction under this subsection shall be treated as a Class C felony regardless of the amount of resources exploited." Change.

Approved June 28,1999

CHAPTER 90

FORMERLY

SENATE BILL NO. 34

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO COUNTIES AND THE VALUATION, ASSESSMENT AND TAXATION OF PROPERTY.

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

Section 1. Amend §8335(d)(3), Title 9 of the Delaware Code by striking subparagraph c thereof, which reads as follows: "c. The subdivision of the land which allows for a nonagricultural usage;".

Approved June 28,1999

CHAPTER 91

FORMERLY

SENATE BILL NO. 108

AN ACT TO AMEND TITLE 9, TITLE 12, TITLE 15 AND TITLE 29 OF THE DELAWARE CODE RELATING TO DELAWARE PUBLIC ARCHIVES AND PUBLIC RECORDS.

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

Section 1. Amend § 9615, Title 9, Delaware Code by deleting the title of this section in its entirety and inserting in lieu thereof the following: "Delivery of records to Delaware Public Archives; photocopies; evidence."

Section 2. Amend § 9615 (a), Title 9, Delaware Code by deleting the words "Public Archives Commission" and inserting in lieu thereof the words and punctuation "Delaware Public Archives," and inserting the words and punctuation "and Records Administrator," after the words "State Archivist".

Section 3. Amend § 9615 (b), Title 9, Delaware Code by deleting the subsection in its entirety and inserting in lieu thereof the following:

"(b) Within a reasonable time after any such volume or record has been delivered to the Delaware Public Archives, the State Archivist and Records Administrator shall make a -photocopy of its contents and shall certify that such contents are complete and correct, and such certificate shall be included in such photocopy. Such photocopy shall be delivered to the recorder from which the original volume was received. The recorder may issue certified copies of any records photocopied under the provisions of this section. Any such certified copy shall be admissible as evidence in any court of justice in the same manner and entitled to the same weight and have the same effect as certified copies made from the original volume."

Section 4. Amend § 9615 (c), Title 9, Delaware Code by deleting the section in its entirety and inserting in lieu thereof the following:

"(c) The Recorder of Deeds, in and for New Castle County, upon approval of the Resident Associate Judge of the Superior Court, in and for New Castle County, may photocopy or microfilm any volume of land records in his official custody, the age and condition of which render its continued use by the public inadvisable. The Recorder of Deeds shall certify that the contents of such copies are complete and correct. When so copied and certified, the Recorder of Deeds may issue certified copies of any instrument contained in the copy of the original volume, and any such certified copy shall be admissible in evidence in any court of justice in the same manner and entitled to the same weight and have the same effect as certified copies made from the original volume. Any original volumes of land records so copied and certified by the Recorder of Deeds may be delivered to the Delaware Public Archives with the consent of the State Archivist and Records Administrator for preservation in the public archives of the State. The Recorder of Deeds shall certify to the State Archivist and Records Administrator that the copying of the original volume or volumes was done under his authorization and supervision, that it meets standards for methods and materials established by the Delaware Public Archives under the provisions of §517 of Title 29, and he shall take receipt for the same and the receipt shall be preserved in the office of Recorder of Deeds, in and for New Castle County."

Section 5. Amend § 9615 (d), Title 9, Delaware Code, by deleting the subsection in its entirety and inserting in lieu thereof the following:

"The Recorder of Deeds, in and for Sussex County, upon advice and approval of the Resident Associate Judge of the Superior Court in and for Sussex County, may photocopy or microfilm any volume of land records in his official custody, the age and condition of which render its continued use by the public inadvisable. Such copy or microfilm shall be indexed and stored as provided for in § 9605(e) of this title. The Recorder of Deeds shall certify that the contents of such copies are complete and correct. When so copied and certified, the Recorder of Deeds may issue certified copies of any instrument contained in the copy of the original volume, and any such certified copy shall be admissible in evidence in any court of justice in the same manner and entitled to the same weight and have the same effect as certified copies made from the original volumes. Any original volume of land records so copied and certified by the Recorder of Deeds may be delivered to the Delaware

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Public Archives with the consent of the State Archivist and Records Administrator for preservation in the public archives of the State. The Recorder of Deeds shall certify to the State Archivist and Records Administrator that the copying of the original volume or volumes was done under his authorization and supervision, that it meets standards for methods and materials established by the Delaware Public Archives under the provisions of §517 of Title 29, and he shall take a receipt for the same and the receipt shall be preserved in the office of Recorder of Deeds."

Section 6. Amend the title of § 2509, Title 12, Delaware Code by deleting the word "photostats" and inserting in lieu thereof the word "photocopies".

Section 7. Amend §2509 (a), Title 12, Delaware Code by deleting the words "Division of Archives and Cultural Affairs of the Department of State" and inserting in lieu thereof the words "Delaware Public Archives", deleting the word "aging" and inserting in lieu thereof "age and" and deleting the word "the" after the words "Register shall take" and inserting in lieu thereof "a".

Section 8. Amend § 2509 (b), Title 12, Delaware Code by deleting the section in its entirety and inserting in lieu thereof the following:

"(b) Within a reasonable time after any such volume or record has been delivered to the Delaware Public Archives, the State Archivist and Records Administrator shall make a photocopy of its contents and shall certify that such contents are complete and correct, and such certificate shall be included in such photocopy. Such photocopy shall be delivered to the Register of Wills from whom the original volume was received, and the Register may issue certified copies of any records photocopied under the provisions of this section, and any such certified copy shall be admissible as evidence in any judicial or administrative proceeding in the same manner and entitled to the same weight and have the same effect as certified copies made from the original volume."

Section 9. Amend §7717 Title 15, Delaware Code, second paragraph by deleting the word "State" and inserting in lieu thereof the words "Delaware Public" after the words "convention in the" and deleting the word "State" after the words "deposited in the" and inserting in lieu thereof "Delaware Public" in the last sentence.

Section 10. Amend § 306, Title 29, Delaware Code by deleting the words "Public Records Commission of the State, Hall of Records" and inserting in lieu thereof "Delaware Public Archives".

Section 11. Amend § 501 (c), Title 29, Delaware Code by deleting the subsection in its entirety and inserting in lieu thereof the following:

"(c) The Delaware Public Archives is established as a division within the Department of State and is charged with administering, implementing, and enforcing all provisions of the Delaware Public Records Law as defined in this subchapter.

(d) The Delaware Public Archives shall be the official repository for the archival records of this State and all political subdivisions thereof.

(e) This subchapter may be cited as the 'Delaware Public Records Law.'"

Section 12. Amend § 502 of Title 29 of the Delaware Code by deleting the section in its entirety and inserting in lieu thereof the following:

"As used in this subchapter, the following terms shall have the meanings indicated:

- (1) 'Public record' means any document, book, photographic image, electronic data recording, paper, sound recording or other material regardless of physical form or characteristics, including electronic records created or maintained in electronic information systems, made, used, produced, composed, drafted or otherwise compiled or collected or received in connection with the transaction of public business or in any way related to public purposes by any officer or employee of this State or any political subdivision thereof.
- (2) 'Electronic record' means a public record that is stored, generated, received or communicated by electronic means for use by, or storage in, an information system or for transmission from one information system to another.
- (3) 'Political subdivision' includes counties, cities, towns, districts, authorities and other public corporations and entities whether mandated by the Constitution or formed by an act of the General Assembly.

- (4) 'Local government' means any county, city, town, municipality or other government, created by an act of the General Assembly, that is not a state agency, department, board or commission.
- (5) 'Governing body' means the county council, levy court, city or town council, board or commission or other body authorized by law to govern the affairs of local government.
- (6) 'Agency' means any office, department, board, commission or other separate unit of government of this State, including all branches of government: Executive, legislative and judicial.
- (7) 'Records retention and disposition schedule' means a list or other instrument describing records and their minimum retention periods which is issued by the Delaware Public Archives.
- (8) 'Records officer' means any person or persons designated according to the provisions of this chapter, whose responsibilities include the development and oversight of agency or local government records management programs.
- (9) 'Archival record' means those records that contain significant information about the past or present or provide significant evidence of the organization, policies, procedures, decisions and essential transactions of public business and are therefore worthy of long-term preservation and systematic management for historical and other research.
- (10) 'Vital records' means those records which contain information required for government to continue functioning during a disaster, protect the rights of Delaware citizens and document the obligations of Delaware government, and reestablish operations after a calamity has ended.
- (11) 'Custodian of public records' means the person designated, pursuant to §520 of this title, or who is otherwise responsible for the creation or maintenance of public records."

Section 13. Amend the title of §503, Title 29, Delaware Code by deleting the words

"Department of State" and inserting in lieu thereof "Delaware Public Archives".

Section 14. Amend §503 (a), Title 29, Delaware Code by deleting the words and punctuation "Department of State, also referred in this subchapter as the 'Department,' through the State Archives and Records Program," and inserting in lieu thereof "Delaware Public Archives".

Section 15. Amend §503 (b), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof "Delaware Public Archives".

Section 16. Amend §503 (b) (3), Title 29, Delaware Code by deleting the word "State" and inserting in lieu thereof "Delaware Public" before the word "Archives" and deleting the word "Department" in the second sentence and inserting in lieu thereof "Delaware Public Archives".

Section 17. Amend §503 (b) (5), Title 29, Delaware Code by inserting the words "and document imaging" before the word "program".

Section 18. Amend § 503 (b) (8), Title 29, Delaware Code by deleting the words and punctuation ", following consultation with state agencies, the political subdivisions of this State, and state and local records commissions,".

Section 19. Amend § 503 (b), Title 29, Delaware Code by inserting the following:

"(9) Adopt a seal of office for the purpose of certifying copies of public records."

Section 20. Amend §504 (a) (3), Title 29, Delaware Code by deleting the word "Department, state and local records commissions" and inserting in lieu thereof the words "Delaware Public Archives".

Section 21. Amend §504 (b), Title 29, Delaware Code by deleting the words "or official correspondence" and deleting the words "Department of State" and inserting in lieu thereof the words "Delaware Public Archives".

Section 22. Amend §505 (a), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof "Delaware Public Archives" and deleting the word "to" after the word "obtained" and inserting in lieu thereof "for".

Section 23. Amend §506, Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof "Delaware Public Archives".

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Section 24. Amend §507 (a), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof "Delaware Public Archives" and deleting the words "in the State Archives".

Section 25. Amend §507 (b), Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof "Delaware Public Archives".

Section 26. Amend the title of §508, Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "the Delaware Public Archives".

Section 27. Amend §508, Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof "Delaware Public Archives", deleting the words "in the State Archives" and deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives" and deleting the word "to" after the word "received" and inserting in lieu thereof the word "into".

Section 28. Amend the title of §509, Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof the words "the Delaware Public Archives" and inserting the words "duplicating or" before the words "repairing records".

Section 29. Amend §509, Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof the words "Delaware Public Archives" and inserting the word and punctuation "duplication," before the word "repair".

Section 30. Amend §510 (a), Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof the words "Delaware Public Archives".

Section 31. Amend §510 (b), Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof the words "Delaware Public Archives".

Section 32. Amend the title of §511, Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives".

Section 33. Amend §511, Title 29, Delaware Code, by deleting the section in its entirety and inserting in lieu thereof the following:

"(a) The Delaware Public Archives may issue certified copies of any public records in its custody, as provided by §10003 of this title, subject to the restrictions listed in §10002 of this title, which certified copies shall be admissible in evidence in any court of justice or administrative hearing in the same manner and entitled to the same weight and have the same effect as certified copies made by the official from whose office such records were received.

(b) The State Archivist and Records Administrator, or in his or her absence the Deputy State Archivist, may certify copies of any public records in the custody of the Delaware Public Archives under seal of the Delaware Public Archives."

Section 34. Amend the title of §512, Title 29, Delaware Code by deleting the word "State Archives" and inserting in lieu thereof the words "the Delaware Public Archives".

Section 35. Amend §512 (a), Title 29, Delaware Code by deleting the first sentence in its entirety, inserting the words "of public records in the custody of any public official of this State or the political subdivisions thereof" after the words "Selection and transfer" and deleting the words "the Department's" after the words "conditions established in".

Section 36. Amend §512 (b), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives".

Section 37. Amend the title of §513, Title 29, Delaware Code by deleting the words and punctuation "; access by federal employees".

Section 38. Amend §513 (a), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives" and deleting the second sentence in its entirety.

Section 39. Amend §513 (b), Title 29, Delaware Code by deleting the section in its entirety.

Section 40. Amend the title of §514, Title 29, Delaware Code by deleting the words "by Department" and inserting the words "by the Delaware Public Archives" after the words "public records".

- (4) 'Local government' means any county, city, town, municipality or other government, created by an act of the General Assembly, that is not a state agency, department, board or commission.
- (5) 'Governing body' means the county council, levy court, city or town council, board or commission or other body authorized by law to govern the affairs of local government.
- (6) 'Agency' means any office, department, board, commission or other separate unit of government of this State, including all branches of government: Executive, legislative and judicial.
- (7) 'Records retention and disposition schedule' means a list or other instrument describing records and their minimum retention periods which is issued by the Delaware Public Archives.
- (8) 'Records officer' means any person or persons designated according to the provisions of this chapter, whose responsibilities include the development and oversight of agency or local government records management programs.
- (9) 'Archival record' means those records that contain significant information about the past or present or provide significant evidence of the organization, policies, procedures, decisions and essential transactions of public business and are therefore worthy of long-term preservation and systematic management for historical and other research.
- (10) 'Vital records' means those records which contain information required for government to continue functioning during a disaster, protect the rights of Delaware citizens and document the obligations of Delaware government, and reestablish operations after a calamity has ended.
- (11) 'Custodian of public records' means the person designated, pursuant to §520 of this title, or who is otherwise responsible for the creation or maintenance of public records."

Section 13. Amend the title of §503, Title 29, Delaware Code by deleting the words

"Department of State" and inserting in lieu thereof "Delaware Public Archives".

Section 14. Amend §503 (a), Title 29, Delaware Code by deleting the words and punctuation "Department of State, also referred in this subchapter as the 'Department,' through the State Archives and Records Program," and inserting in lieu thereof "Delaware Public Archives".

Section 15. Amend §503 (b), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof "Delaware Public Archives".

Section 16. Amend §503 (b) (3), Title 29, Delaware Code by deleting the word "State" and inserting in lieu thereof "Delaware Public" before the word "Archives" and deleting the word "Department" in the second sentence and inserting in lieu thereof "Delaware Public Archives".

Section 17. Amend §503 (b) (5), Title 29, Delaware Code by inserting the words "and document imaging" before the word "program".

Section 18. Amend § 503 (b) (8), Title 29, Delaware Code by deleting the words and punctuation "following consultation with state agencies, the political subdivisions of this State, and state and local records commissions,".

Section 19. Amend § 503 (b), Title 29, Delaware Code by inserting the following:

"(9) Adopt a seal of office for the purpose of certifying copies of public records."

Section 20. Amend §504 (a) (3), Title 29, Delaware Code by deleting the word "Department, state and local records commissions" and inserting in lieu thereof the words "Delaware Public Archives".

Section 21. Amend §504 (b), Title 29, Delaware Code by deleting the words "or official correspondence" and deleting the words "Department of State" and inserting in lieu thereof the words "Delaware Public Archives".

Section 22. Amend §505 (a), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof "Delaware Public Archives" and deleting the word "to" after the word "obtained" and inserting in lieu thereof "for".

Section 23. Amend §506, Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof "Delaware Public Archives".

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Section 24. Amend §507 (a), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof "Delaware Public Archives" and deleting the words "in the State Archives".

Section 25. Amend §507 (b), Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof "Delaware Public Archives".

Section 26. Amend the title of §508, Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "the Delaware Public Archives".

Section 27. Amend §508, Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof "Delaware Public Archives", deleting the words "in the State Archives" and deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives" and deleting the word "to" after the word "received" and inserting in lieu thereof the word "into".

Section 28. Amend the title of §509, Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof the words "the Delaware Public Archives" and inserting the words "duplicating or" before the words "repairing records".

Section 29. Amend § 509, Title 29, Delaware Code by deleting the words "Department of State and inserting in lieu thereof the words "Delaware Public Archives" and inserting the word and punctuation "duplication," before the word "repair".

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Section 32. Amend the title of §511, Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives".

Section 33. Amend §511, Title 29, Delaware Code, by deleting the section in its entirety and inserting in lieu thereof the following:

"(a) The Delaware Public Archives may issue certified copies of any public records in its custody, as provided by §10003 of this title, subject to the restrictions listed in §10002 of this title, which certified copies shall be admissible in evidence in any court of justice or administrative hearing in the same manner and entitled to the same weight and have the same effect as certified copies made by the official from whose office such records were received.

(b) The State Archivist and Records Administrator, or in his or her absence the Deputy State Archivist, may certify copies of any public records in the custody of the Delaware Public Archives under seal of the Delaware Public Archives."

Section 34. Amend the title of §512, Title 29, Delaware Code by deleting the word "State Archives" and inserting in lieu thereof the words "the Delaware Public Archives".

Section 35. Amend §512 (a), Title 29, Delaware Code by deleting the first sentence in its entirety, inserting the words "of public records in the custody of any public official of this State or the political subdivisions thereof" after the words "Selection and transfer" and deleting the words "the Department's" after the words "conditions established in".

Section 36. Amend §512 (b), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives".

Section 37. Amend the title of §513, Title 29, Delaware Code by deleting the words and punctuation "; access by federal employees".

Section 38. Amend § 513 (a), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives" and deleting the second sentence in its entirety.

Section 39. Amend §513 (b), Title 29, Delaware Code by deleting the section in its entirety.

Section 40. Amend the title of §514, Title 29, Delaware Code by deleting the words "by Department" and inserting the words "by the Delaware Public Archives" after the words "public records".

Section 41. Amend §514, Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "State Archivist and Records Administrator," deleting the words "to it" after the word "afford" and inserting in lieu thereof the words "to the State Archivist and Records Administrator or Delaware Public Archives staff designated by the Archivist."

Section 42. Amend the title of §515, Title 29, Delaware Code by inserting the words "and other document imaging" after the word "Microfilming".

Section 43. Amend §515 (a), Title 29, Delaware Code by deleting the section in its entirety and inserting in lieu thereof the following:

"(a) Any program or function of any state agency or local government, which requires microfilm or other document imaging services, must include provisions for the anticipated cost of such services. Agencies may choose to contract with the Delaware Public Archives for microfilm and document imaging services in accordance with the provisions of § 6531 of this title."

Section 44. Amend §515 (b), Title 29, Delaware Code by deleting the section in its entirety and inserting in lieu thereof the following:

"(b) The Department of Finance shall not approve expenditure of funds used for the development, implementation or maintenance of microfilm or document imaging programs, including contracting with a commercial service provider or purchase of equipment or software, without prior written approval of the Delaware Public Archives. Any programs or projects in operation must adhere to standards established by the Delaware Public Archives to allow for approval of expenditures."

Section 45. Amend the title of §516, Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "the Delaware Public Archives".

Section 46. Amend §516 (a), Title 29, Delaware Code by deleting the word "Department" and inserting the words "Delaware Public Archives".

Section 47. Amend §516 (a) (1), Title 29, Delaware Code by deleting the word "Department" that appears two times in the sentence and inserting in lieu thereof the words "Delaware Public Archives".

Section 48. Amend § 516 (a) (2), Title 29, Delaware Code by deleting the words "in this manner" and by deleting the words "Department of State" and inserting in lieu thereof the words "Delaware Public Archives."

Section 49. Amend § 516 (b), Title 29, Delaware Code by deleting the word "microphotographs" and inserting in lieu thereof the word "microfilm" in the first sentence, deleting the word "microphotographed" and inserting in lieu thereof the word "microfilmed", deleting the word "microphotographs" in the second sentence and inserting in lieu thereof the word "microfilm" and deleting the word "microphotographs" and inserting in lieu thereof the word "microfilm".

Section 50. Amend §517 (a), Title 29, Delaware Code by deleting the words "required by law" and deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives".

Section 51. Amend §517 (b), Title 29, Delaware Code by deleting the words "Department of State" and inserting the words "Delaware Public Archives", by deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives".

Section 52. Amend § 517 (c), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives".

Section 53. Amend §518 (a), Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof the words "Delaware Public Archives", by deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives".

Section 54. Amend §518 (b), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "State Archivist and Records Administrator" and inserting the words "or to the Delaware Public Archives" after the word "of origin".

Section 55. Amend the title of §519, Title 29, Delaware Code by deleting the word "State" and inserting in lieu thereof the words "Delaware Public".

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Section 56. Amend §519 (a), Title 29, Delaware Code by deleting the word "State" and inserting in lieu thereof the words "Delaware Public" and deleting the word "State" and inserting in lieu thereof the words "Delaware Public".

Section 57. Amend §519 (b), Title 29, Delaware Code by deleting the section in its entirety and inserting in lieu thereof the following:

"(b) The Delaware Public Archives shall have the authority to determine whether or not any of said publications lack sufficient information for retention as research materials, and it may request the publishing agency to discontinue depositing such publications with the Archives. The Delaware Public Archives may preserve copies of any publications deposited for preservation and may destroy the originals after copies created on a recording medium that meets the standards of quality for methods and materials established under §517 of this chapter have been made and preserved."

Section 58. Amend §520, Title 29, Delaware Code by inserting a second sentence as follows: "However, upon transfer of any and all public records to the Delaware Public Archives for archival preservation, the State Archivist and Records Administrator shall become the designated custodian."

Section 59. Amend §521 (a), Title 29, Delaware Code by deleting the words "State Archives and Records Program" and inserting in lieu thereof the words "Delaware Public Archives" and inserting the word "and" after the word and punctuation "program," and before the word "coordinating".

Section 60. Amend §522, Title 29, Delaware Code by deleting the title and section in its entirety and inserting in lieu thereof the following:

"§522 Appointment of State Archivist and Records Administrator; qualifications for position; removal from office.

(a) The Secretary of State shall appoint with a fixed salary, and with written approval of the Governor, a director for the Delaware Public Archives who shall have the title (State Archivist and Records Administrator) who shall be qualified by training and experience to perform the duties of the office, and who may be removed from office by the Secretary with written approval of the Governor.

(b) The State Archivist and Records Administrator shall have such powers, duties and functions in the administration and operation of the Delaware Public Archives and implementation of the Delaware Public Records Law as may be assigned by the Secretary or required by the Delaware Public Records Law."

Section 61. Amend §523 (a), Title 29, Delaware Code by inserting the words "ten- member" after the words "created a", deleting the words ", and the head of the State Archives and Records Program, who shall serve as Secretary to the Commission" and inserting a new sentence "The Governor shall designate one member as Chairperson, and the State Archivist and Records Administrator shall serve as secretary to the Commission."

Section 62. Amend § 523 (b), Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof the words "Delaware Public Archives".

Section 63. Amend §524, Title 29, Delaware Code by deleting the words "Department of State" and inserting in lieu thereof the words "Delaware Public Archives", inserting the word "or" before the words "political subdivisions", deleting the words "and state and local records commissions" and by deleting the last sentence and inserting in lieu thereof the following: "If any state or federal law or regulation provides a retention period different from that established by the records retention period and disposition schedule established herein, the retention period established by law or regulation shall govern."

Section 64. Amend §525 (b), Title 29, Delaware Code by deleting the words "state archives and records" and inserting in lieu thereof the words "Delaware Public Archives", inserting the words "and digital imaging" after the word "micrographics" and before the word "services" and deleting the word "State" after the words "custody of the" and inserting the words "Delaware Public".

Section 65. Amend §525(c), Title 29, Delaware Code by deleting the word "Department" and inserting in lieu thereof the words "Delaware Public Archives,".

Section 66. Amend §525 (d), Title 29, Delaware Code by deleting the word "Delaware" before the words "Local Records", inserting the words "Delaware Public Archives and" after the words "adoption by the" and inserting the words "of State" after the words "Department".

Section 67. Amend §526, Title 29, Delaware Code by deleting the section in its entirety and inserting in lieu thereof the following: "Whoever violates§504, §506, §507, §508, §509, §512, §514, §517 and §519 of this title

shall be guilty of an unclassified misdemeanor and shall be fined not more than \$500, or imprisoned not more than 3 months, or both."

Section 68. Amend the title of §2307, Title 29, Delaware Code by deleting it in its entirety and inserting in lieu thereof the following:

§2307 Preservation of legislative records.

Section 69. Amend §2307, Title 29, Delaware Code by deleting the section in its entirety and inserting in lieu thereof the following:

"(a) The Delaware Public Archives shall sort, arrange, label and file, according to legislative session, all original bills, resolutions, committee reports and other legislative records, keeping the Senate records separate and distinct from those of the House.

(b) The Secretary of the Senate and the Clerk of the House shall, at the end of each session of the General Assembly, deliver to the Delaware Public Archives all the original bills, resolutions, petitions and other legislative records of the session to be labeled and preserved by the Delaware Public Archives."

Section 70. Amend §2304, Title 29, Delaware Code by inserting the words "through the Delaware Public Archives" after the words "Great Seal of the State, and" and inserting the word "archival" before the words "records and public".

Section 71. Amend §556, Title 29, Delaware Code by deleting the section in its entirety.

Section 72. Amend §2317 (a), Title 29, Delaware Code by deleting the words "Secretary of State" and inserting in lieu thereof the words "Delaware Public Archives".

Section 73. Amend §6420, Title 29, Delaware Code by deleting the section in its entirety.

Section 74. Amend §8705, Title 29, Delaware Code, by deleting the section in its entirety and inserting in lieu thereof the following:

"The Division of Historical and Cultural Affairs is established and shall have the power to perform and shall be responsible for the performance of all the powers, duties and functions heretofore vested in:

(1) The Department of State pursuant to subchapter II relating to Historical Buildings, Sites and Objects, and the State Museum pursuant to subchapter III of Chapter 5 of this title;

(2) The Lewes Memorial Commission pursuant to Chapter 49 of Title 7;

(3) The Delaware Day Commission pursuant to §602 of Title 1;

(4) The Portrait Commission pursuant to Chapter 6 of this title; and

(5) The Delaware Archaeological Board pursuant to Chapter 54 of Title 7."

Section 75. Amend §8706, Title 29, Delaware Code, by inserting in lieu thereof the following:

"The Delaware Public Archives is established as a Division and shall have the power to perform and shall be responsible for the performance of all the powers, duties and functions heretofore vested in the Delaware Public Records Law as described in subchapter 1 of Chapter 5 of this title."

Section 76. Amend §8708 of Title 29 of the Delaware Code by deleting "and" following "Chief of Human Relations;", inserting the words and punctuation "; and" following "Historical and Cultural Affairs" and inserting the following:

"(9) State Archivist and Records Administrator."

Section 77. Amend §8810 (g), Title 29, Delaware Code by deleting the words and punctuation "Chief of the Bureau of Archives and Records Management, Division of Historical and Cultural Affairs, Department of State" and inserting in lieu thereof "State Archivist and Records Administrator".

Section 78. The sections of this act shall be effective July 1, 1999.

Approved June 29, 1999

CHAPTER 92

FORMERLY

HOUSE BILL NO. 183
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE USE OF IGNITION
INTERLOCK DEVICES.

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

Section 1. Amend § 4177B(a), Title 21, of the Delaware Code by striking the last two sentences at the end of said subsection and by inserting in lieu thereof the following:

"If a person applies for or accepts the first offense election under this section, such act shall constitute agreement to pay the costs of prosecution for the case, and the court shall assess such costs and impose them as a condition of probation. If a person accepts the first offense election under this section, such action shall constitute a waiver of the right to an administrative hearing as provided for in § 2742 of this title and shall act to withdraw any request previously made therefor. If a person accepts the first offense election under this section, and the person has taken a chemical test pursuant to § 2741 of this title, such person may also elect at that time to participate in the First Offense Election - Ignition Interlock Device Diversion described in subsection (g) of this section. For the purposes of this section, costs of prosecution are court costs as established by the appropriate court schedules; and"

Section 2. Amend § 4177B, Title 21, of the Delaware Code by adding the following subsection:

"(g) First Offense Election - Ignition Interlock Device Diversion. If a person accepts the first offense election under this section, such person may also elect at that time to participate in the First Offense Election - Ignition Interlock Device (FOE-IID) Diversion as part of his or her probation. If a person elects to participate in the FOE-IID Diversion, such act shall constitute an agreement to all terms and conditions contained in the Ignition Interlock Device Program set forth in § 4177F of this title and the participant shall waive the right to an administrative hearing as provided for in § 2742 of this title or shall withdraw any request previously made therefor. Failure to comply with any part of this section or § 4177F of this title shall be considered a violation of the participant's probation for the purposes of subsection (b) of this section."

Section 3. Amend § 2702(e), Title 21, of the Delaware Code by inserting a new subsection as follows:

"(10) IID license. Authorizes the holder to operate a vehicle with full Class D operators driving privileges only when the vehicle is equipped with an ignition interlock device."

Section 4. Amend § 4177C, Title 21, of the Delaware Code by adding the following subsection:

"(c) Notwithstanding § 4177F of this title, any person subject to a period of voluntary revocation pursuant to § 4177F(f)(1) who has satisfactorily completed a course and/or program established pursuant to § 4177D of this title, shall be permitted to apply for a driver's license under the following terms:

- (1) Payment of all fees under the schedule adopted by the Secretary;
- (2) At least 5 months have elapsed since the day an IID was installed on the person's motor vehicle."

Section 5. Amend § 4177F(d), Title 21, of the Delaware Code by striking the phrase, "Eligibility. An offender who has been convicted of a 2nd or subsequent offense occurring within 5 years of a prior conviction under any law involving the use, consumption or possession of alcohol while operating a motor vehicle or an offender with no prior offense who refuses a chemical test required pursuant to § 2741 of this title, shall be eligible to receive an IID pursuant to this section if the offender meets the following conditions:" as it appears at the beginning of said section and by substituting in lieu thereof the following:

"Eligibility. An offender who has taken a chemical test required pursuant to § 2741 of this title and has accepted the first offense election pursuant to § 4177B of this title, or who has no prior offense who refuses a chemical test required pursuant to § 2741 of this title, or who has been convicted of a 2nd or subsequent offense occurring within 5 years of a prior conviction under any law involving the use, consumption or possession of

alcohol while operating a motor vehicle, shall be eligible to receive an IID pursuant to this section if the offender meets the following conditions:"

Section 6. Amend § 4177F(d)(2), Title 21, of the Delaware Code by striking the subsection in its entirety and by substituting in lieu thereof the following:

"(2) Following revocation, the offender must complete an alcohol evaluation, provide proof of enrollment in a course of instruction and/or program of rehabilitation and pay all associated fees;"

Section 7. Amend § 4177F(f), Title 21, of the Delaware Code by striking said subsection as it appears therein and by substitution in lieu thereof the following:

"(f) Program duration; suspension of sentence. A participant's license revocation imposed by law shall automatically be suspended upon the participant's entry into the IID Program and shall be suspended for the duration thereof. By entering the program, the participant consents, among the other conditions of the program, to a voluntary period of license revocation, to wit:

(1) If the revocation period suspended is 12 months, and the participant has elected the FOE-IID Diversion pursuant to § 4177B(f) of this title, the participant's voluntary revocation period is 12 months and the participant may receive an IID license after 1 month.

(2) If the revocation period suspended is 12 months, and the participant has no prior offense but has refused a chemical test required pursuant to § 2741, the participant's voluntary revocation period is 14 months, and the participant may receive an IID license after 2 months.

(3) If the revocation period suspended is 18 months, the participant's voluntary revocation period is 20 months, and the participant may receive an IID license after 6 months.

(4) If the revocation period suspended is 24 months, the participant's voluntary revocation period is 26 months, and the participant may receive an IID license after 12 months.

The participant shall receive credit towards the voluntary revocation period for the revocation time served prior to entry into the IID program."

Section 8. Amend § 4177F(g), Title 21, of the Delaware Code by striking the words "a conditional" as they appear in the second sentence therein and by substituting in lieu thereof the word "an".

Section 9. Amend § 4177F(g), Title 21, of the Delaware Code by striking the word "conditional" as it appears in the third sentence therein.

Section 10. Amend § 4177F(h)(1)(c), Title 21, of the Delaware Code by striking the word "conditional" and the words ",which may restrict driving other than to school, work or DUI related programs" as they appear therein.

Section 11. Amend § 4177F(h)(1)(e), Title 21, of the Delaware Code by striking the words "a conditional" as they appear therein and by substituting in lieu thereof the word "an".

Section 12. Amend § 4177F(h)(1)(i), Title 21, of the Delaware Code by striking subsection (h)(1)(i) as it appears therein in its entirety and by substituting in lieu thereof the following:

"i. The offender shall continue to meet all eligibility criteria identified in subsection (d) of this section, and specifically, shall successfully complete the course of instruction and/or program of rehabilitation referred to in item (2) of subsection (d) of this section;"

Section 13. Amend § 2742(d), Title 21, of the Delaware Code by inserting the following after the last sentence thereof:

"Notwithstanding the foregoing provisions of this section, if no request is filed within the 15 day period, but the person has entered the FOE-IID Diversion pursuant to §4177B(g) of this title, no revocation herein imposed shall be inconsistent with any revocation imposed by participation in the FOE-IID Diversion."

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Section 14. Amend § 4177F(g), Title 21, of the Delaware Code by striking the word 'Conditional' as it appears in the title thereto and by substituting in lieu thereof the term 'IID'.

Section 15. The Department of Public Safety shall implement the provisions of this act no later than January 1, 2000.

Approved June 30,1999

CHAPTER 93

FORMERLY

SENATE BILL NO. 93
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO CONTRACTS WITH PUBLIC
LIBRARY SYSTEMS.

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

Section 1. Amend §6602, Title 29, by adding after subparagraph (c) the following subparagraph (d):

"(d) 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 countywide, multi-county and/or statewide library services. The Division may contract with public libraries and public library systems that qualify under standards for countywide, multi-county and/or statewide public library services. These standards shall be established by the Division with the approval of the Delaware Council on Libraries."

Approved June 30,1999

CHAPTER 94

FORMERLY

HOUSE BILL NO. 400

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 2000; 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, 2000, 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 2000, 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:

Approved June 30,1999

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DEPARTMENTS

Year ending June 30, 2000

(01-00-00) LEGISLATIVE

Personnel		
NSF	ASF	GF
		24.0
		24.0

\$ Program	
ASF	GF
(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	

\$ Line Item	
ASF	GF
	3,359.4
	62.5
	37.2
	441.0
	45.0
	50.0
	298.0
	60.0
	4,353.1

		15.0
		15.0

(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	

	2,201.4
	46.3
	35.0
	175.0
	35.0
	45.0
	50.0
	175.1
	75.0
	2,837.8

(01-05-01) Commission on Interstate Cooperation

Travel	
Legislative Travel	
Contractual Services	
Contractual Services - Appalachian Compact	
Supplies and Materials	
Council of State Governments	
Council of State Governments/Eastern Regional Conference/	
Eastern Trade Council	
Delaware River Basin Commission	
Southern Governors Conference	
Yankee Trader Institute	
National Conference of State Legislatures	
Legislation for Gaming States	
TOTAL - Commission on Interstate Cooperation	

	18.0
	100.0
	40.0
	36.0
	0.5
	60.8
	3.0
	392.0
	4.7
	3.0
	78.4
	3.0
	739.4

(01-00-00) LEGISLATIVE

Personnel		
NSF	ASF	GF

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

(01-08-00) Legislative Council

(01-08-01) Division of Research

		19.0
		19.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Sunset Committee Expenses
TriCentennial Commission
Technical Advisory Office
Printing - Laws and Journals
TOTAL -- Division of Research

	1,002.7
	18.0
	150.7
	119.7
	36.0
	4.5
	100.0
	35.0
	38.5
	1,505.1

(01-08-02) Office of the Controller General

		15.0
		15.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Family Law Commission Expenses
Contingencies:
 Juvenile Detention Oversight Committee
 JFC/CIP
 U. of D. Senior Center Formula Update
 Internship
 Legislative Council
TOTAL -- Office of the Controller General

	1,066.4
	13.5
	365.9
	70.0
	2.0
	8.3
	15.0
	10.0
	25.0
	10.0
	25.0
	1,611.1

(01-08-03) Code Revisors

Travel
Contractual Services
Supplies and Materials
TOTAL -- Code Revisors

	1.1
	220.8
	0.5
	222.4

(01-08-06) Commission on Uniform State Laws

Travel
Contractual Services
Supplies and Materials
TOTAL -- Commission on Uniform State Laws

	14.0
	15.0
	0.2
	29.2

		34.0
--	--	------

TOTAL -- Legislative Council

	3,367.8
--	---------

		73.0
--	--	------

TOTAL -- LEGISLATIVE

	11,298.1
--	----------

Year ending June 30, 2000

(02-00-00) JUDICIAL

Personnel

NSF	ASF	GF
11.3		26.0
11.3		26.0

(02-01-00) Supreme Court

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Court on the Judiciary

TOTAL -- Supreme Court

		26.0
11.3		
11.3		26.0

(-10) Supreme Court
(-40) Reg-Arms of the Court
TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF
		9.0	1,913.1
		6.8	16.3
		38.0	101.1
		5.0	42.2
		6.7	
			5.0
		65.5	2,077.7

65.5	2,077.7
65.5	2,077.7

(02-02-00) Court of Chancery

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay

TOTAL -- Court of Chancery

		26.0
		26.0

(-10) Court of Chancery
TOTAL -- Internal Program Unit

	1,866.0
	16.7
	80.6
	34.5
	7.5
	2,005.3

	2,005.3
	2,005.3

(02-03-00) Superior Court

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay

TOTAL -- Superior Court

7.0		281.0
7.0		281.0

(-10) Superior Court
TOTAL -- Internal Program Unit

	13,418.2
	58.2
	1,350.1
	253.4
	56.0
	15,135.9

	15,135.9
	15,135.9

(02-06-00) Court of Common Pleas

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay

TOTAL -- Court of Common Pleas

	2.0	118.0
	2.0	118.0

(-10) Court of Common Pleas
TOTAL -- Internal Program Unit

30.7	5,237.7
	14.2
	236.1
	94.2
	15.5
30.7	5,597.7

30.7	5,597.7
30.7	5,597.7

(02-00-00) JUDICIAL

Personnel

NSF	ASF	GF
-----	-----	----

4.6	63.0	258.0
4.6	63.0	258.0

4.6	63.0	258.0
4.6	63.0	258.0

(02-08-00) Family Court

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay

TOTAL -- Family Court

(-10) Family Court

TOTAL -- Internal Program Unit

S Program

ASF	GF
-----	----

2,723.7	12,399.2
2,723.7	12,399.2

S Line Item

ASF	GF
-----	----

2,334.8	11,708.4
12.2	24.4
268.2	537.3
60.5	129.1
48.0	
2,723.7	12,399.2

(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

(-10) Justices of the Peace Courts

TOTAL -- Internal Program Unit

10,250.2
8.4
1,150.7
125.4
130.0
12.5
431.7
12,108.9

(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
Victim-Offender Mediation Programs
Continuing Judicial Education
Conflict Attorneys
CASA Attorneys
Debt Service

TOTAL -- Administrative Office of the Courts - Court Services

2,943.7
31.3
1,512.6
17.8
334.1
20.9
30.0
344.8
73.3
932.8
140.0
11.8
6,393.1

(-01) Office of the Director

(-03) Office of State Court

Collections Enforcement

(-04) Judicial Information Center

(-05) Law Libraries

TOTAL -- Internal Program Units

3,402.9
419.6
2,109.5
461.1
6,393.1

Year ending June 30, 2000

(02-00-00) JUDICIAL

Personnel		
NSF	ASF	GF

**(02-18-00) Administrative Office of the
Courts - Non-Judicial Services**

	8.0	20.0
	8.0	20.0

**TOTAL – Administrative Office of the
Courts - Non-Judicial Services**

	8.0	7.5
		7.5
		1.0
		4.0
	8.0	20.0

(-01) Office of the Public Guardian
 (-02) Violent Crimes Compensation Board
 (-03) Foster Care Review Board
 (-04) Educational Surrogate Parent Program
 (-05) Office of the Child Advocate
 TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF

379.1	909.8
26.0	22.4
72.2	99.1
4.4	2.0
7.7	20.8
6.0	1.6
	8.0
1,700.0	40.0
1.5	
2,196.9	1,103.7

2,196.9	386.2
	408.8
	68.7
	240.0
2,196.9	1,103.7

22.9	73.0	1,024.5	TOTAL - JUDICIAL
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5,016.8	56,821.5
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(10-00-00) EXECUTIVE

Personnel		
NSF	ASF	GF

	1.0	24.0
	1.0	24.0

	9.0	28.0
	9.0	28.0

	9.0	28.0
	9.0	28.0

(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

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

34.7	1,632.2
0.5	12.0
114.1	209.1
0.2	21.2
	44.0
	8.7
149.5	1,927.2

(10-02-00) Office of the Budget

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Data Processing - Development Projects
Budget Automation - Operations
Contingency:
One-Time Appropriations
Prior Years' Obligations
Self Insurance
Legal Fees
Technology Fund
Motor Fuel Tax - Operations
Family Services Cabinet Council
Pension - Death Benefit
DSU Land Grant Match
Environmental Training Center
School to Work Interns
Education Contingency
Evaluation Project
KIDS Count
Hazardous Duty Pay
National Governors Association
Salary Contingency
Judicial Nominating Committee
Personnel Costs - Salary Shortage
Selective Market/Maintenance Reviews
Salary Contingency - Overtime
Appropriated Special Funds
Budget Commission
Debt Service

TOTAL -- Office of the Budget

486.3	2,152.2
8.4	32.6
703.4	303.5
12.5	35.2
	10.0
	2,000.0
	50.0
	5,732.8
	400.0
	2,400.0
	1,400.0
	1,000.0
	1,244.8
	71.0
	398.0
	150.0
	120.0
	30.0
	12,623.3
	100.0
	100.0
	120.0
	350.0
	12,282.8
	5.0
	400.0
	1,500.0
	305.8
20,000.0	
	100.0
	1,738.0
21,210.6	47,155.0

(-01) Office of the Budget
Administration
(-04) Contingencies and One-Time
Items
(-06) Budget Commission
TOTAL -- Internal Program Units

1,210.6	6,421.5
20,000.0	40,633.5
	100.0
21,210.6	47,155.0

Year ending June 30, 2000

(10-00-00) EXECUTIVE

Personnel

NSF	ASF	GF
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S Program

ASF	GF
-----	----

S Line Item

ASF	GF
-----	----

(10-03-00) Delaware Economic Development Office

(10-03-01) Office of the Director

		27.0
		27.0

Personnel Costs

Travel

Contractual Services

Supplies and Materials

Capital Outlay

Debt Service

Blue Collar

TOTAL--Office of the Director

	1,407.1
	23.0
	460.0
	16.0
	2.0
	128.3
700.0	
700.0	2,036.4

(10-03-02) Delaware Tourism Office

		10.0
		10.0

Personnel Costs

Travel

Contractual Services

Supplies and Materials

Capital Outlay

Other Items:

Junior Miss

Mother of the Year

Young Mother of the Year

Senior Miss Pageant

Flags and Pins

TOTAL -- Delaware Tourism Office

	456.5
	20.0
	667.6
	8.5
	31.0
	0.5
	0.8
	0.8
	0.8
	45.0
	1,231.5

(10-03-03) Delaware Economic Development Authority

	4.0	15.0
	4.0	15.0

Personnel Costs

Travel

Contractual Services

Supplies and Materials

Energy

Capital Outlay

Other Items:

General Obligation Bonds

International Trade

World Trade Center

Other Items

Debt Service

TOTAL -- Delaware Economic Development Authority

218.7	1,059.4
20.0	39.0
333.1	330.9
10.0	14.9
1.5	
10.0	
	155.2
	150.0
	75.0
	65.0
	2,716.3
593.3	4,605.7

TOTAL -- Delaware Economic Development Office

	4.0	52.0
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1,293.3	7,873.6
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(10-00-00) EXECUTIVE

Personnel		
NSF	ASF	GF
6.2	76.5	57.3
6.2	76.5	57.3

(10-04-00) Office of State Personnel

Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 Capital Outlay
 Other Items:
 Flexible Benefits Administration
 Blood Bank Membership Dues
 PHRST User Training
 Generic Aides/Handicapped Employees
 Employee Recognition
 Blue Collar
 Workers' Compensation
 Health Insurance-Retirees in Closed State
 Police Plan
 Pensions - Paraplegic Veterans
 Pensions - IMS
 Other Items
 Debt Service

TOTAL -- Office of State Personnel

S Program		S Line Item	
ASF	GF	ASF	GF
		3,371.9	2,196.8
		42.1	19.3
		1,380.7	958.0
		103.5	65.1
		64.5	22.3
		113.5	
		11.5	88.0
			317.7
			13.6
		140.0	
		12,811.4	
			1,804.3
			14.4
		1,100.0	
		565.0	82.0
			164.0
		19,704.1	5,745.5

6.2	19.5	53.3
	3.0	4.0
	4.0	
	50.0	
6.2	76.5	57.3

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

TOTAL -- Internal Program Units

1,175.5	2,765.5
571.6	369.6
12,811.4	791.7
5,145.6	1,818.7
19,704.1	5,745.5

(10-05-00) Delaware Health Care Commission

Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 Capital Outlay
 Other Items:
 Educational Programs
 Program Evaluation
 DIMER Operations

TOTAL -- Delaware Health Care Commission

		3.0
		3.0

	205.5
	26.0
	129.4
	15.5
	14.0
	23.2
	15.1
	1,650.0
	2,078.7

		3.0
		3.0

(-01) Delaware Health Care Commission
 (-02) Delaware Institute of Medical
 Education and Research

TOTAL -- Internal Program Units

	428.7
	1,650.0
	2,078.7

Year ending June 30, 2000

(10-00-00) EXECUTIVE

Personnel		
NSF	ASF	GF

10.2		12.8
10.2		12.8

3.0		8.0
3.0		8.0

3.8		6.0
3.8		6.0

17.0		26.8
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(10-07-00) Criminal Justice

(10-07-01) Criminal Justice Council

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
SENTAC
Domestic Violence Coordinating Council
Pretail Substance Abuse Treatment
Other Grants
TOTAL -- Criminal Justice Council

S Program		S Line Item	
ASF	GF	ASF	GF

	661.8
	6.5
	34.9
	3.8
	2.1
	12.5
	25.5
	39.5
	117.2
	903.8

(10-07-02) Delaware Justice Information System

Personnel Costs
Travel
Contractual Services
Supplies and Materials
TOTAL -- Delaware Justice Information System

	498.9
	5.4
	392.9
	17.4
	914.6

(10-07-03) Statistical Analysis Center

Personnel Costs
Travel
Contractual Services
Supplies and Materials
TOTAL -- Statistical Analysis Center

	375.3
	5.2
	68.7
	5.3
	454.5

TOTAL -- Criminal Justice

	2,272.9
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(10-00-00) EXECUTIVE

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

(10-08-00) Delaware State Housing Authority

(10-08-01) Delaware State Housing Authority

7.0	56.0	
7.0	56.0	

Personnel Costs	2,736.5	
Travel	71.6	
Contractual Services	799.6	
Energy	32.5	
Supplies and Materials	137.7	
Capital Outlay	165.0	
Other Items:		
Holly Square	90.0	
Huling Cove	95.0	
Huling Cove Annex	140.0	
Capital Green	750.0	
Housing Development Fund	28,800.0	4,000.0
Public Housing	300.0	
Home Improvement Insurance	1,400.0	
Debt Service		412.0
TOTAL -- Delaware State Housing Authority	35,517.9	4,412.0

(10-09-00) Office of Information Services

	13.0	173.1
	13.0	173.1

Personnel Costs	712.1	10,163.8
Travel	103.7	80.4
Contractual Services	2,447.2	4,020.5
Rental	2,051.5	6,476.1
Energy		203.0
Supplies and Materials	80.7	356.8
Capital Outlay	95.0	12.8
Debt Service		71.0
TOTAL -- Office of Information Services	5,490.2	21,384.4

1.0	12.0
4.0	44.0
2.5	26.5
1.0	12.0
4.5	46.6
	2.0
	2.0
	1.0
	17.0
	10.0
13.0	173.1

(-01) Administration	340.6	2,269.6
(-10) Application Technology	1,236.5	3,912.3
(-20) Base Technology	366.0	1,701.9
(-30) Telecommunication Technology	1,094.7	1,272.6
(-40) Operations	2,152.3	10,150.5
(-50) Organizational Effectiveness	15.5	170.9
(-60) Architect	145.4	157.4
(-70) Customer Assurance	6.1	65.8
(-80) Customer Services	133.1	886.1
(-90) Consultancy		797.3
TOTAL -- Internal Program Units	5,490.2	21,384.4

30.2	159.5	364.2
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TOTAL -- EXECUTIVE

83,365.6	92,849.3
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(12-00-00) OTHER ELECTIVE OFFICES

Personnel

NSF	ASF	GF
		6.0
		6.0

(12-01-01) Lieutenant Governor

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Other Items:
Expenses - Lieutenant Governor

TOTAL -- Lieutenant Governor

S Program		S Line Item	
ASF	GF	ASF	GF
			296.0
			7.3
			25.8
			2.8
			7.7
			339.6

(12-02-01) Auditor of Accounts

	15.0	36.0
	15.0	36.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay

TOTAL -- Auditor of Accounts

668.9	1,883.9
2.7	18.6
812.2	268.1
5.9	12.9
3.4	55.8
1,493.1	2,239.3

(12-03-00) Insurance Commissioner

(12-03-01) Regulatory Activities

	10.0	15.0
	10.0	15.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Other Items:
Malpractice Review

TOTAL -- Regulatory Activities

515.4	721.9
27.4	3.5
136.2	135.0
3.0	2.4
	10.0
682.0	872.8

(12-03-02) Bureau of Examination,
Rehabilitation and Guaranty

1.0	49.0	
1.0	49.0	

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Arbitration Program
Contract Examiners
TOTAL -- Bureau of Examination, Rehabilitation
and Guaranty

2,129.2	
87.0	
642.2	
26.2	
260.0	
30.0	
10,000.0	
13,174.6	

TOTAL -- Insurance Commissioner

1.0	59.0	15.0
-----	------	------

13,856.6	872.8
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(12-00-00) OTHER ELECTIVE OFFICES

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

(12-05-00) State Treasurer

(12-05-01) Administration

	8.0	14.0
	8.0	14.0

Personnel Costs	355.6	732.3
Travel	20.2	2.6
Contractual Services	51.1	147.6
Supplies and Materials	9.4	38.5
Capital Outlay	63.7	
Other Items:		
Banking Services	1,115.0	
Data Processing	50.0	
Electronic Data Interchange	70.0	
TOTAL -- Administration	1,735.0	921.0

(12-05-03) Debt Management

Expense of Issuing Bonds	370.0
Debt Service - Old	12.1
Debt Service - Local Schools	13,520.0
Debt Service - Solid Waste Authority	108.2
Debt Service - Refunding	2,835.2
Financial Advisor	85.0
TOTAL -- Debt Management	16,930.5

TOTAL – State Treasurer

8.0	14.0
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1,735.0	17,851.5
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TOTAL -- OTHER ELECTIVE OFFICES

1.0	82.0	71.0
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17,084.7	21,303.2
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Year ending June 30, 2000

(15-00-00) LEGAL

Personnel

NSF	ASF	GF
36.6	41.9	255.6
36.6	41.9	255.6

(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
		546.3	13,273.4
		0.1	14.4
		0.1	1,450.3
			9.4
		0.3	63.4
		5.1	22.0
			40.0
		75.0	283.8
		30.6	
		552.6	
		15.0	
		836.0	
		1,000.0	
		3,061.1	15,156.7

(15-02-01) Public Defender

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay

TOTAL -- Public Defender

10.0		113.0
10.0		113.0

	6,504.5
	1.7
	615.5
	6.3
	60.5
	3.8
	7,192.3

(15-03-01) Board of Parole

Personnel Costs
Travel
Contractual Services
Supplies and Materials

TOTAL -- Board of Parole

		7.0
		7.0

	321.2
	10.3
	20.8
	3.1
	355.4

TOTAL -- LEGAL

46.6	41.9	375.6
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3,061.1	22,704.4
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(20-00-00) DEPARTMENT OF STATE

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43
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49
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Personnel		
NSF	ASF	GF

	7.0	25.0
	7.0	25.0

(20-01-00) Office of the Secretary

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

TOTAL -- Office of the Secretary

	7.0	5.0
		5.0
		9.0
		6.0
	7.0	25.0

(-01) Administration
(-02) Delaware Commission on Veterans Affairs
(-03) Delaware Veterans Memorial Cemetery
(-04) Veterans Cemetery Georgetown

TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF

307.6	1,107.6
32.2	37.2
684.6	199.6
	38.3
69.5	147.0
156.4	
	353.6
1,250.3	1,883.3

1,205.9	572.9
	315.1
35.4	661.4
9.0	333.9
1,250.3	1,883.3

(20-02-00) Office of Human Relations

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Other Items:
Human Relations Annual Conference

TOTAL -- Office of Human Relations

2.0		8.0
2.0		8.0

	350.1
	11.2
	29.4
	4.4
10.0	
10.0	395.1

2.0		8.0
2.0		8.0

(-01) Office of Human Relations

TOTAL -- Internal Program Unit

10.0	395.1
10.0	395.1

(20-03-00) Delaware State Archives

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Document Conservation Fund
Debt Service

TOTAL -- Delaware State Archives

	7.0	33.0
	7.0	33.0

296.1	1,281.4
3.6	1.8
45.7	203.4
19.5	118.6
18.5	11.5
	20.0
	1,210.4
383.4	2,847.1

	7.0	33.0
	7.0	33.0

(-01) Delaware State Archives

TOTAL -- Internal Program Unit

383.4	2,847.1
383.4	2,847.1

Year ending June 30, 2000

(20-00-00) DEPARTMENT OF STATE

Personnel

NSF	ASF	GF
	83.5	3.5
	83.5	3.5

(20-05-00) Corporations

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Computer Time Costs
Technology Infrastructure Fund
Debt Service

TOTAL -- Corporations

	83.5	3.5
	83.5	3.5

(-01) Corporations

TOTAL -- Internal Program Unit

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		3,301.7	251.0
		30.1	
		769.2	60.0
		126.3	
		1,868.6	
		165.0	
		1,500.0	
			28.9
		7,760.9	339.9

7,760.9	339.9
7,760.9	339.9

(20-06-00) Historical and Cultural Affairs

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Delaware Heritage Commission
Museum Operations
Museum Conservation Fund
Museum Maintenance Fund
Museum Gift Shops
Museum Grounds
Museum Exhibits
Conference Center Operations
Conference Center Grounds
Museum Marketing
Museum Education
Dayett Mills
John Dickinson Plantation
Debt Service

TOTAL -- Historical and Cultural Affairs

5.4	1.4	42.2
5.4	1.4	42.2

48.1	1,864.1
	9.2
	179.5
	146.9
	51.8
	16.3
	69.0
20.1	
	50.0
	100.0
68.7	
4.0	
13.0	
99.5	
9.5	
3.0	
4.0	
9.5	
21.0	
	556.6
300.4	3,043.4

		7.0
5.4	0.4	3.2
	1.0	32.0
5.4	1.4	42.2

(-01) Office of Administration

(-03) Delaware State Historic

Preservation Office

(-04) Delaware State Museums

TOTAL -- Internal Program Units

9.5	482.4
17.7	186.8
273.2	2,374.2
300.4	3,043.4

(20-00-00) DEPARTMENT OF STATE

Personnel

NSF	ASF	GF
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3.0		6.0
3.0		6.0

3.0		6.0
3.0		6.0

9.0		11.0
9.0		11.0

9.0		11.0
9.0		11.0

	36.0	
	36.0	

	36.0	
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19.4	134.9	128.7
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(20-07-00) Arts

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Other Items:
Delaware Art
Art for the Disadvantaged

TOTAL -- Arts

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

(20-08-00) Libraries

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Library Standards
Delaware Electronic Library
DELNET- Statewide
Training Center
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

ASF	GF
-----	----

	1,560.3
	1,560.3

S Line Item

ASF	GF
-----	----

	314.4
	4.0
	72.9
	4.0
	1,155.0
	10.0
	1,560.3

	476.4
	4.0
	195.4
	7.8
	21.1
	7.0
	1,871.6
	172.0
	75.0
2.0	747.8
2.0	3,578.1

2.0	3,578.1
2.0	3,578.1

1,971.9	
49.9	
312.8	
22.1	
38.2	
0.1	
2,395.0	

2,395.0	
2,395.0	

12,102.0	13,647.2
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(25-00-00) DEPARTMENT OF FINANCE

Personnel

NSF	ASF	GF
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		16.0
		16.0

		16.0

		40.0
		40.0

		40.0

		209.0
		209.0

		209.0

(25-01-00) Office of the Secretary

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items
Information System Development

TOTAL -- Office of the Secretary

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

S Program

ASF	GF
-----	----

678.3	1,356.8
678.3	1,356.8

S Line Item

ASF	GF
-----	----

	1,138.6
	15.0
	185.0
	15.2
	3.0
678.3	
678.3	1,356.8

(25-05-00) Accounting

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
State Accounting Course

TOTAL -- Accounting

(-01) Accounting
TOTAL -- Internal Program Unit

	2,670.0
	2,670.0

	2,140.2
	24.1
	399.0
	58.7
	15.0
	33.0
	2,670.0

(25-06-00) Revenue

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Escheat
Delinquent Collections
Debt Service

TOTAL -- Revenue

(-01) Revenue
TOTAL -- Internal Program Unit

1,140.5	11,495.4
1,140.5	11,495.4

	9,188.7
	57.2
	1,858.4
	2.3
	139.9
	80.5
195.0	
945.5	
	168.4
1,140.5	11,495.4

Year ending June 30, 2000

(25-00-00) DEPARTMENT OF FINANCE

(25-00-00) DEPARTMENT OF FINANCE							
Personnel				\$ Program		\$ Line Item	
NSF	ASF	GF		ASF	GF	ASF	GF
	30.0		(25-07-00) State Lottery Office				
			Personnel Costs			1,364.6	
			Travel			27.0	
			Contractual Services			41,304.7	
			Supplies and Materials			47.9	
			Capital Outlay			62.0	
	30.0		TOTAL -- State Lottery Office			42,806.2	
			(-01) State Lottery Office	42,806.2			
	30.0		TOTAL -- Internal Program Unit	42,806.2			
	30.0	265.0	TOTAL -- DEPARTMENT OF FINANCE			44,625.0	15,522.2

Year ending June 30, 2000

(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES

Personnel

NSF	ASF	GF
-----	-----	----

3.0	2.0	30.0
3.0	2.0	30.0

(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

ASF	GF
-----	----

138.8	1,171.1
85.2	
158.2	
314.2	
125.8	
138.8	1,854.5

\$ Line Item

ASF	GF
-----	----

96.5	1,539.9
2.6	19.7
12.5	199.1
6.0	25.6
21.2	3.8
	65.0
	1.4
138.8	1,854.5

2.0	22.0
3.0	1.0
	2.0
	4.0
	1.0
3.0	30.0

(-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

138.8	1,171.1
85.2	
158.2	
314.2	
125.8	
138.8	1,854.5

(30-03-00) Regulation and Licensing

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Real Estate Guaranty Fund
Examination Costs
Motor Vehicle Franchise Fund

TOTAL -- Regulation and Licensing

56.0	
56.0	

3,028.0	
105.9	
2,250.9	
75.9	
207.1	
10.0	
75.0	
15.0	
5,767.8	

23.0	
29.0	
4.0	
56.0	

(-20) Professional Regulation
(-30) Public Service Commission
(-50) Public Advocate

TOTAL -- Internal Program Units

2,022.7	
3,209.0	
536.1	
5,767.8	

(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES

Personnel		
NSF	ASF	GF

	49.0	17.5
	49.0	17.5

		9.0
		3.0
	18.0	
	31.0	
		5.5
	49.0	17.5

2.6	4.0	84.4
2.6	4.0	84.4

2.6	4.0	84.4
2.6	4.0	84.4

(30-04-00) Support Operations

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Gas Card Expense

TOTAL -- Support Operations

(-10) Mail/Courier Services
(-20) Telephone Services
(-30) Graphics and Printing
(-40) Fleet Management
(-50) Service and Information Guide
TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

		1,928.5	582.0
		26.4	
		13,024.9	300.1
		24.2	
		1,293.0	12.5
		4,644.2	
		493.0	
		21,434.2	894.6

1,670.3	351.0
9,748.9	143.4
2,309.6	
7,660.4	
45.0	400.2
21,434.2	894.6

(30-05-00) Facilities Management

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Minor Capital Improvements (MCI)
UST State Agency Tanks
Debt Service

TOTAL -- Facilities Management

(-10) Facilities Management
TOTAL -- Internal Program Unit

136.4	3,339.6
4.5	
379.4	3,184.1
	2,094.9
237.0	450.9
109.6	
	12,820.8
	800.0
	12,363.2
866.9	35,053.5

866.9	35,053.5
866.9	35,053.5

Year ending June 30, 2000

(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES

Personnel

NSF	ASF	GF
2.0	8.0	21.0
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

		17.0
	4.0	
2.0	4.0	4.0
2.0	8.0	21.0

(-10) Contracting
(-20) Delaware Surplus Services
(-30) Food Distribution
TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF

279.8	884.8
10.1	11.0
60.3	61.2
15.7	23.4
124.7	15.0
34.1	10.6
613.8	
1,138.5	1,006.0

100.0	818.9
261.8	
776.7	187.1
1,138.5	1,006.0

TOTAL -- DEPARTMENT OF
ADMINISTRATIVE SERVICES

7.6	119.0	152.9
-----	-------	-------

29,346.2	38,808.6
----------	----------

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

Personnel		
NSF	ASF	GF
55.7	37.1	154.7
55.7	37.1	154.7

(35-01-00) Administration

Personnel Costs
 Travel
 Contractual Services
 Energy
 Supplies and Materials
 Capital Outlay
 Other Items:
 Revenue Management
 Health Statistics
 Program Integrity
 Paramedics Contingency
 Nurse Recruitment
 EBT
 Debt Service

TOTAL -- Administration

(-10) Office of the Secretary
 (-20) Management Services
 TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF
		878.4	7,393.8
		14.8	9.8
		353.5	1,016.5
			95.2
		88.3	39.3
		130.4	40.4
		255.0	
		173.8	
		232.8	
			150.0
			20.0
			108.4
			3,378.1
		2,127.0	12,251.5

107.9	735.4
2,019.1	11,516.1
2,127.0	12,251.5

(35-04-00) Medical Examiner

Personnel Costs
 Travel
 Contractual Services
 Energy
 Supplies and Materials
 Capital Outlay
 Other Items:
 Urinanalysis
 Debt Service

TOTAL -- Medical Examiner

(-01) Medical Examiner
 TOTAL -- Internal Program Unit

	2,159.0
	12.0
	201.8
	67.3
	497.1
	38.6
45.0	
	292.1
45.0	3,267.9

45.0	3,267.9
45.0	3,267.9

Year ending June 30, 2000

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

Personnel				S Program		S Line Item	
NSF	ASF	GF		ASF	GF	ASF	GF
(35-00-00) Public Health							
188.0	39.3	1,350.5	Personnel Costs				49,690.5
			Travel				35.5
			Contractual Services				8,062.3
			Energy				1,228.3
			Supplies and Materials				3,692.4
			Capital Outlay				138.3
			Other Items:				
			Long-Term Care Prospective Payment			114.0	
			Rodent Control				40.0
			Tuberculosis			65.0	
			Sexually Transmitted Diseases			105.0	
			Child Development Watch			550.0	
			Preschool Diagnosis and Treatment			100.0	98.0
			Home Visits			150.0	
			Immunizations				296.5
			School Based Health Centers				4,189.5
			Hepatitis B				120.0
			AIDS				158.2
			Rabies Control				80.6
			Office of Narcotics & Dangerous Drugs				40.0
			Child Health			800.0	
			Vanity Birth Certificates			14.7	
			Public Water			60.0	
			Medicaid Enhancements			205.0	
			Infant Mortality			150.0	
			Medicaid AIDS Waiver			650.0	
			Children with Special Needs			50.0	
			Family Planning			325.0	
			Newborn			425.0	
			Indirect Costs			206.4	
			Food Inspection			21.0	
			Food Permits			400.0	
			Medicaid Contractors/Lab Testing & Analysis			100.0	
			Water Operator Certification			8.0	
			Debt Service				484.5
188.0	39.3	1,350.5	TOTAL -- Public Health			4,499.1	68,354.6
1.0	4.0	44.0	(-10) Director's Office/Support Services	119.7	2,635.7		
187.0	35.3	321.3	(-20) Community Health	4,265.4	24,490.9		
		7.0	(-30) Emergency Medical Services		1,230.2		
		638.2	(-40) Delaware Hospital for the Chronically Ill	69.5	25,760.6		
		197.5	(-50) Emily Bissell	44.5	8,451.0		
		142.5	(-60) Governor Bacon		5,786.2		
188.0	39.3	1,350.5	TOTAL -- Internal Program Units	4,499.1	68,354.6		

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

Personnel

NSF	ASF	GF
-----	-----	----

\$ Program

ASF	GF
-----	----

\$ Line Item

ASF	GF
-----	----

(35-06-00) Alcoholism, Drug Abuse and Mental Health

18.8	4.0	906.9
18.8	4.0	906.9

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
SENTAC Treatment Initiatives
Sheltered Workshop
Patient Payment
Debt Service

179.4	35,602.2
	20.4
6,475.4	19,009.7
	659.3
100.6	4,190.6
9.0	184.0
	1,519.0
	9.9
	28.2
	1,068.7
6,764.4	62,292.0

TOTAL -- Alcoholism, Drug Abuse and Mental Health

12.0		22.0
4.0		130.5
0.8	1.0	718.4
2.0	3.0	36.0
18.8	4.0	906.9

(-10) Administration - Mental Health
(-20) Community Mental Health
(-30) Inpatient Mental Health
(-40) Alcoholism and Drug Abuse

60.0	1,527.4
6,056.0	14,644.6
66.3	35,903.6
582.1	10,216.4
6,764.4	62,292.0

TOTAL -- Internal Program Units

(35-07-00) Social Services

314.3	2.0	282.6
314.3	2.0	282.6

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Cost Recovery
Early Intervention
General Assistance
TANF Cash Assistance
SSI Supplement
Child Care
Emergency Assistance
Employment and Training
Medicaid - State
Medicaid - Non-State
Delaware Healthy Children Program
Delaware Healthy Children Program Premiums
Delaware Healthy Children Program - DSCYF
Legal Non-Citizen Health Care
Renal

	11,572.8
	13.9
	4,943.2
	46.9
	103.9
	82.9
150.2	
231.1	1,717.5
	2,581.1
500.0	2,282.4
	1,001.0
	22,236.5
	798.9
	3,735.9
	27,082.2
16,000.0	178,014.6
	2,873.1
500.0	
585.2	
	320.0
	1,076.5
17,966.5	260,483.3

TOTAL -- Social Services

314.3	2.0	282.6
314.3	2.0	282.6

(-01) Social Services

17,966.5	260,483.3
17,966.5	260,483.3

TOTAL -- Internal Program Unit

NSF

TOTAL -- Temporary Assistance to Needy Families and Their Children (TANF) NSF appropriation

32,291.0

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

Personnel

NSF	ASF	GF
31.6	3.0	34.4
31.6	3.0	34.4

(35-08-00) Visually Impaired

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
BEP Unassigned Vending
BEP Independence
BEP Cafe
BEP Vending

TOTAL -- Visually Impaired

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		101.3	1,705.7
			3.0
		1.5	528.7
			52.0
			51.9
		4.0	39.1
		175.0	
		450.0	
		50.0	
		425.0	
1,206.8	2,380.4	1,206.8	2,380.4

31.6	3.0	34.4
31.6	3.0	34.4

(-01) Visually Impaired Services

TOTAL -- Internal Program Unit

1,206.8	2,380.4
1,206.8	2,380.4

(35-09-00) Long Term Care Residents Protection

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Adult Abuse Registry

TOTAL -- Long Term Care Residents Protection

	1,736.6
	10.3
	614.8
	11.0
	15.7
	150.0
	2,538.4

20.4		43.6
20.4		43.6

(-01) Long Term Care Residents Protection

TOTAL -- Internal Program Unit

	2,538.4
	2,538.4

(35-10-00) Child Support Enforcement

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Recoupment

TOTAL -- Child Support Enforcement

676.4	1,757.9
3.7	4.9
531.1	732.9
	12.9
25.0	12.8
35.0	2.1
25.0	
1,296.2	2,523.5

125.3	17.4	47.3
125.3	17.4	47.3

(-01) Child Support Enforcement

TOTAL -- Internal Program Unit

1,296.2	2,523.5
1,296.2	2,523.5

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

Personnel		
NSF	ASF	GF
3.0	1.0	863.8
3.0	1.0	863.8

(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
Debt Service

TOTAL -- Mental Retardation

S Program		S Line Item	
ASF	GF	ASF	GF
		24.0	30,762.0
			7.6
		1,060.0	5,032.4
			560.1
			1,419.4
			106.6
			30.0
			9.6
			15,357.6
			4,859.7
			33.9
		1,084.0	58,178.9

3.0	1.0	31.0
		683.0
		149.8
3.0	1.0	863.8

(-10) Administration - Mental Retardation

(-20) Institutional Services

(-30) Community Services

TOTAL -- Internal Program Units

24.0	1,654.7
	28,507.9
1,060.0	28,016.3
1,084.0	58,178.9

(35-12-00) State Service Centers

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Family Support
Kent County RSVP
Community Food Program
Emergency Assistance
Hispanic Affairs
Debt Service

TOTAL -- State Service Centers

40.0	4,069.6
7.8	9.0
1,143.7	2,492.8
54.2	527.4
70.1	92.3
39.8	17.3
	221.0
	29.4
	85.5
	1,450.1
	50.0
	350.4
1,355.6	9,394.8

22.8		57.4
	1.0	21.5
9.0		2.0
4.7		17.2
36.5	1.0	98.1

(-10) Family Support

(-20) Service Center Management

(-30) Community Services

(-40) Volunteer Services

TOTAL -- Internal Program Units

	2,832.7
1,355.4	2,948.7
	1,904.9
0.2	1,708.5
1,355.6	9,394.8

Year ending June 30, 2000

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

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
				(35-14-00) Services for Aging and Adults with Physical Disabilities				
	49.4		54.8	Personnel Costs				2,453.8
				Travel				8.2
				Contractual Services				4,257.3
				Energy				9.6
				Supplies and Materials				49.8
				Capital Outlay				0.6
				Other Items:				
				Community Services			261.0	
				Nutrition Program				497.1
				Long Term Care				249.1
				Assisted Living				610.6
	49.4		54.8	TOTAL -- Services for Aging and Adults with Physical Disabilities			261.0	8,136.1
	49.4		54.8	(-01) Services for Aging and Adults with Physical Disabilities	261.0	8,136.1		
	49.4		54.8	TOTAL -- Internal Program Unit	261.0	8,136.1		
	843.0	105.8	3,873.7	TOTAL -- DEPARTMENT OF HEALTH AND SOCIAL SERVICES			36,605.6	489,801.4

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

Personnel

NSF	ASF	GF
-----	-----	----

22.1	27.5	98.7
22.1	27.5	98.7

(37-01-00) Management Services

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
MIS Development
Home Visiting
Agency Operations
Services Integration
Client Record Management
Debt Service

TOTAL -- Management Services

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

1,465.6	5,459.0
15.9	10.6
803.9	799.8
57.9	88.3
12.0	39.6
	362.3
	150.0
187.0	
102.1	
96.9	
	541.7
2,741.3	7,451.3

	4.0
5.0	6.0
7.8	16.2
1.0	11.0
1.0	12.0
	42.5
12.3	7.0
22.1	98.7

(-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

110.7	659.1
792.6	1,033.9
366.5	820.7
392.4	518.7
60.0	804.6
401.0	2,656.7
618.1	957.6
2,741.3	7,451.3

(37-04-00) Child Mental Health Services

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items
MIS Maintenance

TOTAL -- Child Mental Health Services

1.0	17.0	190.6
1.0	17.0	190.6

903.7	9,546.0
7.0	22.7
6,610.9	10,652.8
	224.2
34.1	289.8
3.0	25.4
31.0	
7,589.7	20,760.9

1.0	14.0	78.1
	3.0	5.2
		39.3
		68.0
1.0	17.0	190.6

(-10) Managed Care Organization
(-20) Early Intervention
(-30) Periodic Treatment
(-40) 24 Hour Treatment

TOTAL -- Internal Program Units

981.6	4,512.2
173.0	427.9
2,630.0	6,789.6
3,805.1	9,031.2
7,589.7	20,760.9

Year ending June 30, 2000

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

Personnel

S Program

S Line Item

NSF	ASF	GF
-----	-----	----

ASF	GF
-----	----

ASF	GF
-----	----

5.0	12.0	295.1
5.0	12.0	295.1

(37-05-00) Youth Rehabilitative Services

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

548.7	13,971.8
9.7	31.6
1,790.2	14,977.5
	531.4
81.1	717.5
	24.4
	1,176.1
2,429.7	31,430.3

TOTAL -- Youth Rehabilitative Services

1.0		9.1
4.0		68.5
	12.0	217.5
5.0	12.0	295.1

(-10) Office of the Director

(-30) Community Services

(-50) Secure Care

TOTAL -- Internal Program Units

1.0	546.2
1,311.1	16,886.5
1,117.6	13,997.6
2,429.7	31,430.3

(37-06-00) Family Services

68.9	29.5	305.0
68.9	29.5	305.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Child Welfare/Contractual Services
Other Items:
Emergency Material Assistance
DFS Decentralization

1,289.8	13,795.7
7.6	17.1
2,165.3	2,530.1
21.7	82.8
13.5	29.3
	8,531.4
	31.0
283.3	
3,781.2	25,017.4

TOTAL -- Family Services

24.9	5.5	69.6
35.0		15.0
1.0	12.0	97.4
8.0	12.0	123.0
68.9	29.5	305.0

(-10) Office of the Director
(-20) Prevention/Early Intervention
(-30) Intake/Investigation
(-40) Intervention/Treatment

TOTAL -- Internal Program Units

958.3	4,248.2
98.8	1,765.7
666.1	4,894.2
2,058.0	14,109.3
3,781.2	25,017.4

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

97.0	86.0	889.4
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16,541.9	84,659.9
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(38-00-00) DEPARTMENT OF CORRECTION

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(38-01-00) Administration				
2				Personnel Costs				10,036.3
3				Travel				22.7
4				Contractual Services			25.0	1,782.6
5				Energy				116.4
6			237.0	Supplies and Materials				6,317.5
7				Capital Outlay				89.1
8				Other Items:				
9				Medical Services				11,814.8
10				AIDS Education and Counseling				80.0
11				Drug & Alcohol Treatment Services				3,652.3
12				Contingency - Shakedowns				15.4
13				Maintenance/Restoration				1,827.1
14				Education Enhancement				75.0
15				MIS				364.0
16				Warehouse				96.0
17				Debt Service				320.0
18			237.0	TOTAL -- Administration			25.0	36,609.2
19								
20				(-01) Office of the Commissioner	25.0	1,022.9		
21			16.0	(-02) Human Resources/Employee				
22			47.0	Development Center		2,326.8		
23				(-10) Management Services		3,045.6		
24			44.0	(-20) Food Services		8,731.9		
25			64.0	(-30) Medical/Treatment Services		11,894.8		
26				(-31) Drug & Alcohol Treatment		3,652.3		
27				Services				
28				(-40) Facilities Maintenance		5,934.9		
29			66.0	TOTAL -- Internal Program Units	25.0	36,609.2		
30			237.0					
31								
32								
33								

(38-00-00) DEPARTMENT OF CORRECTION

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(38-04-00) Prisons						
	19.0	1,721.4			989.2	70,385.0
					9.0	24.5
					949.4	10,537.8
					10.2	2,911.4
					1,422.2	3,694.0
					177.0	
						19.0
						100.0
						53.0
						11.5
						14,289.0
	19.0	1,721.4			3,557.0	102,025.2
TOTAL -- Prisons						
		9.0		7,117.1		
		26.0	1.0	1,291.1		
		736.0	1.0	39,985.2		
		406.0		19,659.5		
	1.0	95.0	38.1	6,188.3		
	6.0	366.0	236.5	20,576.5		
		3.0		187.0		
		47.0		3,474.7		
	7.0	12.0	1,633.8	631.7		
	5.0	6.0	1,645.6	262.7		
		15.4	1.0	2,651.4		
	19.0	1,721.4	3,557.0	102,025.2		
TOTAL -- Internal Program Units						
(38-06-00) Community Corrections						
		510.0				21,444.9
						43.3
					30.0	3,211.4
						182.1
					25.0	411.5
						42.0
						749.5
		510.0			55.0	26,084.7
TOTAL -- Community Corrections						
		16.0		1,355.3		
		315.0		15,919.9		
		38.0		2,020.9		
		42.0	1.0	2,135.8		
		32.0	50.0	1,457.7		
		23.0	4.0	1,128.5		
		44.0				
				2,066.6		
		510.0	55.0	26,084.7		
TOTAL -- Internal Program Units						
	19.0	2,468.4			3,637.0	164,719.1
TOTAL -- DEPARTMENT OF CORRECTION						

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

Personnel		
NSF	ASF	GF
2.0	19.3	31.7
2.0	19.3	31.7

(40-01-00) Office of the Secretary

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
MCI/Equipment
Non-Game Habitat
Coastal Zone Management
Special Projects
Outdoor Delaware
Wholebasin Management-TMDL
Wholebasin Management-Admin.
Debt Service

TOTAL -- Office of the Secretary

S Program		S Line Item	
ASF	GF	ASF	GF
		914.9	2,193.6
		5.9	20.6
		101.8	222.0
		35.0	250.4
		67.8	36.5
		7.2	7.0
			367.9
		20.0	
		25.0	
		15.0	
		65.0	80.0
			599.6
			11.5
			808.3
		1,257.6	4,597.4

1.0	17.3	29.7
1.0	2.0	2.0
2.0	19.3	31.7

(-01) Office of the Secretary
(-02) Business and Permitting Services
TOTAL -- Internal Program Units

1,168.6	4,432.8
89.0	164.6
1,257.6	4,597.4

(40-05-00) Fish and Wildlife

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Spraying and Insecticides
Non-Game Habitat
Natural Heritage Program
Clean Vessel Program
Duck Stamp
Trout Stamp
Finfish Development
Fisheries Restoration
Northern Delaware Wetlands
Revenue Refund
Debt Service

TOTAL -- Fish and Wildlife

28.2	32.8	64.0
28.2	32.8	64.0

1,201.6	3,235.4
17.0	12.3
665.7	975.7
1.5	87.6
283.3	302.0
1,763.3	
	364.9
50.0	
219.0	219.0
32.4	
180.0	
50.0	
130.0	
310.0	
277.5	
15.0	
	113.8
5,196.3	5,310.7

	1.0	2.5
24.6	29.4	16.5
		18.0
3.6	2.4	27.0
28.2	32.8	64.0

(-01) Management and Support - Fish and Wildlife
(-02) Wildlife/Fisheries
(-04) Mosquito Control
(-05) Dog Control
(-06) Fish and Wildlife Enforcement
TOTAL -- Internal Program Units

122.7	254.7
3,974.6	1,533.5
325.0	1,458.2
129.5	581.9
644.5	1,482.4
5,196.3	5,310.7

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

Personnel

NSF	ASF	GF
1.0	62.5	104.5
1.0	62.5	104.5

(40-06-00) Parks and Recreation

Personnel Costs

Travel

Contractual Services

Energy

Supplies and Materials

Capital Outlay

Other Items

State Park Partnership

Showmobile

Killens Pond Water Park

Marina Fuel Sales

Other Items

Debt Service

TOTAL -- Parks and Recreation

\$ Program

ASF	GF
-----	----

\$ Line Item

ASF	GF
4,020.4	4,609.1
27.3	5.2
1,027.5	800.9
20.9	371.1
758.1	368.4
385.7	
	92.3
	10.0
160.0	
440.0	
616.5	
	3,063.4
7,456.4	9,320.4

(-01) Management and Support -
Parks and Recreation

(-02) Operations and Maintenance

(-03) Cultural and Recreational Services

(-04) Planning, Preservation and
Development

(-05) Wilmington State Parks

TOTAL -- Internal Program Units

131.6	474.4
5,650.9	4,027.7
940.8	496.2
654.6	2,318.9
78.5	2,003.2
7,456.4	9,320.4

(40-07-00) Soil and Water Conservation

Personnel Costs

Travel

Contractual Services

Energy

Supplies and Materials

Capital Outlay

Other Items:

New Castle County Dredge

Beach Erosion Control Program

Sand Bypass System

Tax Ditches*

Debt Service

TOTAL -- Soil and Water Conservation

37.8	2,406.4
5.0	5.9
1,109.0	824.9
	13.5
34.0	201.6
39.0	
	225.0
1,700.0	
	95.0
	225.0
	904.2
2,924.8	4,901.5

(-01) Management and Support -
Soil and Water

(-02) Drainage

(-03) Shoreline and Waterway
Management

(-04) District Operations

(-05) Delaware Coastal Management

TOTAL -- Internal Program Units

95.1	339.3
	1,668.0
2,769.5	1,873.5
50.2	1,014.2
10.0	6.5
2,924.8	4,901.5

*Pursuant to Section 3921, Title 7, Delaware Code

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

Personnel			S Program		S Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(40-08-00) Water Resources						
32.7	64.0	73.3			2,233.9	3,940.8
					31.5	40.2
					430.0	1,113.0
						14.3
					171.1	106.9
					92.7	45.0
						112.0
						50.0
					28.0	
						250.0
					300.0	
					20.1	
						3,133.4
32.7	64.0	73.3	TOTAL -- Water Resources		3,307.3	8,805.6
15.5	7.0	12.5	(-01) Management and Support -		737.7	4,260.6
			Water Resources			
2.0	26.0	18.0	(-02) Environmental Services		1,143.7	1,109.8
2.0	10.0	6.0	(-04) Surface Water Discharges		450.7	479.4
3.0	13.0	8.0	(-05) Ground Water Discharges		575.9	432.6
6.0	4.0	8.0	(-06) Water Supply		147.2	416.7
4.2	1.0	15.8	(-07) Watershed Assessment			1,781.2
	3.0	5.0	(-08) Wetlands and Subaqueous		252.1	325.3
			Lands			
32.7	64.0	73.3	TOTAL -- Internal Program Units		3,307.3	8,805.6

(45-00-00) DEPARTMENT OF PUBLIC SAFETY

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(45-01-00) Office of the Secretary				
2				Personnel Costs			121.2	2,484.2
3				Travel				24.3
4				Contractual Services				473.4
5				Energy				238.0
6	29.1	1.0	50.4	Supplies and Materials			85.0	38.0
7				Capital Outlay				30.1
8				Other Items:				
9				Other Items			0.7	
10				Police Training Council				15.0
11				Local Emergency Planning Councils				50.0
12				Hazardous Waste Clean Up			100.0	
13				Debt Service				694.9
14	29.1	1.0	50.4	TOTAL -- Office of the Secretary			306.9	4,047.9
15				(-01) Administration	100.0	1,077.2		
16			13.0	(-10) Boiler Safety				
17			5.0	(-20) Communication	206.9	1,412.3		
18		1.0	22.0	(-30) DEMA		1,129.8		
19	24.6		7.4	(-40) Highway Safety		167.0		
20	4.5		3.0	TOTAL -- Internal Program Units	306.9	4,047.9		
21	29.1	1.0	50.4					
22				(45-02-00) Capitol Police				
23				Personnel Costs				1,327.8
24	1.8		35.2	Travel				2.4
25				Contractual Services				388.8
26				Supplies and Materials				18.5
27	1.8		35.2	TOTAL -- Capitol Police				1,737.5
28				(-10) Capitol Police		1,737.5		
29	1.8		35.2	TOTAL -- Internal Program Unit		1,737.5		
30	1.8		35.2					
31				(45-04-00) Division of Alcoholic Beverage Control				
32				Personnel Costs			49.4	850.7
33	2.0	2.0	19.0	Travel			2.8	3.1
34				Contractual Services			43.3	102.6
35				Supplies and Materials			2.3	12.1
36				Capital Outlay			2.0	3.0
37				Other Items:				
38				Tobacco Enforcement Contingency				40.0
39				Other Items			10.0	
40	2.0	2.0	19.0	TOTAL -- Division of Alcoholic Beverage Control			109.8	1,011.5
41				(-10) Division of Alcoholic Beverage	109.8	1,011.5		
42				Control				
43	2.0	2.0	19.0	TOTAL -- Internal Program Unit	109.8	1,011.5		
44	2.0	2.0	19.0					

Year ending June 30, 2000

(45-00-00) DEPARTMENT OF PUBLIC SAFETY

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(45-06-00) State Police				
2				Personnel Costs			977.3	44,969.8
3				Travel			116.7	33.3
4				Contractual Services			508.2	2,535.8
5				Energy				362.1
6	28.6	23.5	757.9	Supplies and Materials			422.6	1,748.0
7				Capital Outlay			35.0	1,331.9
8				Other Items:				
9				Other Items			87.5	
10				Pension - 20 Year Retirees				16,207.8
11				Crime Reduction Fund				75.0
12				Career Development				35.0
13				Handicapped/Fire Lane Enforcement				90.0
14				Debt Service				506.4
15	28.6	23.5	757.9	TOTAL -- State Police			2,147.3	67,895.1
16								
17				(-01) Executive	226.7	20,995.0		
18			62.0	(-02) Bldg Maintenance & Construction		266.7		
19			7.0	(-03) Patrol	649.5	20,263.1		
20	5.5	6.0	313.5	(-04) Criminal Investigation		9,670.6		
21	16.0		143.0	(-05) Special Investigation	458.1	2,771.4		
22	2.9	7.0	36.1	(-06) Aviation		2,137.4		
23			20.0	(-07) Traffic		815.5		
24	4.2		13.8	(-08) State Bureau of Identification	712.3	1,644.7		
25		7.0	34.0	(-09) Training		1,334.8		
26			12.0	(-10) Communications	100.7	4,328.8		
27		3.5	88.5	(-11) Transportation		3,116.6		
28			17.0	(-12) Community Relations		550.5		
29			11.0	TOTAL - Internal Program Units	2,147.3	67,895.1		
30	28.6	23.5	757.9					
31				(45-07-00) Division of Motor Vehicles				
32				Personnel Costs			830.7	7,228.3
33		26.0	197.0	Travel			4.0	10.1
34				Contractual Services			1,761.9	851.4
35				Supplies and Materials			196.5	493.7
36				Capital Outlay			1,364.5	0.1
37				Other Items:				
38				CDL Fees			207.3	
39				Motorcycle Safety			104.5	
40				Special License Plates			25.0	
41				Odometer Forms			6.0	
42				Off Highway Vehicles			1.0	
43				Automation			150.0	
44				Debt Service				195.4
45		26.0	197.0	TOTAL -- Division of Motor Vehicles			4,651.4	8,779.0
46								
47				(-01) Administration	119.8	1,593.7		
48		2.0	70.0	(-10) Driver Services	259.6	2,737.4		
49		24.0	97.0	(-20) Vehicle Services	4,272.0	4,447.9		
50		26.0	197.0	TOTAL -- Internal Program Units	4,651.4	8,779.0		
51								
52	61.5	52.5	1,059.5	TOTAL -- DEPARTMENT OF PUBLIC SAFETY			7,215.4	83,471.0

(55-00-00) DEPARTMENT OF TRANSPORTATION

	Personnel				\$ Line Item	
	NSF	TFO	TFC		TFO	GF
1				(55-01-00) Office of the Secretary		
2				(55-01-01) Office of the Secretary		
3				Personnel Costs	3,316.8	
4		52.0		Salary Contingency/Retention	200.0	
5				Operations/Capital	2,171.9	
6		52.0		TOTAL -- Office of the Secretary	5,688.7	
7				(55-01-02) Office of Financial Management		
8				and Budget		
9				Personnel Costs	1,682.2	
10				Operations/Capital	806.5	
11				TOTAL -- Office of Financial Management	2,488.7	
12				and Budget		
13	2.0	38.0				
14						
15	2.0	38.0				
16						
17						
18				General Fund Authorization for MFTA Operations \$1,244.8		
19						
20				(55-01-03) Office of External Affairs		
21				Personnel Costs	637.6	
22		11.0		Operations/Capital	128.9	
23		11.0		TOTAL -- Office of External Affairs	766.5	
24						
25						
26	2.0	101.0		TOTAL--Office of the Secretary	8,943.9	
27						
28				(55-02-01) Division of Administration		
29				Personnel Costs	3,227.5	
30				Travel	18.0	
31	3.0	68.0	1.0	Contractual/Supplies	2,943.8	
32				Energy	234.0	
33				Capital Outlay	19.0	
34	3.0	68.0	1.0	TOTAL--Division of Administration	6,442.3	
35						
36				(55-03-01) Division of Planning		
37				Personnel Costs	3,584.3	
38		72.0	7.0	Operations/Capital	514.9	
39		72.0	7.0	TOTAL -- Division of Planning	4,099.2	
40						
41						
42						

(55-00-00) DEPARTMENT OF TRANSPORTATION

Personnel

NSF	TFO	TFC
-----	-----	-----

S Line Item

TFO	GF
-----	----

(55-04-00) Division of Highway Operations

(55-04-01) Office of the Director

Personnel Costs
Operations/Capital
TOTAL -- Office of the Director

923.5	
117.1	
1,040.6	

(55-04-40) Construction

Personnel Costs
Operations/Capital
TOTAL -- Construction

3,800.7	
3,800.7	

(55-04-50) Traffic Engineering and Management

Personnel Costs
Energy
Capital Outlay
Contractual/Supplies
TOTAL -- Traffic Engineering and Management

5,117.8	
854.3	
32.0	
2,598.3	
8,602.4	

(55-04-60) Field Services

Personnel Costs
Operations/Capital
TOTAL -- Field Services

2,059.9	
107.2	
2,167.1	

(55-04-70) Maintenance Districts

Personnel Costs
Energy
Capital Outlay
Contractual/Supplies
Snow/Storm Contingency
TOTAL -- Maintenance Districts

20,224.7	
453.8	
147.2	
8,067.5	
2,500.0	
31,393.2	

(55-04-80) Expressways Construction

Personnel Costs
Operations/Capital
TOTAL -- Expressways Construction

91.8	
9.6	
101.4	

(55-04-90) Expressways Operations/Toll

Administration

Personnel Costs
Travel
Energy
Capital Outlay
Contractual/Supplies
Turnpike Operating Reserve *
TOTAL -- Expressways Operations/Toll Administration

8,103.6	
26.0	
545.8	
136.0	
3,347.7	
12,159.1	

* The Cumulative Turnpike Operating Reserve Fund is established at \$920.8

1,010.0	146.0	TOTAL -- Division of Highway Operations	59,264.5	
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(55-00-00) DEPARTMENT OF TRANSPORTATION

(55-00-00) DEPARTMENT OF TRANSPORTATION

Personnel

NSF	TFO	TFC
-----	-----	-----

S Line Item

TFO	GF
-----	----

(55-01-00) Office of the Secretary

(55-01-01) Office of the Secretary

Personnel Costs

Salary Contingency/Retention

Operations/Capital

TOTAL -- Office of the Secretary

3,316.8

200.0

2,171.9

5,688.7

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

Personnel Costs

Operations/Capital

TOTAL -- Office of Financial Management
and Budget

1,682.2

806.5

2,488.7

General Fund Authorization for MFTA Operations \$1,244.8

(55-01-03) Office of External Affairs

Personnel Costs

Operations/Capital

TOTAL -- Office of External Affairs

637.6

128.9

766.5

TOTAL--Office of the Secretary

8,943.9

(55-02-01) Division of Administration

Personnel Costs

Travel

Contractual/Supplies

Energy

Capital Outlay

TOTAL--Division of Administration

3,227.5

18.0

2,943.8

234.0

19.0

6,442.3

(55-03-01) Division of Planning

Personnel Costs

Operations/Capital

TOTAL -- Division of Planning

3,584.3

514.9

4,099.2

(55-00-00) DEPARTMENT OF TRANSPORTATION

Personnel

NSF	TFO	TFC
-----	-----	-----

S Line Item

TFO	GF
-----	----

(55-04-00) Division of Highway Operations
(55-04-01) Office of the Director

	20.0	
	20.0	

Personnel Costs
Operations/Capital
TOTAL -- Office of the Director

923.5	
117.1	
1,040.6	

(55-04-40) Construction

	63.0	76.0
	63.0	76.0

Personnel Costs
Operations/Capital
TOTAL -- Construction

3,800.7	
3,800.7	

(55-04-50) Traffic Engineering and Management

	122.0	1.0
	122.0	1.0

Personnel Costs
Energy
Capital Outlay
Contractual/Supplies
TOTAL -- Traffic Engineering and Management

5,117.8	
854.3	
32.0	
2,598.3	
8,602.4	

(55-04-60) Field Services

	37.0	63.0
	37.0	63.0

Personnel Costs
Operations/Capital
TOTAL -- Field Services

2,059.9	
107.2	
2,167.1	

(55-04-70) Maintenance Districts

	549.0	
	549.0	

Personnel Costs
Energy
Capital Outlay
Contractual/Supplies
Snow/Storm Contingency
TOTAL -- Maintenance Districts

20,224.7	
453.8	
147.2	
8,067.5	
2,500.0	
31,393.2	

(55-04-80) Expressways Construction

	2.0	6.0
	2.0	6.0

Personnel Costs
Operations/Capital
TOTAL -- Expressways Construction

91.8	
9.6	
101.4	

(55-04-90) Expressways Operations/Toll
Administration

	217.0	
	217.0	

Personnel Costs
Travel
Energy
Capital Outlay
Contractual/Supplies
Turnpike Operating Reserve *
TOTAL -- Expressways Operations/Toll
Administration

8,103.6	
26.0	
545.8	
136.0	
3,347.7	
12,159.1	

* The Cumulative Turnpike Operating Reserve Fund is established at \$920.8

	1,010.0	146.0
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TOTAL -- Division of Highway Operations

59,264.5	
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Personnel		
NSF	TFO	TFC

(55-06-01) Delaware Transportation Authority

	3.0	
	3.0	

Delaware Transit Corporation	
Transit Administration	8,084.6
Transit Operations Planning and Customer Service	2,028.5
Transit Operations	21,863.4
Taxi Services Support "E & H"	148.5
Newark Transportation	90.8
Kent and Sussex Transportation "E & H"	902.8
Total -- Delaware Transit Corporation	33,118.6
DTA Indebtedness	
Debt Service	
General Obligations	1,936.7
Transportation Trust Fund	70,308.0
Total -- DTA Indebtedness	72,244.7
TOTAL -- Delaware Transportation Authority*	105,363.3

(55-07-10) Division of Pre-Construction

	86.0	85.0
	86.0	85.0

4,387.1	
644.4	
5,031.5	

TOTAL — Division of Pre-Construction

5.0	1,340.0	239.0
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189,144.7	
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(60-00-00) DEPARTMENT OF LABOR

Personnel

NSF	ASF	GF
12.5	29.6	7.9
12.5	29.6	7.9

(60-01-00) Administration

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay

TOTAL -- Administration

\$ Program

ASF	GF
-----	----

\$ Line Item

ASF	GF
-----	----

1,397.3	475.4
18.3	4.9
753.2	170.7
110.4	4.2
57.8	
2,337.0	655.2

	10.6	1.4
12.5		2.5
	19.0	3.0
12.5	29.6	7.9

(-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

853.0	237.8
	127.8
	220.0
1,484.0	69.6
2,337.0	655.2

(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	

141.4	
0.1	
172.3	
1.0	
5.2	
1.0	
108.9	
429.9	

128.0	5.0
128.0	5.0

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

429.9	
429.9	

(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	

2,666.5	
30.8	
492.0	
40.0	
27.0	
6,000.0	
9,256.3	

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

8,408.1	
848.2	
9,256.3	

Year ending June 30, 2000

(60-00-00) DEPARTMENT OF LABOR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

Personnel

NSF	ASF	GF
-----	-----	----

115.0	6.0	2.0
115.0	6.0	2.0

83.0	6.0	2.0
32.0		
115.0	6.0	2.0

89.9	3.0	23.1
89.9	3.0	23.1

89.9	3.0	23.1
89.9	3.0	23.1

352.4	97.6	33.0
-------	------	------

(60-08-00) Vocational Rehabilitation

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Other Items:
Sheltered Workshop
Governor's Committee

TOTAL -- Vocational Rehabilitation

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

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

270.4	55.7
223.0	1,781.6
	72.8
	310.4
15.0	13.0
508.4	2,234.0

508.4	2,234.0
508.4	2,234.0

(60-09-00) Employment and Training

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Summer Youth Program
Individual Skills Grant
Welfare Reform
Blue Collar Projects

TOTAL -- Employment and Training

(-20) Employment and Training Services
TOTAL -- Internal Program Unit

152.0	826.8
4.2	7.1
115.9	356.3
	1.6
6.2	15.8
13.4	6.0
	235.2
	281.6
	959.0
1,128.2	
1,419.9	2,689.4

1,419.9	2,689.4
1,419.9	2,689.4

13,951.5	5,578.6
----------	---------

Year ending June 30, 2000

(65-00-00) DEPARTMENT OF AGRICULTURE

Personnel

NSF	ASF	GF
17.2	30.5	86.3
17.2	30.5	86.3

(65-01-00) Agriculture

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Agriculture Development Program
Laurel Auction
Alternative Agriculture Projects
Agriculture Advertising
Cooperative Advertising
Plant Pest Survey and Control
Educational Assistance
Revenue Refund
Debt Service

TOTAL -- Agriculture

S Program

ASF	GF
-----	----

S Line Item

ASF	GF
-----	----

1,553.8	3,960.5
65.5	67.6
1,265.2	440.8
6.3	97.1
128.0	159.5
83.0	46.0
	23.0
	9.5
	15.0
	35.0
	40.0
	132.2
15.0	
6.0	
	120.2
3,122.8	5,146.4

(-01) Administration
(-02) Agriculture Compliance
(-03) Food Products Inspection
(-04) Forest Service
(-05) Harness Racing Commission
(-06) Pesticides
(-07) Planning
(-08) Plant Industries
(-09) Poultry and Animal Health
(-10) Thoroughbred Racing
Commission
(-11) Weights and Measures
(-12) Nutrient Management

TOTAL -- Internal Program Units

211.6	1,444.8
21.2	317.8
670.3	380.7
209.5	839.6
884.1	
247.2	
41.8	366.3
257.5	827.3
	392.4
579.6	
	430.4
	147.1
3,122.8	5,146.4

TOTAL -- DEPARTMENT OF AGRICULTURE

17.2	30.5	86.3
------	------	------

3,122.8	5,146.4
---------	---------

(70-00-00) DEPARTMENT OF ELECTIONS

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

(70-01-01) Commissioner of Elections

		11.0
		11.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
 Voter Purging
 School Elections
TOTAL -- Commissioner of Elections

	444.2
	1.3
	148.9
	18.5
	0.8
	20.0
	442.2
	1,075.9

(70-02-01) New Castle County Department of Elections

		17.0
		17.0

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Other Items:
 Mobile Registration
TOTAL -- New Castle County Department of Elections

	709.2
	12.7
	163.2
	14.6
	7.7
	5.0
	912.4

(70-03-01) Kent County Department of Elections

		7.0
		7.0

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Other Items:
 Mobile Registration
TOTAL – Kent County Department of Elections

	362.9
	1.5
	149.7
	17.7
	5.1
	3.0
	539.9

(70-04-01) Sussex County Department of Elections

		7.0
		7.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Other Items:
 Mobile Registration
TOTAL – Sussex County Department of Elections

	352.2
	0.7
	38.7
	10.2
	5.3
	407.1

		42,0
--	--	------

TOTAL -- DEPARTMENT OF ELECTIONS

	2,935,3
--	---------

(75-00-00) FIRE PREVENTION COMMISSION

Personnel

NSF	ASF	GF
	28.2	22.8
	28.2	22.8

(75-01-01) Office of the State Fire Marshal

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Revenue Refund
Juvenile Firesetter Intervention Program
Debt Service

S Program		S Line Item	
ASF	GF	ASF	GF
		1,227.5	1,201.5
		34.0	
		295.3	79.1
			43.8
		71.0	27.5
		317.5	88.8
		1.5	
			2.0
			238.6
		1,946.8	1,681.3

TOTAL -- Office of the State Fire Marshal

(75-02-01) State Fire School

Personnel Costs
Contractual Services
Energy
Capital Outlay
Other Items:
Fire School Operations
Local Emergency Planning Committee
Stress Management
Debt Service

	786.7
	350.0
	120.5
	95.0
50.0	
50.0	
	5.0
	406.8
100.0	1,764.0

TOTAL -- State Fire School

(75-03-01) State Fire Prevention Commission

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Other Items:
State-wide Fire Safety Education
Contingency - Extraordinary Expenses
Governors Fire Safety Conference
Debt Service

	33.7
	25.5
7.5	25.0
	2.6
	100.0
	20.0
	10.0
	94.1
7.5	310.9

TOTAL -- State Fire Prevention Commission

TOTAL -- FIRE PREVENTION COMMISSION

2,054.3	3,756.2
---------	---------

Year ending June 30, 2000

(76-00-00) DELAWARE NATIONAL GUARD

Personnel

NSF	ASF	GF
74.3		31.0
74.3		31.0

(76-01-01) Delaware National Guard

Personnel Costs
 Travel
 Contractual Services
 Energy
 Supplies and Materials
 Other Items:
 Educational Assistance
 Unit Fund Allowance
 Debt Service

TOTAL -- DELAWARE NATIONAL
 GUARD

S Program

ASF	GF
-----	----

S Line Item

ASF	GF
	1,552.0
	4.7
	303.4
	387.0
	94.5
	275.0
	12.2
	346.0
	2,974.8

Year ending June 30, 2000

(77-00-00) ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS

Personnel

NSF	ASF	GF
-----	-----	----

(77-01-01) Advisory Council For
Exceptional Citizens

Personnel Costs
Travel
Contractual Services
Supplies and Materials

TOTAL -- ADVISORY COUNCIL FOR
EXCEPTIONAL CITIZENS

\$ Program

ASF	GF
-----	----

\$ Line Item

ASF	GF
-----	----

		2.0
		2.0

	85.4
	5.2
	9.2
	1.1
	100.9

(90-00-00) HIGHER EDUCATION

Personnel

NSF	ASF	GF
-----	-----	----

S Program

ASF	GF
-----	----

S Line Item

ASF	GF
-----	----

(90-01-00) University of Delaware

(90-01-01) University of Delaware

Operations	75,651.9
Scholarships	6,792.9
Agricultural Programs	2,801.6
Other Programs	9,002.3
The College School	77.5
Medical Technology	35.4
Debt Service	8,333.1
MCI/Equipment	1,000.0
TOTAL -- University of Delaware	103,694.7

(90-01-02) Delaware Geological Survey

Operations	1,155.8
River Master Program	87.0
TOTAL -- Delaware Geological Survey	1,242.8

TOTAL -- University of Delaware

104,937.5

(90-03-00) Delaware State University

(90-03-01) Operations

Operations	22,986.3
Administrative Computing	125.0
Work Study	179.5
Faculty Development	100.0
Mishoe Scholarships	50.0
Cooperative Extension	15.1
Cooperative Research	88.6
Title VI Compliance	170.0
Academic Incentive	50.0
General Scholarships	206.0
Athletic Grant	133.1
Aid to Needy Students	520.0
Energy	1,366.1
Debt Service	6,572.8
MCI/Equipment	1,000.0
TOTAL -- Operations	33,562.5

(90-03-05) Sponsored Programs and Research

TOTAL -- Delaware State University

33,562.5

(90-00-00) HIGHER EDUCATION

Personnel

NSF	ASF	GF
-----	-----	----

10.0		42.0
10.0		42.0

49.0		188.0
49.0		188.0

42.0		150.0
42.0		150.0

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

(90-04-01) Office of the President

Personnel Costs
Travel
Contractual Services
Capital Outlay
Energy
Supplies and Materials
Occupational Teacher Program
Academic Incentive
Dental Program
Day Care Training
Salary Plan A & D
Parallel Program - Operations
Parallel Program - Academic
Debt Service
MCI/Equipment

TOTAL -- Office of the President

S Program

ASF	GF
-----	----

S Line Item

ASF	GF
-----	----

2,634.5	
6.6	
155.2	
2.0	
25.0	
29.7	
36.8	
50.0	
78.8	
40.0	
926.6	
267.1	
1,319.5	
13.4	
50.0	
5,635.2	

(90-04-02) Owens Campus

Personnel Costs
Contractual Services
Energy
Supplies and Materials
Grants
Aid to Needy Students
Work Study
Debt Service
Capital Outlay
MCI/Equipment

TOTAL -- Owens Campus

10,931.8	
142.8	
450.5	
4.0	
43.2	
155.8	
28.2	
2,473.2	
42.4	
350.0	
14,621.9	

(90-04-04) Wilmington Campus

Personnel Costs
Contractual Services
Energy
Capital Outlay
Aid to Needy Students
Grants
Work Study
Debt Service
MCI/Equipment

TOTAL -- Wilmington Campus

8,507.7	
333.7	
411.3	
76.1	
125.3	
20.0	
25.1	
2,144.7	
530.0	
12,173.9	

(90-00-00) HIGHER EDUCATION

Personnel		
NSF	ASF	GF
30.0		183.0
30.0		183.0

(90-04-05) Stanton Campus

Personnel Costs
Contractual Services
Energy
Capital Outlay
Aid to Needy Students
Grants
Work Study
Debt Service
TOTAL -- Stanton Campus

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
			10,719.0
			113.2
			196.0
			9.0
			110.3
			15.0
			26.1
			769.1
			11,957.7

(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

	6,512.1
	343.3
	297.1
	20.8
	55.0
	1.0
	133.8
	15.9
	18.0
	1,323.5
	51.8
	350.0
	9,122.3

43.0		120.0
43.0		120.0

TOTAL -- Delaware Technical and
Community College

	53,511.0
--	----------

174.0		683.0
-------	--	-------

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

Tuition Assistance
TOTAL -- Delaware Institute of Veterinary
Medical Education

	183.3
	183.3

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

Subvention
TOTAL -- Delaware Institute of Dental
Education and Research

	143.3
	143.3

174.0		683.0
-------	--	-------

TOTAL -- HIGHER EDUCATION

	192,337.6
--	-----------

(95-00-00) DEPARTMENT OF EDUCATION

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

**(95-01-00) State Board of Education and
State Board for Vocational Education
and Department of Education**

57.3		99.3
	1.7	1.7
		0.5
	1.0	
57.3	2.7	101.5

Personnel Costs		7,429.9
Travel		29.6
Contractual Services		201.3
Supplies and Materials		26.8
Capital Outlay		37.6
State Board of Education		234.5
Other Items:		
Pupil Accounting		296.9
Teacher in Space		97.1
Education Compact of the States		39.5
Private Business and Trade School		2.0
Evaluation-Higher Education		1.0
Teacher of the Year		52.5
Odyssey of the Mind		35.0
Computer Center	171.5	376.3
Professional Standards Council		160.8
Student Mentoring		500.0
Science in Motion		225.1
School Profiles		150.0
DE State Testing Program		3,314.2
Student Standards & Assessment	100.0	529.5
MCI/Annual Maintenance		7,089.1
DE Educator Recruitment Initiative		50.0
Contingency - Background Checks		20.0
Tallman Scholarships	3.8	
Department of Education Library	34.0	
Trailer Rental Fund	27.5	
DOE Publications	15.0	
Delaware Secondary School Athletic Fund	88.3	
Registration Fees	40.0	
TOTAL - State Board of Education and State Board for Vocational Education and Department of Education	480.1	20,898.7

57.3	2.7	101.5
57.3	2.7	101.5

(-01) State Board of Education and Department of Education	480.1	20,898.7
TOTAL -- Internal Program Unit	480.1	20,898.7

(95-00-00) DEPARTMENT OF EDUCATION

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
				(95-02-00) School District Operations				
			10,412.2	Division I Units (6,961.3)				285,796.7
				Formula Salaries				4,280.0
				Cafeteria Funds				95,753.9
				Other Employment Costs				25,781.2
				Division II Units (7,976.3)				11,804.1
				All Other Costs				53,788.9
				Energy				5,381.4
				Division III				1,000.0
				Equalization				384.9
				Other Items				851.9
				General Contingency				2,298.9
				Guaranteed Unit Count				20,004.5
				Other Items				507,126.4
				Delmar Tuition				
				Debt Service				
				Department of Education				
				School Districts				
			10,412.2	TOTAL -- School District Operations				
			10,412.2	(-01) Division Funding		477,204.8		
				(-02) Other Items		7,618.2		
				(-03) Debt Service		22,303.4		
			10,412.2	TOTAL -- Internal Program Units		507,126.4		

Year ending June 30, 2000

(95-00-00) DEPARTMENT OF EDUCATION

Personnel

S Program

S Line Item

NSF	ASF	GF
-----	-----	----

ASF	GF
-----	----

ASF	GF
-----	----

(95-03-00) Block Grants and Pass Through Programs

Education Block Grants

Adult Education and Work Force Training

Grant

5,516.1

Professional Accountability and Instructional

Advancement Fund

6,523.9

Academic Excellence Block Grant

25,647.9

K-12 Pass Throughs

Delaware Nature Society

9.9

Beach House

73.0

Read Aloud

163.5

Strive

75.0

Summer School - Gifted & Talented

179.2

Center for Economic Education

201.2

Educational Resources

216.7

DE Institute for Arts in Education

136.5

Advanced Studies

97.2

Youth and Vocational Student Organization

148.2

Parent Early Education Center

1,017.6

Pregnant Students

256.1

Delaware Teacher Center

451.2

Reading Assist

116.0

1.5

Smithsonian Project

400.0

877.3

On-Line Periodicals

487.5

Jobs for DE Graduates

514.2

National Geographic

50.0

Creative Mentoring

250.0

Special Needs Programs

Early Childhood Assistance

3,840.0

Program for Children with Disabilities

2,475.9

Unique Alternatives

890.0

3,900.0

Exceptional Student Unit - Vocational

608.0

Related Services for the Handicapped

2,078.5

Adolescent Day Program

36.0

Children Services Cost Recovery Project

637.2

Sterek Summer Program

40.0

Tech-Prep 2 + 2

409.7

Student Discipline Program

14,006.4

Extra Time for Students

10,428.0

Driver Training

Driver's Education

1,244.2

13.0

15.5

TOTAL -- Block Grants and Pass Through Programs

1,927.2

82,074.9

(-10) Education Block Grants

37,687.9

(-15) K-12 Pass Throughs

400.0

5,320.3

(-20) Special Needs Programs

1,527.2

37,822.5

(-30) Driver Training

1,244.2

TOTAL -- Internal Program Units

1,927.2

82,074.9

(95-00-00) DEPARTMENT OF EDUCATION

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

(95-04-00) Pupil Transportation

Public School Transportation
Non-Public School Transportation
Reimbursement

	48,616.5
	3,300.0
	51,916.5

TOTAL -- Pupil Transportation

(-01) Transportation

	51,916.5
	51,916.5

TOTAL -- Internal Program Unit

(95-06-00) Delaware Advisory Council on
Career and Vocational Education

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital

	245.4
	11.4
	57.5
	4.0
	1.0
	319.3

TOTAL -- Delaware Advisory Council on Career
and Vocational Education

(-01) Advisory Council

	319.3
	319.3

TOTAL -- Internal Program Unit

(95-07-00) Delaware Center for Educational Technology

Personnel Costs
Operations

	702.6
	396.2
	1,098.8

TOTAL -- Delaware Center for Educational
Technology

(-01) Delaware Center for Educational
Technology

	1,098.8
	1,098.8

TOTAL -- Internal Program Unit

(95-08-00) Delaware Higher Education Commission

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Scholarships and Grants
DSTP Scholarships

	331.2
	5.9
	250.4
	2.6
	2,072.6
	600.0
	3,262.7

TOTAL -- Delaware Higher Education Commission

(-01) Delaware Higher Education
Commission

	3,262.7
	3,262.7

TOTAL -- Internal Program Unit

57.3	2.7	10,546.7
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TOTAL -- DEPARTMENT OF EDUCATION

2,407.3	666,697.3
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Year ending June 30, 2000

Personnel

TFO	TFC	NSF	ASF	GF
-----	-----	-----	-----	----

S

TTF	ASF	GF
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TOTALS

1,340.0	239.0	1,716.5	1,335.3	11,355.2	TOTAL - DEPARTMENTS	189,144.7	309,085.7	1,152,592.6
		174.0		683.0	TOTAL - HIGHER EDUCATION			192,337.6
		57.3	2.7	10,546.7	TOTAL - PUBLIC EDUCATION		2,407.3	666,697.3
1,340.0	239.0	1,947.8	1,338.0	22,584.9	GRAND TOTAL	189,144.7	311,493.0	2,011,627.5

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 statewide policy that the pay plan for Merit System employees be developed in accordance with the results of valid surveys of salaries provided by a defined labor market. The Director of State Personnel shall conduct such surveys on a yearly basis and report the findings of such surveys by December 15 to the Governor and members of the General Assembly who will be responsible for recommending and approving yearly adjustments as are necessary to maintain the competitive posture of the plan. As the Director of State Personnel has conducted the required surveys for the fiscal year ending June 30, 2000, and as the Governor and members of the General Assembly have reviewed the findings of such surveys, effective July 1, 1999, 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	15,000**	17,714	21,257
2	15,163	18,954	22,745
3	16,227	20,284	24,341
4	17,359	21,699	26,039
5	18,578	23,222	27,866
6	19,878	24,847	29,816
7	21,266	26,582	31,898
8	22,756	28,445	34,134
9	24,350	30,438	36,526
10	26,055	32,569	39,083
11	27,877	34,846	41,815
12	29,829	37,286	44,743
13	31,918	39,897	47,876
14	34,148	42,685	51,222
15	36,542	45,677	54,812
16	39,102	48,877	58,652

1	17	41,838	52,297	62,756
2	18	44,763	55,954	67,145
3	19	47,898	59,873	71,848
4	20	51,254	64,068	76,882
5	21	54,840	68,550	82,260
6	22	58,679	73,349	88,019
7	23	62,787	78,484	94,181
8	24	67,186	83,982	100,778
9	25	71,886	89,857	107,828
10	26	76,918	96,147	115,376

11 * - Annual Salary in Whole Dollars

12 ** - Minimum Salary shall be \$15,000.

13 **STATE OF DELAWARE PAY PLAN***

14 (Standard Work Schedule of 40 Hours Per Work Week)

15	PAY	80% of	100% of	120% of
16	GRADE	Midpoint	Midpoint	Midpoint
17	1	15,115	18,894	22,673
18	2	16,174	20,217	24,260
19	3	17,306	21,632	25,958
20	4	18,517	23,146	27,775
21	5	19,816	24,770	29,724
22	6	21,201	26,501	31,801
23	7	22,685	28,356	34,027
24	8	24,274	30,343	36,412
25	9	25,973	32,466	38,959
26	10	27,790	34,738	41,686
27	11	29,734	37,167	44,600
28	12	31,818	39,772	47,726
29	13	34,044	42,555	51,066
30	14	36,429	45,536	54,643

1	15	38,978	48,722	58,466
2	16	41,709	52,136	62,563
3	17	44,626	55,783	66,940
4	18	47,748	59,685	71,622
5	19	51,092	63,865	76,638
6	20	54,670	68,338	82,006
7	21	58,498	73,123	87,748
8	22	62,594	78,242	93,890
9	23	66,972	83,715	100,458
10	24	71,662	89,578	107,494
11	25	76,678	95,848	115,018
12	26	82,045	102,556	123,067

* - Annual Salary in Whole Dollars

(i) Merit Rule 5.0200 notwithstanding, the standard work week for employees in the following classification series and designated positions assigned to the Department of Transportation's Transportation Management Center as approved by the Personnel Director, Budget Director and Controller General shall be 40 hours:

DEPARTMENT

CLASS SERIES

Department of Correction

Community Work Program Coordinator

Correctional Officer

Correctional Security Superintendent

Director of Community Services

Pre-Release Services Administrator

Pre-Trial Presentence Manager

Probation & Parole Officer I

Probation & Parole Officer II

Probation & Parole Regional Manager

Probation & Parole Supervisor

Senior Probation and Parole Officer

Support Services Manager - DCC

Special Services Manager

	Training and Staff Development Officer
	Treatment Administrator - DCC
	Warden
Department of Public Safety	Telecommunication Specialist (ERC)
	Telecommunication Central Control Specialist
Department of Transportation	Toll Collectors
	Toll Supervisors
	Toll Corporals
	Toll Sergeants
Department of Agriculture	Meat Inspectors
	Meat and Poultry Inspection Coordinators
State Fire School	Emergency Services Training Administrator

(ii) During the fiscal year ending June 30, 2000, 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 2000 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

- 1 (ii) The findings of the survey in Section 8(a) for Fiscal Year 2000 shall be calculated in the same manner as
2 Fiscal Year 1999, using a comparable weighting formula and other components.

3 (c) **SELECTIVE MARKET VARIATIONS.**

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

- 6 (1) The appointing authority shall identify job classes or job families to be considered for selective market
7 variations according to turnover rates, recruitment problems, vacancy rates, feasibility for the work to be
8 performed on a contractual basis and other criteria established by the State Personnel Director.
- 9 (2) Upon receipt of the identified classes, the State Personnel Director shall survey the appropriate labor market to
10 determine the state's position in this labor market.
- 11 (3) The Budget Director, the State Personnel Director and the Controller General shall review the information
12 provided in Sections 8(c)(1) and (2) and shall recommend approval or disapproval for the classes for selective
13 market compensation variations.
- 14 (4) Any such selective market variations which the State Personnel Director, the Budget Director and the
15 Controller General have determined to be warranted and have been approved by the Joint Finance Committee,
16 shall be designated to become effective July 1, 1999, provided that such variations have been processed as part
17 of the regular budgetary process and the funds for such changes shall be appropriated.
- 18 (5) The State Personnel Director shall establish criteria with the State Budget Director and the Controller General
19 to allow for selective market to be effective January 1, 2000. An appointing authority may apply for selective
20 market variation for job classes or job families that are experiencing severe recruitment and retention issues for
21 January 1, 2000. Funds must be available within the agency budget to fund the selective market variation until
22 such time as the General Assembly appropriates such funds.
- 23 (6) Upon approval, the minimum, mid-point and maximum salary values shall be raised according to the results of
24 the labor market surveys for the job class. For the purposes of this section, the minimum value of the salary
25 scale shall remain at 75 percent of midpoint and the maximum value shall remain at 125 percent unless the
26 minimum value under the selective market range for a class is less than the minimum value of the merit system
27 pay range. The minimum for the class on selective market shall be no less than the merit system pay range
28 minimum value. No further increases shall be applied to the scale and/or the midpoints.
- 29 (7) Employees assigned to job classifications approved under the selective market variation program shall have
30 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, 1999, prior to application of the general increase outlined in Section 8(d)(1), whose salary in effect as of June 30, 1999, is below the adjusted minimum salary for the assigned job classification shall be increased to the adjusted minimum salary or an advanced starting salary recommended by the State Personnel Director 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, 1999, after the application of the general increase outlined in Section 8(d)(1), whose salary in effect as of June 30, 1999, is below the adjusted minimum salary for the assigned job classification shall be increased to the adjusted minimum salary or an advanced starting salary recommended by the State Personnel Director and the salary of employees whose current salary falls within the adjusted salary range shall not be increased.
- (8) All classes assigned to selective market variation who have not met the criteria to qualify for an adjustment for two consecutive years, shall have their midpoints reduced by seven percent effective July 1, 1999. All classes whose selective market midpoint is not seven percent higher than 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.
- (9) Effective July 1, 1999, 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, 1998.

(d) SALARY INCREASES FOR FISCAL YEAR 2000.

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 and Delaware Tech Plan B:

- (i) Effective July 1, 1999, the salary of each employee shall be increased by 2.0 percent of the midpoint as reflected in 8(a).

- (ii) The salary of an employee whose salary in effect as of June 30, 1999, is above the maximum salary of the assigned pay range of the pay plan in effect on July 1, 1999, will be increased by 2.0 percent of the midpoint as reflected in 8(a).
- (iii) Effective July 1, 1999, 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 is below the maximum of the assigned paygrade shall be increased by \$1,250.00 or by the amount that would increase the employee's salary to the maximum of the assigned paygrade, whichever is less.
- (iv) Notwithstanding the salary adjustments in 8(d)(1)(i) and (ii), the minimum amount any Merit System employee shall receive as an adjustment under 8(d)(1)(iii) is \$625, regardless as to whether that employee is above or below the maximum.
- (v) Salaries of employees employed in accordance with Title 29, Section 5903(17), Delaware Code, shall be excluded from Subsection (d)(1)(i) of this Section and may receive a salary increase at the discretion of the agency.
- (2) (i) The provisions of Subsection (d) of this Section shall not apply to the employees of the General Assembly - House or the General Assembly - Senate. Salaries for those employees will be established by the Speaker of the House of Representatives and the President Pro-Tempore of the Senate, respectively.
- (ii) The provisions of Subsection (d) of this Section shall not apply to the Governor, members of the General Assembly, Deputy Attorneys General covered by the pay plan adopted for FY 2000, Uniformed State Police, all full-time and regular part-time non-merit Telecommunications Specialists, Senior Telecommunications Specialist, Telecommunication Shift Supervisors, Telecommunications Central Control Specialists, Senior Telecommunications Central Control Specialists and Telecommunications Central Control Shift Supervisors employed in the Communications Section of the Division of State Police in the Department of Public Safety, 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)(iii) 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.

(iv) Notwithstanding Chapters 5.0 and 6.0 of the Merit rules, any Merit System employee who is covered by the Competency Based Pay Plan provided to the Controller General's Office on June 8, 1998 shall only receive an increase based on the competency based matrix included therein. This plan shall continue as it was established in 71 Laws of Delaware, Chapter 354, Section 247 in Fiscal Year: 2000. However, employees covered by this subsection will receive all salary increases provided by 8(d)(1)(i) or (ii).

(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, 2000, 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.

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, 2000, or July 1, 2000, 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.

(g) 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, 2000.

(h) 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 defined in Section 1305(b), Title 14, Delaware Code, 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.

1 (i) **ADMINISTRATIVE REGULATIONS.**

- 2 (1) The administrative regulation and procedures necessary to implement this Section shall be promulgated by the
3 State Personnel Director, Budget Director and Controller General.
- 4 (2) During the fiscal year ending June 30, 2000, paragraph 5.1100 of the Merit Rules for a Merit System of
5 Personnel Administration shall be null and void.
- 6 (3) Consistent with Chapter 16 of the Merit Rules, all state agencies shall implement the performance review
7 prescribed by Office of State Personnel after applicable training by the Office of State Personnel. A
8 performance review shall be completed for employees between January 1 and December 31, 2000.
- 9 (4) Employees who retain salary upon voluntary demotion in accordance with Merit Rule 13.0340 shall be
10 ineligible for a promotional increase upon promotion to a paygrade lower than their original paygrade prior to
11 voluntary demotion for a one year period from the date of their voluntary demotion.

12 (j) **HOLIDAY PAY - DEPARTMENT OF TRANSPORTATION TOLL COLLECTION AND**
13 **TRANSPORTATION MANAGEMENT CENTER EMPLOYEES.**

- 14 (1) Merit Rules 5.1410 and 5.1411 notwithstanding, all Department of Transportation employees directly engaged
15 in toll collection operations, or directly engaged in the Transportation Management Center's 24-hour
16 operation, shall be entitled to receive compensation at their normal rate of pay for holidays in lieu of
17 compensatory time, and they shall also be entitled to receive compensation in accordance with the Fair Labor
18 Standards Act.

19 (k) **OVERTIME FOR WEATHER RELATED EMERGENCIES - DEPARTMENT OF TRANSPORTATION**
20 **EMPLOYEES.**

- 21 (1) Department of Transportation personnel responding to weather related emergencies, who are not subject to the
22 Fair Labor Standards Act, shall be entitled to receive compensation at one and one half times their normal rate
23 of pay for all overtime services performed beyond the normal work week. This shall apply to employees
24 classified through the Area Supervisor level. All additional personnel assigned to assist the area yards during
25 weather related emergencies, who are above the level of Area Supervisor, shall be entitled to receive
26 compensation at their straight time rate of pay for all overtime services performed beyond the normal work
27 week.

28 (l) **CALL BACK PAY - HIGHWAY EMERGENCY RESPONSE TEAM.**

- 29 (1) The Merit Rules notwithstanding, employees designated as Highway Emergency Response Team members
30 shall be eligible for call back pay regardless of their classification.

(m) **STANDBY PAY - HIGHWAY EMERGENCY RESPONSE TEAM.**

(1) The Merit Rules notwithstanding, employees designated as Highway Emergency Response Team members shall be eligible for standby pay regardless of their classification.

(n) **SALARY PLAN - PUBLIC EDUCATION.**

Salary schedules and staffing formulas contained in Title 14, Chapter 13, Delaware Code, shall be revised as specified in this Subsection.

(1) Amend Title 14, Subsection 1305(a), Delaware Code, by deleting said subsection and inserting in lieu thereof a new Subsection 1305(a) to read as follows:

(a) The annual salaries of employees paid under this Section and who are employed on a ten-month contract, shall be based on the following indexed schedule:

Years of Exp.	No Degree	Bach. Degree	Bach. Degree Plus 15 Grad. Credits	Bach. Degree Plus 30 Grad. Credits	Mast. Degree	Mast. Degree Plus 15 Grad. Credits	Mast. Degree Plus 30 Grad. Credits	Mast. Degree Plus 45 Grad. Credits	Doctor's Degree
0	0.960	1.000	1.040	1.080	1.140	1.180	1.220	1.260	1.300
1	0.985	1.025	1.065	1.105	1.165	1.205	1.245	1.285	1.325
2	1.010	1.050	1.090	1.130	1.190	1.230	1.270	1.310	1.350
3	1.110	1.150	1.190	1.230	1.290	1.330	1.370	1.410	1.450
4	1.150	1.190	1.230	1.270	1.330	1.370	1.410	1.450	1.490
5	1.190	1.230	1.270	1.310	1.370	1.410	1.450	1.490	1.530
6	1.230	1.270	1.310	1.350	1.410	1.450	1.490	1.530	1.570
7	1.270	1.310	1.350	1.390	1.450	1.490	1.530	1.570	1.610
8	1.310	1.350	1.390	1.430	1.550	1.590	1.630	1.670	1.710
9	1.350	1.390	1.430	1.470	1.590	1.630	1.670	1.710	1.750
10			1.470	1.510	1.630	1.670	1.710	1.750	1.790
11			1.510	1.550	1.670	1.710	1.750	1.790	1.830
12				1.590	1.710	1.750	1.790	1.830	1.870
13				1.630	1.750	1.790	1.830	1.870	1.910
14					1.790	1.830	1.870	1.910	1.950
15							1.910	1.950	1.990

In addition to the indices specified in the schedule contained in this subsection, the following shall apply to certain individuals paid in accordance with this schedule who were employed by a school board in Delaware on June 30, 1994:

(1) An employee with No Degree who was paid in accordance with the 8-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.35 for the fiscal year ending June 30, 1995, at an index of 1.39 for the fiscal year ending June 30, 1996, and at an index of 1.43 for the fiscal year ending June 30, 2000, and for subsequent fiscal years.

- (2) An employee with No Degree who was paid in accordance with the 9-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.39 for the fiscal year ending June 30, 1995, and at an index of 1.43 for the fiscal year ending June 30, 2000, and for subsequent fiscal years.
- (3) An employee with No Degree who was paid in accordance with the 10-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.39 for the fiscal year ending June 30, 1995, and at an index of 1.43 for the fiscal year ending June 30, 2000, and for subsequent fiscal years.
- (4) An employee with a Bachelor's Degree who was paid in accordance with the 8-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.39 for the fiscal year ending June 30, 1995, at an index of 1.43 for the fiscal year ending June 30, 1996, and at an index of 1.47 for the fiscal year ending June 30, 2000, and for subsequent fiscal years.
- (5) An employee with a Bachelor's Degree who was paid in accordance with the 9-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.43 for the fiscal year ending June 30, 1995, and at an index of 1.47 for the fiscal year ending June 30, 2000, and for subsequent fiscal years.
- (6) An employee with a Bachelor's Degree who was paid in accordance with the 10-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.43 for the fiscal year ending June 30, 1995, and at an index of 1.47 for the fiscal year ending June 30, 2000, and for subsequent fiscal years.
- (7) An employee with a Bachelor's Degree plus 15 credits who was paid in accordance with the 10-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.51 for the fiscal year ending June 30, 1995, and at an index of 1.55 for the fiscal year ending June 30, 2000, and for subsequent fiscal years.
- (8) An employee with a Bachelor's Degree plus 15 credits who was paid in accordance with the 11-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.51 for the fiscal year ending June 30, 1995, and at an index of 1.55 for the fiscal year ending June 30, 2000, and for subsequent fiscal years."
- (2) Amend Title 14, Subsection 1305(b), Delaware Code, by striking the words, "1999, shall be \$18,750.00." as it appears therein and by substituting in lieu thereof the value, " 2000, shall be \$19,313.00."
- (3) Amend Title 14, Subsection 1308(a), Delaware Code, by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

	"Years of Experience	Clerk	Secretary	Senior Secretary	Financial Secretary	Administrative Secretary
1						
2						
3						
4	0	10,373	11,794	12,618	13,099	13,898
5	1	10,892	12,331	13,159	13,643	14,449
6	2	11,410	12,871	13,702	14,189	15,002
7	3	11,930	13,412	14,243	14,732	15,553
8	4	12,448	13,951	14,784	15,277	16,106
9	5	12,968	14,491	15,327	15,822	16,657
10	6	13,485	15,030	15,869	16,367	17,210
11	7	14,004	15,568	16,411	16,911	17,761
12	8	14,523	16,109	16,953	17,455	18,314
13	9	15,041	16,648	17,494	18,000	18,865
14	10	15,560	17,187	18,035	18,546	19,417
15	11	16,079	17,726	18,576	19,090	19,969
16	12	16,597	18,265	19,120	19,634	20,522
17	13	17,116	18,805	19,662	20,179	21,073
18	14	17,635	19,345	20,202	20,725	21,624
19	15	18,154	19,884	20,744	21,268	22,178
20	16	18,672	20,423	21,286	21,812	22,729
21	17	19,192	20,963	21,829	22,357	23,280
22	18	19,709	21,502	22,371	22,901	23,832
23	19	20,228	22,042	22,912	23,448	24,385
24	20	20,745	22,581	23,453	23,992	24,936
25	21	21,276	23,132	24,007	24,548	25,500
26	(4) 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:

				Chief Custodian Supervising 5 or Fewer Custodians	Chief Custodian Supervising 6 or More Custodians	Maintenance Mechanic	Skilled Craftsman
1	"Years of	Custodian	Custodian				
2	Exp.		Fireman				
3							
4							
5							
6							
7	0	13,271	13,814	14,089	15,179	15,685	16,130
8	1	13,679	14,224	14,499	15,590	16,159	16,679
9	2	14,089	14,632	14,909	15,997	16,636	17,224
10	3	14,498	15,042	15,317	16,405	17,110	17,769
11	4	14,909	15,450	15,728	16,817	17,524	18,315
12	5	15,317	15,857	16,132	17,226	18,060	18,860
13	6	15,728	16,271	16,543	17,633	18,535	19,405
14	7	16,132	16,681	16,951	18,041	19,011	19,951
15	8	16,543	17,088	17,361	18,451	19,486	20,496
16	9	16,951	17,497	17,769	18,860	19,959	21,044
17	10	17,361	17,907	18,178	19,270	20,436	21,587
18	11	17,769	18,318	18,589	19,676	20,911	22,134
19	12	18,186	18,739	19,010	20,091	21,396	22,694

(5) 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 department with the approval of 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	11,963	12,847	13,729	14,611	15,497	16,677	17,263
1	12,404	13,285	14,172	15,054	15,936	16,821	17,705
2	12,847	13,729	14,611	15,497	16,377	17,263	18,146
3	13,285	14,172	15,054	15,936	16,821	17,705	18,588
4	13,729	14,611	15,497	16,377	17,263	18,146	19,030
5	14,172	15,054	15,936	16,821	17,705	18,588	19,473
6	14,611	15,497	16,377	17,263	18,146	19,030	19,913
7	15,054	15,936	16,821	17,705	18,588	19,473	20,355
8	15,497	16,377	17,263	18,146	19,030	19,913	20,799
9	15,936	16,821	17,705	18,588	19,473	20,355	21,241
10	16,377	17,263	18,146	19,030	19,913	20,799	21,680
11	16,821	17,705	18,588	19,473	20,355	21,241	22,122
12	17,263	18,146	19,030	19,913	20,799	21,680	22,566
13	17,705	18,588	19,473	20,355	21,241	22,122	23,007
14	18,146	19,030	19,913	20,799	21,680	22,566	23,452
15	18,588	19,473	20,355	21,241	22,122	23,007	23,895
16	19,042	19,927	20,807	21,691	22,574	23,456	24,347

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:

1	One Year of College	\$ 452
2	Two Years of College	\$ 682
3	Bachelor's Degree	\$1,360

(6) 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	6.88	7.65
1	7.01	7.76
2	7.15	7.88
3	7.23	7.98
4	7.35	8.11
5	7.51	8.27
6	7.64	8.37
7	7.73	8.45
8	7.80	8.53
9	7.90	8.65
10	8.01	8.79
11	8.18	8.91
12	8.30	9.04
13	8.42	9.15
14	8.53	9.25
15	8.65	9.40
16	8.80	9.54
17	8.93	9.63
18	9.07	9.72

(7) 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	9,629	11,775
1	9,949	12,168
2	10,270	12,560
3	10,594	12,954
4	10,915	13,345
5	11,234	13,740
6	11,555	14,132
7	11,876	14,525
8	12,197	14,916
9	12,520	15,309
10	12,840	15,700
11	13,159	16,095
12	13,482	16,486
13	13,802	16,879
14	14,122	17,270
15	14,444	17,666
16	14,766	18,057
17	15,086	18,450
18	15,407	18,841
19	15,729	19,234
20	16,049	19,627
21	16,377	20,027

(8) 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 - \$75.00 per day
Class B - \$61.00 per day
Class C - \$47.00 per day

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- (9) 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.
- (10) Effective July 1, 1999, the State shall pay 58 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 41 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.
- (11) 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.
- (12) 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.
- (o) **SALARY PLAN - DELAWARE TECHNICAL AND COMMUNITY COLLEGE.**
- (1) 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.
- (2) Amend Title 14, Chapter 92, Section 9219(a), Delaware Code by striking the index schedule contained in said subsection in its entirety and substituting in lieu thereof the following:
- is

SALARY PLAN A
DELAWARE TECHNICAL & COMMUNITY COLLEGE
INDEX SCHEDULE

<u>Years of Exp.</u>	<u>No Degree</u>	<u>Assoc. Degree</u>	<u>Bach. Degree</u>	<u>Bach. Degree Plus 15 Grad. Credits</u>	<u>Bach. Degree Plus 30 Grad. Credits</u>	<u>Mast. Degree</u>	<u>Mast. Degree Plus 15 Grad. Credits</u>	<u>Mast. Degree Plus 30 Grad. Credits</u>	<u>Mast. Degree Plus 45 Grad. Credits</u>	<u>Doctor's Degree</u>
0	0.90	0.96	1.00	1.04	1.08	1.12	1.16	1.20	1.24	1.26
1	0.94	1.00	1.04	1.08	1.12	1.16	1.20	1.24	1.28	1.30
2	0.98	1.04	1.08	1.12	1.16	1.20	1.24	1.28	1.32	1.34
3	1.02	1.08	1.12	1.16	1.20	1.24	1.28	1.32	1.36	1.38
4	1.06	1.12	1.16	1.20	1.24	1.28	1.32	1.36	1.40	1.42
5	1.10	1.16	1.20	1.24	1.28	1.32	1.36	1.40	1.44	1.46
6	1.14	1.20	1.24	1.28	1.32	1.36	1.40	1.44	1.48	1.50
7	1.18	1.24	1.28	1.32	1.36	1.40	1.44	1.48	1.52	1.54
8	1.22	1.28	1.32	1.36	1.40	1.44	1.48	1.52	1.56	1.58
9	1.26	1.32	1.36	1.40	1.44	1.48	1.52	1.56	1.60	1.62
10	1.27	1.36	1.40	1.44	1.48	1.52	1.56	1.60	1.64	1.66
11	"	1.37	1.44	1.48	1.52	1.56	1.60	1.64	1.68	1.70
12	"	"	1.45	1.52	1.53	1.60	1.64	1.68	1.72	1.74
13	"	"	"	1.53	1.60	1.64	1.68	1.72	1.76	1.78
14	"	"	"	"	1.61	1.68	1.72	1.76	1.80	1.82
15	"	"	1.50	1.55	1.65	1.72	1.76	1.80	1.84	1.86
16	"	"	1.51	1.56	1.66	1.76	1.80	1.84	1.88	1.90
17	"	"	"	"	"	1.77	1.81	1.85	1.89	1.91
18	"	"	"	"	"	"	"	"	"	"
19	"	"	"	"	"	"	"	"	"	"
20	"	"	"	"	"	1.80	1.85	1.90	1.95	2.00
21	"	"	"	"	"	1.81	1.86	1.91	1.96	2.01
22	"	"	"	"	"	"	"	"	"	"
23	"	"	"	"	"	"	"	"	"	"
24	"	"	"	"	"	"	"	"	"	"
25	"	"	"	"	"	1.85	1.90	1.95	2.00	2.05
26	"	"	"	"	"	1.86	1.91	1.96	2.01	2.06

INDEX DERIVATION

Base = 1.00

The base salary for 10-month Plan A employees of Delaware Technical and Community College shall be calculated by using the salary amount specified for the Bachelor's Degree, 0 years experience amount from §1305(b) of this title divided by .7 to account for 100% State funding.

1 Section 9. (a) Except as specifically authorized to the contrary by the Delaware Code, no state employee whose title is

2 designated in this Act shall receive total compensation whether in wages, salary, wages-in-kind or food allotment bonus or
3 overtime from agencies of this State in excess of the total amount specified in such line item regardless of the source of funds
4 involved. No full-time, part-time or casual/seasonal employee of the State of Delaware shall receive any additional stipend for
5 the purchase of food or be supplied with food or be reimbursed for food that was consumed during normal working hours within
6 the State; except as provided in Title 29, Chapter 51, Section 5112 (b), Delaware Code; or unless approval has been granted by
7 the Budget Director and the Controller General; provided, however that this Section shall not apply to State Police recruits
8 during the period of their training. In the event that an employee shall receive excessive compensation, the amount of the
9 appropriation from the General Fund shall be reduced by the amount of such excessive compensation and the Attorney General
10 shall take such steps as are necessary to recover from such employee any such excessive amount as has actually been paid. In
11 the event the "All Other" part of the salary is made up entirely of federal funds, and such federal funds are terminated or reduced,
12 the state appropriation is hereby increased to provide the "Total Salary" indicated. An agency may provide housing for such
13 employee without reduction in the salary provided such housing is on the site of the principal location of employment and further
14 provided that the head of the department or agency has determined that such location of the employee is necessary to the
15 operation of the agency and that the employee has no other employment. No agency shall provide an employee with a housing
16 allowance or compensation for housing.

17 (b) A state employee whose salary is designated in this Act may perform additional duties for a state agency other than
18 his/her principal employing agency, with the consent of his/her principal employing agency, and may be paid additional
19 compensation therefore, provided such additional duties are not a part of his/her regular duties for the principal employing
20 agency and not rendered during time paid for by the principal employing agency. All wage payments resulting from the
21 performance of such additional duties, including FLSA overtime, shall be the responsibility of the secondary employing agency
22 unless otherwise authorized by the Budget Director and the State Personnel Director.
23

Section 10. (a) For the fiscal year ending June 30, 2000, the salaries displayed below represent the salary effective on

July 1, 1999.

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(01-01-01)	Representative	30.7	
(01-02-01)	Senator	30.7	
(02-01-00)	Chief Justice - Supreme Court	133.0	
(02-01-00)	Justice - Supreme Court	128.3	
(02-02-00)	Chancellor - Court of Chancery	126.7	
(02-02-00)	Vice Chancellor - Court of Chancery	122.2	
(02-03-00)	President Judge - Superior Court	126.7	
(02-03-00)	Associate Judge - Superior Court	122.2	
(02-03-00)	Commissioner - Superior Court	65.1	
(02-03-00)	New Castle County Prothonotary	53.4	
(02-03-00)	Kent County Prothonotary	47.2	
(02-03-00)	Sussex County Prothonotary	47.2	
(02-06-00)	Chief Judge - Court of Common Pleas	125.3	
(02-06-00)	Judge - Court of Common Pleas	119.0	
(02-06-00)	Commissioner - Court of Common Pleas	65.1	
(02-08-00)	Chief Judge - Family Court	125.3	
(02-08-00)	Associate Judge - Family Court	119.0	
(02-08-00)	Commissioner - Family Court	65.1	
(02-13-00)	Chief Magistrate - Justice of the Peace Courts	87.7	
(02-13-00)	Magistrate - Justice of the Peace Courts - 1st Term	50.3	
(02-13-00)	Magistrate - Justice of the Peace Courts - 2nd Term	51.9	
(02-13-00)	Magistrate - Justice of the Peace Courts - 3rd Term	53.6	
(02-17-00)	Director - Administrative Office of the Courts	100.7	

			General Funds	All Other Funds
1				
2	Budget Unit	Line Item		
3	(02-18-00)	Public Guardian	55.9	
4	(02-18-00)	Executive Secretary - Violent Crimes Compensation		
5		Board		53.7
6	(02-18-00)	Executive Director - Foster Care Review Board	50.6	
7				
8	(10-01-01)	Governor	107.0	
9	(10-02-00)	Budget Director	102.2	
10	(10-03-01)	Director - Delaware Economic Development Office	95.5	
11	(10-04-00)	Personnel Director	95.5	
12	(10-07-01)	Executive Director - CJC	74.9	
13	(10-07-01)	Director - Domestic Violence Coordinating Council	55.0	
14	(10-07-02)	Executive Director - DELJIS	66.3	
15	(10-07-03)	Executive Director - SAC	73.9	
16	(10-08-01)	Director - Delaware State Housing Authority		88.1
17	(10-09-00)	Executive Director - Information Services	102.2	
18				
19	(12-01-01)	Lieutenant Governor	47.9	
20	(12-02-01)	Auditor	81.0	
21	(12-03-02)	Insurance Commissioner	81.1	
22	(12-05-01)	State Treasurer	84.8	
23				
24	(15-01-01)	Attorney General	105.2	
25	(15-01-01)	Chief Deputy Attorney General	102.6	
26	(15-02-01)	Public Defender	105.2	
27	(15-02-01)	Chief Deputy Public Defender	102.6	
28	(15-03-01)	Parole Board Chairman	66.6	
29				

			General	All Other
	Budget Unit	Line Item	Funds	Funds
1				
2				
3	(20-01-00)	Secretary - State	95.5	
4	(20-02-00)	Director - Human Relations	58.9	
5	(20-03-00)	Director - Division of Archives	58.7	
6	(20-05-00)	Director - Corporations	39.2	39.2
7	(20-06-00)	Director - Historical and Cultural Affairs	74.1	
8	(20-07-00)	Director - Arts	58.0	
9	(20-08-00)	State Librarian	70.2	
10	(20-15-00)	State Banking Commissioner		89.3
11				
12	(25-01-00)	Secretary - Finance	102.2	
13	(25-05-00)	Director - Accounting	85.7	
14	(25-06-00)	Director - Revenue	99.7	
15	(25-07-00)	Director - State Lottery	80.2	
16				
17	(30-01-00)	Secretary - Administrative Services	89.1	
18	(30-01-00)	Director - Administration	72.9	
19	(30-01-00)	Executive Director - Public Employment Relations		
20		Board	63.3	
21	(30-03-00)	Public Advocate		64.2
22	(30-03-00)	Director - Public Service Commission		72.7
23	(30-03-00)	Director - Professional Regulation		66.0
24	(30-04-00)	Director - Support Operations		64.1
25	(30-05-00)	Director - Facilities Management	77.9	
26	(30-05-00)	Executive Secretary - Architectural Accessibility Bd.	37.5	
27	(30-06-00)	Director - Purchasing	67.2	
28				

			<u>General</u>	<u>All Other</u>
	<u>Budget Unit</u>	<u>Line Item</u>	<u>Funds</u>	<u>Funds</u>
3	(35-01-00)	Secretary - Health and Social Services	102.2	
4	(35-01-00)	Director - Management Services	77.5	8.6
5	(35-04-00)	Chief Medical Examiner	126.3	
6	(35-05-00)	Director - Public Health	132.1	
7	(35-06-00)	Director - Alcoholism, Drug Abuse & Mental Health	113.7	
8	(35-07-00)	Director - Social Services	45.8	45.9
9	(35-08-00)	Director - Visually Impaired	64.8	
10	(35-09-00)	Director - Long-Term Care Residence Protection	72.9	
11	(35-10-00)	Director - Child Support Enforcement	24.3	49.3
12	(35-11-00)	Director - Mental Retardation	91.7	
13	(35-12-00)	Director - State Service Centers	71.5	
14	(35-12-00)	Director - Community Services	59.8	
15	(35-14-00)	Director - Services for Aging and Adults		
16		with Physical Disabilities	70.7	
17				
18	(37-01-00)	Secretary - Services for Children,		
19		Youth and Their Families	102.2	
20	(37-01-00)	Director - Management Services	80.0	
21	(37-03-00)	Director - Child Mental Health Services	102.7	
22	(37-05-00)	Director - Youth Rehabilitative Services	86.3	
23	(37-06-00)	Director - Family Services	94.0	
24				
25	(38-01-00)	Commissioner - Correction	95.5	
26	(38-01-00)	Bureau Chief - Management Services	72.3	
27	(38-04-00)	Bureau Chief - Prisons	91.7	
28	(38-06-00)	Bureau Chief - Community Corrections	83.2	
29				

			General Funds	All Other Funds
1				
2	<u>Budget Unit</u>	<u>Line Item</u>		
3	(40-01-00)	Secretary - Natural Resources and		
4		Environmental Control	95.5	
5	(40-01-00)	Deputy Secretary - Natural Resources		
6		and Environmental Control	82.2	
7	(40-05-00)	Director - Fish and Wildlife	37.6	37.7
8	(40-06-00)	Director - Parks and Recreation	79.3	
9	(40-07-00)	Director - Soil and Water Conservation	75.7	
10	(40-08-00)	Director - Water Resources	84.5	
11	(40-09-00)	Director - Air and Waste Management	87.7	
12				
13	(45-01-00)	Secretary - Public Safety	95.5	
14	(45-01-00)	Director - Boiler Safety	50.9	
15	(45-01-00)	Director - Del. Emergency Management Agency	30.9	31.0
16	(45-04-00)	Director - Alcoholic Beverage		
17		Control	65.3	
18	(45-06-00)	Superintendent - State Police	102.5	
19	(45-06-00)	Assistant Superintendent - State Police	93.7	
20	(45-07-00)	Director - Motor Vehicles	78.2	
21				
22	(55-01-01)	Secretary - Transportation		95.5
23	(55-01-01)	Chief Engineer		93.3
24	(55-02-01)	Director - Administration		79.1
25	(55-03-01)	Director - Transportation Planning		93.3
26	(55-04-01)	Director - Highway Operations		93.3
27	(55-06-01)	Director - Delaware Transit Corporation		93.3
28				

1			General	All Other
2	<u>Budget Unit</u>	<u>Line Item</u>	<u>Funds</u>	<u>Funds</u>
3	(60-01-00)	Secretary - Labor	8.9	80.2
4	(60-06-00)	Director - Unemployment Insurance		76.3
5	(60-07-00)	Director - Industrial Affairs		76.3
6	(60-08-00)	Director - Vocational Rehabilitation		76.3
7	(60-09-00)	Director - Employment and Training	7.6	68.7
8	(65-01-00)	Secretary - Agriculture	89.1	
9	(65-01-00)	Deputy Secretary - Agriculture	68.4	
10				
11	(70-01-01)	Commissioner - Elections	61.4	
12	(70-02-01)	Administrative Director - New Castle County Elections	58.2	
13	(70-02-01)	Deputy Administrative Director - New Castle		
14		County Elections	57.0	
15	(70-03-01)	Administrative Director - Kent County Elections	58.2	
16	(70-03-01)	Deputy Administrative Director - Kent County Elections	57.0	
17	(70-04-01)	Administrative Director - Sussex County Elections	58.2	
18	(70-04-01)	Deputy Administrative Director - Sussex County Elections	57.0	
19				
20	(75-01-01)	State Fire Marshal	43.3	21.6
21	(75-02-01)	Director - State Fire School	64.9	
22				
23	(76-01-01)	Adjutant General	83.1	
24				
25	(95-01-00)	Secretary of Education	120.5	
26	(95-01-00)	Deputy Secretary of Education	102.2	
27	(95-06-00)	Executive Secretary - Advisory Council on Career		
28		and Vocational Education	80.8	
29	(95-08-01)	Executive Director - Higher Education Commission	65.8	

(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), (iv), (vii) and (viii).

(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 position's 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.

(vi) If the incumbent in the position of Secretary - Health and Social Services holds a State Medical license, the salary listed in Section 10(a) of this Act for that position shall be increased by \$12.0. Additionally, if the incumbent in the position of Secretary - Health and Social Services is a Board Certified physician, a \$3.0 supplement shall be added to the annual salary listed in Section 10(a) of this Act.

(vii) If the highest paid Major receives an additional salary increase during the fiscal year, the salary of the Superintendent and the Assistant Superintendent of the State Police shall be increased in accordance with Title 11, Section 8303.

(c) Effective May 1, 2000, 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 2000 and the number of points of any recommended changes for any position for Fiscal Year 2001.

(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.

July 1, 1999

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(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

1	(30-03-00)	Board Members - Public Service Commission	105.0
2	(30-05-00)	Board Members - Architectural Accessibility Board	2.3
3	(38-04-00)	Board Members - Institutional Classification	12.0
4	(45-04-00)	Board Members - Alcoholic Beverage Control Commission	8.6
5	(60-07-00)	Board Members - Industrial Accident Board	153.0
6	(65-01-05)	Harness Racing Commission	13.6
7	(65-01-10)	Thoroughbred Racing Commission	11.2
8	(70-02-01)	Board Members - New Castle County Elections	21.5
9	(70-03-01)	Board Members - Kent County Elections	13.0
10	(70-04-01)	Board Members - Sussex County Elections	13.0
11	(95-01-01)	Board Members - State Board of Education	16.8
12	(95-08-01)	Higher Education Commissioners	2.4

13

14 (c) Upon the enactment of legislation to standardize property assessments across all three counties and the creation of a
15 State Assessment Practices Board, consisting of seven members, to provide guidance and oversight of the property tax system,
16 there shall be established a salary of \$.5 per Board member.

17 (f) Amend Title 29, Section 710, Delaware Code by deleting subsection (c) in its entirety and substituting in lieu
18 thereof the following:

19 "(c) Any member of the Senate or the House of Representatives who is elected or appointed to any of the
20 following positions shall, while serving in such position, receive additional yearly compensation as follows:

21

22	1. President Pro Tempore of the Senate	\$11,940.00
23	2. Speaker of the House of Representatives	11,940.00
24	3. Majority and Minority Leader of the Senate	9,299.00
25	4. Majority and Minority Leader of the House	9,299.00
26	5. Chairperson and Vice Chairperson of the Joint Finance Committee	8,610.00
27	6. Majority and Minority Whip of the Senate	5,856.00
28	7. Majority and Minority Whip of the House	5,856.00
29	8. Members of the Joint Finance Committee	7,234.00

1 9. Chairperson & Vice Chairperson of the Capital Improvement

2 Program Committee

3,440.00

3 10. Members of the Capital Improvement Program Committee

2,894.00

4 A member of the General Assembly shall be entitled to receive only the higher of any one of the above stipends. Such
5 stipend shall commence immediately when such member is elected or appointed to such position. Payments to such members
6 shall be as described in Title 29, Chapter 27, Section 2712 of the Delaware Code."

7
8 Section 11. Salaries and wage rates for state employees who are not covered by the provisions of Title 14, Chapter 13,

9 Delaware Code, or by the Merit System, excluding employees of the General Assembly - House or the General Assembly -
10 Senate, Uniformed State Police, all full-time and regular part-time non-Merit Telecommunications Specialists, Senior
11 Telecommunications Specialists, Telecommunication Shift Supervisors, Telecommunications Central Control Specialists, Senior
12 Telecommunications Central Control Specialists and Telecommunications Central Control Shift Supervisors employed in the
13 Communications Section of the Division of Public Safety, Delaware State Police, employees of the University of Delaware,
14 employees of Delaware State University, employees of Delaware Technical and Community College who are paid on the
15 Administrative Salary Plan or Faculty Plan, Plans D and A respectively, Executive Director of Educational Technology Center,
16 members and employees of the Delaware National Guard and employees whose salaries are governed by Section 10 of this Act,
17 shall have the following:

18 (a) The salary of employees shall be comparable to salaries and wage rates paid from funds appropriated by the State to
19 employees with similar training and experience who serve in similar positions in the Merit System. In the event that there are no
20 similar positions in the Merit System, the State Personnel Director shall establish an exempt position classification only for the
21 purpose of assigning a salary or wage rate to said position. On or before August 15, 1999, the State Personnel Director shall
22 publish a list of exempt positions and the comparable Merit System class and/or paygrade for each position. In addition, such
23 listing shall show the name of the incumbent, if the position is filled, and shall show the statutory citation which authorizes the
24 establishment of the exempt position(s). The State Personnel Director shall provide copies of such listing to members of the
25 Joint Finance Committee and the Controller General. No exempt employee shall be hired until an approved comparability has
26 been assigned to the position. No reclassification/regrading, change in paygrade comparability of a filled or vacant exempt
27 position, or change of a Merit System position to an exempt position otherwise permitted under Delaware Law shall become
28 effective unless approved by the State Budget Director, State Personnel Director and the Controller General. In order to permit
29 the development of the comparability list, state agencies shall provide to the State Personnel Director job descriptions of all
30 exempt positions and position classification questionnaires describing the duties and responsibilities of each of the positions.

1 The certification of comparability by the State Personnel Director shall not be withheld unreasonably. Those positions assigned
2 on a list of comparability that are assigned a comparable class and/or paygrade in the Merit System shall be paid in accordance
3 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
4 shall be given to such employees unless specifically authorized in this Act.

5 (b) The salary of employees whose salary in effect as of June 30, 1999, is below the minimum salary of the assigned
6 paygrade of the pay plan shall be raised to the minimum salary. This adjustment shall be made in accordance with the general
7 increase contained in Section 8(d)(1).

8 (c) Notwithstanding any other provision of the Delaware Law or this Act to the contrary, civilian employees of the
9 Delaware National Guard shall be compensated at a salary and wage rate established by the Federal Civil Service Commission.

10 (d) Merit Rules 5.0900 through 5.0931 and the applicable appeal rights provided in Title 29, Section 5915, Delaware
11 Code, shall apply retroactively to any employee who was an incumbent in a merit comparable position that was reviewed for
12 class/paygrade comparability with an effective date of July 1, 1990 or July 1, 1991.

13
14 Section 12. Any employee eligible for termination pay, whose regular pay was from special funds, shall have
15 termination pay paid from special funds. If the employee's regular pay is from both General Funds and special funds, termination
16 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 -
17 Equalization Funds, that for termination pay purposes only, these funds are considered special funds. Exceptions to this method
18 of payment must have the approval of the Budget Director and the Controller General. All agencies shall absorb termination pay
19 within the appropriations set forth in Section 1 of this Act.

20
21 Section 13. All agencies or schools receiving federal funds subject to the federal Single Audit Act shall:

22 (a) Include in program budgets an amount sufficient to cover actual program audit costs incurred by the Office of
23 Auditor of Accounts. Such amount shall be based on estimated audit costs determined and provided by the Office of Auditor of
24 Accounts.

25 (b) Process audit cost payment documents (Intergovernmental Vouchers) within 30 days of receipt of same from the
26 Office of Auditor of Accounts.

27
28 Section 14. During the current fiscal year, all energy use systems for new facilities, rental/leasing changes, and/or
29 renovations to energy use systems must be coordinated with the Energy Office within the Department of Administrative
30 Services, Division of Facilities Management and with the Executive Department, Office of the Budget.

1
2 Section 15. All state agencies and departments that own land shall inform the Budget Director, the Controller General,
3 the Secretary of Administrative Services, and the General Assembly, quarterly, as to any and all developments relating to the
4 possible new use, lease or sale, of any portion of said land. This section shall not apply to lands owned by the Department of
5 Transportation that are intended for transportation purposes except as provided in Title 17, Section 137, Delaware Code.

6
7 Section 16. Any internal program unit/budget unit having energy funding (electricity, natural or propane gas and
8 heating oils) for the purpose of reimbursing a host internal program unit/budget unit must release the remaining sums to the host
9 internal program unit/budget unit in the event that the tenant internal program unit/budget unit vacates the premises. It is the
10 responsibility of the host internal program unit/budget unit to initiate the transfer request. Those agencies which are budgeted
11 energy as a result of occupying a portion of a host facility's property, and do not directly pay energy bills, may not transfer
12 energy funds other than to the host agency.

13
14 Section 17. No agency shall engage a consultant or authorize expenditure of any General or special funds for the
15 purpose of studying personnel policies and/or the wage and salary classification of employees without the written authorization
16 of the Personnel Director, the Budget Director and the concurrence of the Controller General.

17
18 Section 18. All state agencies are directed to remit payment for services rendered by the Division of Support
19 Operations (Mail/Courier Services, Telephone Services, Graphics and Printing and Fleet Management) within 30 days after
20 receipt of invoice. Services may include postal metering, paper supplies, facsimile, printing, telephone, photocopiers, printing
21 and vehicle rental, Carvel Building parking, and vehicle fuels.

22
23 Section 19. All outside graphics and printing services for state agencies shall be obtained from the Division of Support
24 Operations or, if appropriate, the Director of the Division of Support Operations may award a contract in accordance with Title
25 29, Chapter 69, Delaware Code.

26
27 Section 20. If a timely payment problem exists, the Department of Administrative Services may require all agencies
28 and school districts paying telephone system payments through the department to make monthly estimated payments toward
29 their telephone bills. The estimated payment is due within five working days of the beginning of each month. The estimated
30 payment should equal the average of the last three months of actual reconciled payments; or payments based on a schedule

1 established by the department. The department will continue to be responsible for the actual payments to the telephone
2 companies and the reconciliation of accounts with the user agencies and school districts.

3
4 Section 21. With the exception of the custodial work associated with Legislative Hall and the Governor's Office, the
5 Department of Administrative Services (30-00-00) may not hire any permanent, full-time custodial employees in any fiscal year
6 without the approval of the Budget Director and the Controller General.

7
8 Section 22. It is hereby directed that the Indirect Cost Recovery Program, Office of the Budget, may recover indirect
9 costs from non-federal special funded regulatory and service agencies. Costs that are allocated to a state agency under this
10 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
11 the billed indirect cost shall be any revenue source except the General Fund. If the billed agency is authorized to bill and recover
12 direct expenses, the agency shall recover indirect costs in the same manner. The effort initiated in Fiscal Year 1993 covering
13 State Banking Commission, Professional Regulation and Public Service Commission shall continue in Fiscal Year 2000.

14
15 Section 23. Notwithstanding the provisions of Title 29, Section 6340(a), Delaware Code, Section 1 of this Act
16 summarizes salary and wage and other employment costs into a single line entitled "Personnel Costs."

17
18 Section 24. Chapters 5.0000 and 6.0000 of the Merit Rules notwithstanding, the State Personnel Director, in
19 accordance with the Budget Director and the Controller General, shall have the authority to designate and approve pilot projects
20 within specified agencies. Such pilot projects shall accrue to the mutual benefit of the State as an employer and its affected
21 employees in the Department of Health and Social Services, the Department of Services for Children Youth and Their Families,
22 the Department of Correction, and the Department of Transportation. These pilot projects may include employee incentives
23 which have the impact of reducing overtime usage in these departments, and which are designed to achieve a net reduction in
24 costs to the State. Such projects may include elimination of pre-employment testing for certain classifications, eliminating the
25 cap on vacation carry-over, gain sharing, and the substitution of certain fixed state holidays by floating holidays. Such pilot
26 projects shall not exceed a period of two years duration, subject to renewal on a six month basis, and shall include a written
27 assessment to the Budget Director and the Controller General of their effectiveness at the end of each period.

28
29 Section 25. For Fiscal Year 2000, the provisions of Section 6502(a), Title 29, Delaware Code, shall be waived for
30 school districts. In its place, school districts shall be required to provide to the Budget Director and Controller General a signed

1 copy of its approved district budget for expenditures, including positions to be funded from all funds, as well as any other
2 information required by the Budget Director (provided the Budget Director furnishes official blank forms for such data).

3
4 Section 26. Notwithstanding the provisions of Title 29, Section 6334(c), Delaware Code, for Fiscal Year 2001, the
5 proposed budget plan, as prepared by the Budget Director, shall be in such a format that it can readily be analyzed and
6 comprehensive in nature.

7
8 Section 27. Section 229 of Volume 66 Laws of Delaware, Chapter 303, classified internal affairs investigator positions
9 as exempt positions. To clarify the status of those employees, any and all Merit System employees who were internal affairs
10 investigators and lost Merit System status as a result of the enactment of Section 229 and who have remained internal affairs
11 investigators since July 1, 1988, with no breaks in service, shall be considered to be on leave of absence from the Merit System.

12
13 Section 28. All agencies receiving an Energy appropriation in Section 1 of this Act must work through the Division of
14 Purchasing, Department of Administrative Services, and the State Budget Office, Executive Department, to attain any contract(s)
15 dealing with the retail wheeling of natural gas or electricity. This includes agencies 01 through 95 with the exception of the
16 University of Delaware.

17
18 Section 29. Members of the Board overseeing the Delaware Qualified Tuition Savings Program may be reimbursed for
19 mileage expenses incident to their duties.

20
21 Section 30. Increased use of videophones and related technologies by agencies comprising the criminal justice system
22 is beginning to have a positive impact on the operations of these agencies. One such positive impact is the reduction in the
23 number of trips Department of Correction personnel need to make to transport offenders from the secure facilities in the prisons
24 to the courts for various hearings and other procedural matters. To help quantify these positive impacts, agencies with
25 videophones obtained through the Videophone Committee of the Criminal Justice Council shall submit to the Budget Director
26 and Controller General an annual report on their use of their videophone(s). This report shall be submitted no later than
27 December 1, 1999, and shall contain information such as but not limited to 1) the number of videophones used; 2) what types of
28 activities the videophone(s) are used for; 3) the number of times the videophone(s) was used for each activity; 4) any savings or
29 deferred costs resulting from the use of the videophone(s); 5) any costs directly associated with the use of the videophone(s); and
30 6) future plans for the use of the videophone(s).

1
2 Section 31. In an effort to improve the statewide availability and usage of the Criminal Justice Videophone System, an
3 evaluation of that system, associated technologies and the movement of the currently separate videophone budget into the regular
4 State fiscal year budget process shall be conducted by the Office of the Controller General and the Office of the Budget in
5 consultation with the Criminal Justice Council's Videophone Committee. The results of said evaluation shall be presented to the
6 co-chairs of the Joint Finance Committee on or before September 15, 1999.

7
8 Section 32. Amend the Classified Service Merit Rule No. 5.1453 to reflect the rate of pay per month for Level A to be
9 \$140 and Level B to be \$70.

10
11 Section 33. Notwithstanding any other provision of the Delaware Code or this Act to the contrary, the State Budget
12 Office, subject to the approval of the Controller General, is authorized to make technical adjustments to the personnel
13 complement of any agency as appropriated in Section 1 of this Act in those situations where, due to the rounding of split-funded
14 positions, such an adjustment is necessary so that an agency may establish its authorized complement. The provisions of this
15 section are retroactive to January 1, 1999.

16
17 Section 34. Chapters 5.0000 and 6.0000 of the Merit Rules notwithstanding, the State Personnel Director in accordance
18 with the Budget Director and the Controller General shall have the authority to approve statewide pilot projects including
19 compensation for the purpose of attracting and retaining information technology personnel to State government. These pilot
20 projects shall include, but are not limited to; the development of a competency based pay structure for information technology
21 personnel, job rotation opportunities across various agencies, the development of technology resource groups, training
22 opportunities and coordinating with the University of Delaware, Delaware State University and the Delaware Technical and
23 Community College to develop formal cooperative education programs in information technology.

24
25 Section 35. For FY 2000, Merit Rule 5.0711 shall be amended to authorize the appointing authority to approve a
26 starting rate or promotional rate up to 85 percent of midpoint where the applicant's qualifications are clearly over and above
27 those required by the minimum for the class specification.

28
29 Section 36. Effective July 1, 1999 all employee benefit deductions shall be made on a pre-tax basis. Employees who
30 have currently designated employee deductions on a post-tax basis shall continue to have those deductions on a post-tax basis as
31 long as the employee remains in a benefit program or the employee makes a change to pre-tax employee benefit deductions.

Section 37. Amend Title 29, Delaware Code, Section 5201(c) by adding the phrase "or the age of 24 if a full time student" after the word "years" in the second sentence.

Section 38. In an effort to reduce the financial impact of worker's compensation and property losses to the State, the agencies and school districts shall work with the Insurance Coverage Office to implement safety and return to work policies. Any employee who has been on Worker's Compensation shall be a preferential hire for any position for which the employee is qualified. In accordance with State law, the employee shall receive a salary supplement based on that employee's prior earnings in the event the new salary is less than their current salary.

Section 39. State Personnel Office shall work with the Public Defender's Office to formulate a reorganization plan to be presented to the Office of the Controller General and the Office of the Budget on or before October 1, 1999. The reorganization plan shall include recommendations on the establishment of a new organizational structure. Implementation of a reorganization plan shall be effective upon the approval of the Co-Chairs of the Joint Finance Committee.

Section 40. Amend Title 29, Section 5209 of the Delaware Code by adding the following sentence to subsection (e): "Participation by any county or municipality shall be subject to approval of the Group Health Insurance Committee."

Section 41. Amend Section 5201(a), Title 29 of the Delaware Code by deleting the "the 3" as it appears on the second line and replacing it with "3".

Section 42. Amend Delaware Code, Section 3201, Title 18 as follows: strike "a 3-month period" in the second sentence and replace with "3 full calendar months".

Section 43. (a) For the fiscal year ending June 30, 1999 any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 2000.

<u>Fiscal Year</u> <u>Appropriation</u>	<u>Account</u> <u>Codes</u>	<u>Remarks</u>
1999	(01-05-01-01-41)	Legislative Travel
1999	(01-05-01-01-40)	Travel
1998	(01-05-01-01-40)	Travel

1	1999	(01-05-01-01-50)	Contractual Services
2	1998	(01-05-01-01-50)	Contractual Services
3	1998	(01-05-01-01-98)	One-times
4	1997	(01-08-02-01-80)	Senior Center Reporting
5	1999	(01-08-02-01-80)	Senior Center Reporting
6	1998	(01-08-02-01-80)	Senior Center Reporting
7	1999	(01-08-02-01-99)	Development Projects
8	1998	(01-08-02-01-85)	Formula Update
9	1999	(01-08-02-01-50)	Contractual Services
10	1998	(01-08-02-01-70)	Capital Outlay
11	1999	(01-08-02-01-86)	Juvenile Detention Oversight Committee
12	1998	(01-08-02-01-86)	Juvenile Detention Oversight Committee
13	1996	(01-08-02-01-87)	Contingency - Legal
14			
15	1999	(02-03-10-01-98)	Furniture, Equipment, and Computers
16	1999	(02-06-10-01-98)	One-Time Items for New Positions
17	1999	(02-08-10-01-98)	One-Time Items (Pro Se Self-Help Center)
18	1999	(02-08-10-01-80)	Alarm System
19	1999	(02-13-10-01-98)	Completion of Municipal Court Merger
20	1999	(02-13-10-01-98)	First State Quality Improvement Program
21	1999	(02-13-10-01-98)	JP Court 15 – Moving Expenses
22	1998	(02-17-04-01-80)	Computer Projects
23	1999	(02-17-04-01-81)	Special Projects
24	1998	(02-17-04-01-85)	Development Fund
25	1997	(02-17-04-01-97)	Technology Initiatives
26	1999	(02-17-04-01-98)	Flexible Technology Development Fund
27	1994	(02-17-04-01-98)	One-Time Item (Civil CMS)
28	1996	(10-01-01-01-94)	Woodburn
29	1994/95/96/97/99	(10-02-01-01-82)	Computer One-times
30	1996/98/99	(10-02-01-01-85)	Data Development

1	1998/99	(10-02-01-01-91)	Budget Automation
2	1995	(10-02-01-01-92)	Integrated Management System
3	1996/97	(10-02-01-01-97)	Integrated Management System
4	1998	(10-02-01-01-98)	One-times (Automated Release Date Project)
5	1997	(10-02-01-02-01)	Infrastructure
6	1998/99	(10-02-01-02-02)	Evaluation Project
7	1999	(10-02-01-02-03)	NGA
8	1995/97/99	(10-02-04-01-85)	Legal Obligations
9	1997/99	(10-02-04-01-92)	Family Services Cabinet Council
10	1996	(10-02-04-01-93)	Crime Bill Match
11	1997/98	(10-02-04-01-99)	Technology Initiative
12	1999	(10-02-04-02-01)	Home Visit
13	1999	(10-02-04-02-10)	Mental Health Parity
14	1999	(10-02-04-02-12)	VOP Centers
15	1998/99	(10-03-02-01-98)	Tourism and Business Promotion Grants
16	1998	(10-03-03-01-87)	Welfare Reform
17	1999	(10-03-03-01-87)	Welfare Reform
18	1998/99	(10-03-03-01-88)	Workplace Literacy
19	1999	(10-04-02-01-98)	First Quality Fund
20	1998/99	(10-04-05-01-83)	Self Insurance
21	1995/97	(10-05-01-01-80)	Pilot Projects
22	1997	(10-05-01-01-82)	Program Evaluation
23	1999	(10-07-03-01-98)	SAC Wiring
24	1995	(10-09-01-01-85)	Legal
25	1999	(10-09-01-01-98)	One-Time (Voting Machines)
26	1997	(10-09-01-01-99)	Technology Initiative
27	1998	(10-09-10-01-97)	Year 2000 Project
28	1999	(10-09-10-01-98)	One-Times
29	1997	(10-09-30-01-85)	Data Development
30	1996	(10-09-30-01-99)	Network

1	1998	(10-09-40-01-85)	Data Development
2	1999	(10-09-40-01-85)	Bus Rec Plan
3	1996	(10-09-40-01-97)	Technology Initiative
4	1996	(10-09-40-01-98)	One-Times
5			
6	1999	(15-02-01-01-98)	One-Times
7			
8	1999	(20-01-03-01-98)	One-times (Office Equipment/Furniture)
9	1999	(20-06-01-01-98)	Oral Histories
10	1997/99	(20-06-02-01-98)	One-Times
11	1999	(20-07-01-01-82)	Delaware Art
12	1999	(20-08-01-01-80)	Library Standards
13	1999	(20-08-01-01-86)	DELNET Statewide Tech Funds
14			
15	1999	(25-05-01-01-97)	Dual Payroll
16			
17	1999	(30-01-10-01-88)	One Times
18	1998	(30-01-40-01-98)	Collaborative Bargaining
19	1998	(30-04-50-01-98)	Consolidation of State Telephone 800 Numbers
20	1999	(30-05-10-01-86)	Deferred Maintenance
21	1998/99	(30-05-10-01-87)	Underground Storage Tanks - State
22	1996	(30-05-10-01-98)	Carvel State Office Building Security
23			
24	1997/98/99	(35-01-20-01-83)	Electronic Benefit Transfer
25	1995	(35-01-20-01-87)	Electronic Benefit Transfer
26	1996	(35-01-20-01-91)	Electronic Benefit Transfer
27	1996	(35-01-20-01-92)	DPH Vaccine
28	1996	(35-01-20-01-93)	MCI Access
29	1996	(35-01-20-01-94)	CSE Enhance
30	1999	(35-01-20-01-97)	Development

1	1999	(35-01-20-01-98)	One-Time
2	1997	(35-01-20-02-05)	Technology
3	1998/99	(35-05-20-01-82)	Immunizations
4	1997/98/99	(35-05-20-01-83)	Hepatitis B
5	1998	(35-05-20-01-98)	Managed Care Home and Food Inspections
6	1999	(35-05-20-01-98)	One-Time
7	1996	(35-06-10-01-98)	Managed Care One-times
8	1996/97/99	(35-07-01-01-99)	DCIS
9	1997	(35-08-01-01-98)	Adaptive Equipment
10	1999	(35-09-01-01-98)	One-Times
11	1999	(35-11-10-01-98)	First Quality
12	1999	(35-12-10-01-98)	First Quality
13	1999	(35-12-20-01-98)	Server
14	1997	(35-12-20-01-99)	Technology
15	1997	(35-12-30-01-83)	Community Planning
16			
17	1999	(37-01-50-01-81)	MIS Development
18	1999	(37-01-15-01-98)	First State Quality Fund
19	1999	(37-01-50-01-98)	One-Times
20	1995	(37-05-50-01-98)	Ferris Retraining
21			
22	1999	(38-01-10-01-86)	Warehouse
23	1998	(38-01-10-01-97)	Technology Initiatives (DACS)
24	1999	(38-01-10-01-99)	MIS/Technology
25	1999	(38-01-30-01-80)	Equipment Replacement
26	1999	(38-01-31-01-80)	Substance Abuse Treatment
27	1998/99	(38-01-40-01-99)	Maintenance and Restoration
28	1999	(38-04-01-01-88)	Out-of-State Boarding
29			
30	1999	(40-01-01-01-97)	MCI/Equipment

1	1999	(40-06-02-01-81)	Judge Morris
2	1999	(40-08-01-01-80)	Delaware Estuary
3	1998	(40-08-02-01-97)	One-Time First Quality
4	1999	(40-08-02-01-98)	First State Quality Fund
5	1998	(40-08-05-01-97)	Permitting Project
6	1999	(40-08-07-01-81)	Whole Basin TMDL
7	1997/98/99	(40-09-03-01-80)	HSCA Loan/Super Fund
8	1998	(40-09-03-01-82)	Debris Disposal
9			
10	1986	(45-01-01-03-81)	Hazardous Waste Revolving Fund
11	1999	(45-01-20-01-98)	800 MHz Training
12	1999	(45-01-30-01-98)	Hazardous Spill Clean-Up Van/Trailers
13	1999	(45-04-10-01-98)	Re-engineering Study
14	1999	(45-06-01-01-98)	Child Abuse Intervention Training
15	1998	(45-06-01-01-98)	Job Task Analysis
16	1999	(45-06-04-01-98)	Task Force Equipment
17	1996	(45-06-05-01-80)	CMP Project
18	1996	(45-06-05-01-81)	AVL Tech
19	1999	(45-06-09-01-98)	Vests and Shotguns
20	1999	(45-06-10-01-98)	Relocation Expenses
21	1995/99	(45-07-01-01-99)	Anti-Theft Project
22	1999	(45-07-10-01-98)	GDL Program
23			
24	1999	(60-09-20-01-87)	Welfare Reform
25	1998/99	(60-09-20-01-88)	Individual Skills Grant
26			
27	1999	(70-01-01-01-81)	School Elections
28	1999	(70-01-01-01-98)	Technology
29	1997	(70-04-01-01-98)	Road Naming/911 Project
30			

1	1998	(75-01-01-01-98)	Staff Computer Training
2			
3	1999	(95-01-01-01-89)	State Board of Education
4	1999	(95-01-01-01-91)	Professional Standards Council
5	1999	(95-01-01-01-93)	Building Improvement
6	1999	(95-01-01-01-98)	One-Time
7	1998/99	(95-01-01-02-00)	Standards and Assessment
8	1999	(95-01-01-02-02)	Delaware Student Testing Program
9	1997	(95-01-01-02-05)	Technology
10	1998	(95-01-01-02-06)	Americorps
11	1999	(95-01-01-02-08)	Family Involvement
12	1998/99	(95-03-10-01-91)	Professional Development
13	1996/97/98	(95-03-10-01-93)	Shared Decision Making
14	1999	(95-03-15-01-27)	Smithsonian Project
15	1999	(95-03-15-01-31)	Early Education Center
16	1999	(95-03-20-01-53)	3-5 Program
17	1999	(95-03-20-01-82)	Early Childhood Assistance
18	1999	(95-03-20-01-98)	One-Time
19	1999	(95-04-01-01-90)	Public School Transportation
20	1999	(95-07-01-01-80)	Operations
21	1998	(95-08-01-01-84)	DHEC
22	1997	(95-08-01-09-75)	GIA Section 1
23	1998	(95-08-01-09-77)	GIA Tuition
24	1994	(95-13-00-01-48)	Teacher in Space
25	1997	(95-15-00-01-72)	MCI
26	1999	(95-17-00-02-02)	Discipline
27	1999	(95-23-00-02-02)	Discipline
28	1998	(95-32-00-01-84)	Asbestos
29	1999	(95-33-00-02-02)	Discipline
30			

(b) For the fiscal year ending June 30, 1999, any sums in FY 1999 appropriations 0207 (Student Mentoring) and 0208 (Magnet Grants) for Public Education shall remain as continuing and not be subject to reversion until September 30, 1999. Program expenses may not be incurred subsequent to the start of the regular 1999-2000 school year.

(c) For the fiscal year ending June 30, 1999, any sums in appropriation 0193 (Shared Decision Making) for FY 1996, FY 1997 and FY 1998 for Public Education shall remain as continuing and not be subject to reversion until June 30, 2000.

(d) Funds appropriated under Sections 315, 335 (a)(3), (5) and (7), and Section 358 of this Act shall be appropriated on a 15 month basis and not be subject to reversion until September 30, 2000. Program expenses may not be incurred subsequent to the start of the regular 2000-2001 school year.

(e) 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. With the approval of Legislative Council, up to \$20.0 may be used for technical assessment.

(f) For the fiscal year ending June 30, 1999, any sum in the UST 1996 and 1997 appropriation (30-05-10-01-87) shall remain encumbered and shall not revert until June 30, 2000.

(g) The appropriation, FY 1999 appropriation (70-01-01-01-81) School Elections, listed in Subsection (a) of this section, may be expended for information systems technology acquisitions and for projects which would enhance voter accessibility.

(h) For the fiscal year ending June 30, 1999, any sum remaining in (10-02-04-02-12) Violation of Probation Centers shall remain as a continuing appropriation and shall not be subject to reversion until June 30, 2000. Said funds shall be transferred to the State Budget Office to be used for only non-recurring expenditure items. These funds shall not be expended without the approval of the Budget Director and the Controller General.

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.

JUDICIAL

Section 48. 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 49. 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 (Claymont)	10 eight-hour shifts per week

Section 50. 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 51. Section 1 of this Act appropriates \$344.8 in Contractual Services to the Administrative Office of the Courts (02-17-01) for Victim Offender Mediation Programs. Of that appropriation, \$75.5 is to be allocated to a Victim Offender Mediation program in Sussex County. The Victim Offender Mediation Committee will determine which programs are to be awarded funds from this appropriation.

Section 52. This Act appropriates \$31.0 ASF in personnel costs to the Court of Common Pleas (02-06-00) for 2.0 ASF FTE Court Clerks to help with the collection of court receivables inherited from the former City of Wilmington Municipal Court. Notwithstanding other statutes to the contrary, the Court of Common Pleas is authorized to retain a portion of the fines and fees collected from these receivables in an amount sufficient to cover the personnel costs of these positions. Adjustments to the

1 Appropriated Special Fund spending authority for the Court of Common Pleas (02-06-00) can be made upon the concurrence and
2 approval of the Budget Director and the Controller General.

3
4 Section 53. Amend Title 29, Chapter 56, Section 5610 (b) by striking "\$150.00" where it appears and substituting
5 "\$250.00."

6
7 Section 54. Section 1 of this Act contains a one-time appropriation of \$100,000 to the Administrative Office of the
8 Courts (02-17-01) for space for Delaware Volunteer Legal Services, Inc. in the Phillip Cloutier Memorial Wing at Widener
9 University School of Law's campus at 4601 Concord Pike in Brandywine Hundred.

10
11 Section 55. Section 1 of this Act appropriates \$210.6 in personnel and operating costs and 6.0 GF FTEs to Justices of
12 the Peace Courts (02-13-10) to establish two additional magistrate positions to expand the hours of operation of Justice of the
13 Peace Court #20 (City of Wilmington) from 16 hours (five days) to 24 hours (seven days). These positions are subject to
14 enactment of Senate Bill No. 166 of the 140th General Assembly or similar legislation increasing the number of magistrates for
15 the Justices of the Peace Courts. If this bill, or similar legislation, is not enacted the appropriations shall revert to the General
16 Fund.

17
18 Section 56. Section 1 of this Act appropriates \$296.8 in Personnel Costs and 10.0 GF FTEs to Court of Common Pleas
19 (02-06-10) to establish additional judgeships for by Kent and Sussex Counties. An additional \$33.6 is contained within the
20 Budget Office Contingency and One-Time items (10-02-04) to support these positions. These positions are subject to enactment
21 of Senate Bill No. 206 of the 140th General Assembly or similar legislation increasing the number of judges for the Court of
22 Common Pleas. If this bill, or similar legislation, is not enacted the appropriations shall revert to the General Fund.

23
24 Section 57. Section 1 of this Act appropriates \$338.4 in Personnel Costs and 10.0 GF FTEs to Family Court (02-08-10)
25 to establish additional judgeships for Kent and Sussex Counties. An additional \$37.0 is contained within the Budget Office
26 Contingency and One-Time items (10-02-04) to support these positions. These positions are subject to enactment of House Bill
27 No. 355 of the 140th General Assembly or similar legislation increasing the number of judges for the Family Court. If this bill,
28 or similar legislation, is not enacted the appropriations shall revert to the General Fund.

1 Section 58. Section 1 of this Act appropriates 4.0 General Fund FTEs and \$250.0 to the Office of the Child Advocate
2 (02-18-05). These positions are subject to enactment of House Substitute 1 to House Bill 39 of the 140th General Assembly or
3 similar legislation. If this bill, or similar legislation, is not enacted the appropriation shall revert to the General Fund and the
4 positions deleted.

EXECUTIVE

Section 59. (a) Section 1 of this Act appropriates \$2,000.0 to the Office of the Budget (10-02-01) for Data Processing - Development Projects which contemplates information technology planning, development and procurement services for the following state department/agencies development projects and feasibility studies:

DEPARTMENT/AGENCY	SERVICE NEED
Executive	
DELJIS	DELJIS TCP/IP-Network
DELJIS	Standards Project
DELJIS	Automated Warrants System
Family Services Cabinet Council	Master Client Index
Health & Social Services	
Management Services	EBT
Social Services	MMIS Development
Child Support Enforcement	DACSES Modifications
Long Term Care Residents	Database Design
Protection	
DNREC	Data Integration
Commissioner of Elections	Electronic Campaign Printers
Fire Prevention Commission	
State Fire School	Tracking 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

1 a copy to the Controller General. Such project will be in the form approved by the Budget Director, or his/her designee, and
2 shall include:

- 3 (i) statement of work to be done;
- 4 (ii) existing work to be modified or displaced;
- 5 (iii) total cost of systems development and conversion effort, including systems analysis and programming cost,
6 establishment of master files, testing, documentation, special equipment costs, including full overhead, savings
7 or additions in positions and operating costs that will result after development or conversion;
- 8 (iv) other advantages or reasons that justify the work;
- 9 (v) source of funding for the work and whether or not work is within scope of work envisioned under this Section;
10 and
- 11 (vi) estimated costs of such project shall include a three-year projection, i.e., current fiscal year and two succeeding
12 fiscal years.

13 (c) No project is to be undertaken which is beyond the scope of work approved by the department/agency head and the
14 Budget Director. This requirement applies to all computer or computer-programming related systems development performed
15 by the Office of Information Services and approved by the Office of the Budget, department/agency itself or an outside
16 consultant or contractor. Further, this requirement applies to new computer programs or systems purchased or otherwise
17 acquired and placed in use.

18 (d) Status reports, sufficiently descriptive in nature of each project, shall be prepared by each department/agency and
19 provided quarterly to the Budget Director and the Controller General.

20 (e) In support of all projects executed between the Office of Information Services and the Office of the Budget and the
21 concerned department/agency, Information Services shall maintain staff support to the benefit of department/agency at the
22 projected level of effort (subject to recruitment delays) until the project work has been accomplished.

23 (f) No funds appropriated in Section 1 of this Act may be used to employ data or word processing professionals in
24 support of current or proposed data or word processing systems without prior written approval of the Budget Director.

25
26 Section 60. The General Assembly finds that the establishment of the federal TANF block grant has left the state
27 vulnerable to deficits from caseload increases attributable to an economic downturn. In order to minimize such exposure, the
28 funds within the Reserve Account for CSCRP Disallowances (10-02-01-80-51), and any funds which may become available
29 from a one-time federal surplus resulting from the old AFDC (Title IV-A) and JOBS (Title IV-F) Programs, shall be available to
30 mitigate to the extent possible, projected deficits in TANF supported programs within the Division of Social Services,

1 Department of Health and Social Services. The use of such funds for such purposes shall require the approval of the Budget
2 Director and Controller General.

3
4 Section 61. Section 1 of the Act contains an appropriation in Office of the Budget, One-Time Items and Contingencies
5 (10-02-04) for Contingency - Salary. The Budget Director with the concurrence of the Controller General is authorized to
6 transfer agency salary funds through transfers in order to adjust for salary savings, the general salary increase contained in
7 Section 8 of this Act.

8
9 Section 62. The amount appropriated to the Office of the Budget, Contingency and One-Time Items, Prior Years'
10 Obligations, shall be used to pay personnel costs, reimbursement of overpayment of fringe benefits, and other obligations except
11 coding errors by a school district which require adjustment of the state's accounts. Any use of the Prior Years' Obligations
12 account by any agency receiving funds in Section 1 of this Act, in excess of the amount reverted from the applicable line code on
13 June 30 of the fiscal year in which the expense was incurred, will require the requesting agency or school district to reimburse
14 the Prior Years' Obligations account by the amount equal to the excess requested. A line code reversion sum does not negate the
15 necessity of encumbering sufficient funds to cover known expenses, proof of circumstances beyond an agency's ability to
16 encumber must be documented on the request for transfer to be excluded from the reimbursement clause. All requests for prior
17 year funds to complete the payment of one-time items will require a reimbursement to the Prior Years' Obligations account by
18 the requesting agency from any appropriation other than personnel costs. The reimbursement can be removed from the current
19 fiscal year's budget. The reimbursement clause shall not apply to legal judgments against the agency or school district. A
20 reimbursement under this Section shall not be deemed to be prohibited by Title 10, Section 8111, Delaware Code.

21
22 Section 63. For Fiscal Year 2000, Title 29, Chapter 65, Section 6529, Delaware Code is interpreted to include the ability
23 to implement a hiring review process. All State agencies with the exception of Legislative, Judicial, Higher Education and School
24 Districts shall be subject to the provisions of Section 6529 as interpreted by this section. Implementation of a hiring review
25 process shall require all positions to be reviewed and approved by the Budget Director and the State Personnel Director prior to
26 filling. All non-cabinet agency hiring requests shall also require the review and approval of the Controller General prior to filling.

27
28 Section 64. The appropriation in Section 1 of this Act to the Office of the Budget, Contingency and One-Time Items
29 (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 65. 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 \$5,732.8 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 budget request for the FY 2001 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>Fiscal Year</u> <u>Appropriation</u>	<u>Account</u> <u>Codes</u>	<u>Remarks</u>
(01-08-02)	Phase I Reapportionment	\$10.0
(02-06-10)	Office Equipment (New Judges)	\$33.6
(02-06-10)	Office Equipment (Court Clerks)	\$10.0
(02-08-10)	Supplies - Furniture (New Positions)	\$19.2
(02-08-10)	Capital - Computers (New Positions)	\$40.0
(02-13-10)	800 Mhz Radios for JP Court Security	\$96.2
(02-17-01)	DVLS Program	\$100.0
(02-17-04)	Software and Server (Network and Help Desk)	\$50.0
(02-17-04)	Software (Y2K Family Court Locks)	\$15.9
(02-18-05)	Computers	\$4.0
(02-18-05)	Office Equipment	\$2.0
(02-18-05)	Copier	\$2.5
(02-18-05)	Fax	\$1.5
(10-03-02)	Tourism Matching Grants	\$50.0
(10-03-02)	Main Street Program	\$64.0

(10-04-02)	First Quality Fund	\$150.0
(10-07-01)	Software and Consultant (Y2K Upgrade)	\$32.0
(10-07-01)	Collection of Unpaid Voluntary Assessments	\$5.7
(10-07-02)	Program Support (Police Complaint Reporting System)	\$25.0
(12-05-01)	Software and Training	\$6.0
(15-01-01)	Computers and Office Equipment for New Positions	\$14.4
(15-01-01)	Computers and Office Equipment for New Positions	\$9.0
(15-02-01)	Computer (Sr. PD Municipal Court Merger)	\$1.5
(15-02-01)	Furniture (Sr. PD Municipal Court Merger)	\$1.5
(15-02-01)	Banyan Replacement	\$18.9
(15-02-01)	Server (Software Compliance)	\$17.5
(15-02-01)	Computers	\$102.4
(15-02-01)	WAN Upgrade	\$12.0
(15-02-01)	Software (Desktop Software Upgrade)	\$34.0
(15-02-01)	WESTLAW Upgrade	\$7.0
(15-02-01)	Training (Windows)	\$18.0
(15-02-01)	Furniture for New Positions	\$3.5
(15-03-01)	Computer and Software (Y2K Upgrades)	\$6.4
(15-03-01)	Filing System	\$10.1
(20-01-02)	Veterans Commission Rent	\$23.0
(20-01-04)	Office Equipment and Furniture	\$25.0
(20-01-04)	Maintenance Equipment	\$188.9
(20-03-01)	Needs Assessment Project	\$66.9
(20-03-01)	Historical Markers	\$38.0
(20-03-01)	Revolutionary War Documents	\$6.2
(20-03-01)	Ratification Documents	\$12.5
(20-03-01)	Odessa Monument	\$30.0
(20-06-01)	Oral History	\$10.0
(20-06-04)	Sewell Biggs	\$15.0
(20-08-01)	Delmarva Discussions	\$10.0
(25-01-01)	Withholding Forms	\$25.0
(30-05-10)	Tools and Equipment	\$18.7
(35-01-10)	Capital Outlay - Senate Bill No. 20	\$4.0
(35-01-20)	EBT	\$660.0
(35-04-01)	Capital/Equipment	\$3.1
(35-05-20)	Capital/Equipment	\$26.5
(35-05-20)	Poison Control Initiative	\$40.0
(35-09-01)	Capital for Milford Office	\$110.0
(35-12-20)	Capital outlay for Laurel State Service Center	\$110.0
(35-14-01)	Capital/Equipment	\$0.6

(37-01-50)	Records Management	\$103.5
(37-01-50)	Furniture and Computer	\$7.5
(37-05-10)	Furniture and Computer	\$2.5
(37-06-10)	Furniture and Computer	\$2.5
(40-01-01)	Wildlife Damage Control	\$65.0
(40-06-22)	Tractor	\$25.0
(40-08-02)	LIMS - Phase II	\$140.0
(45-01-01)	Y2K Remediation	\$31.2
(45-01-20)	Technician Training	\$55.0
(45-01-20)	Equipment for new position	\$42.5
(45-01-30)	Hazardous Equipment Trailer	\$70.0
(45-04-10)	Advertising	\$10.0
(45-04-10)	Furniture	\$12.6
(45-04-10)	Database Replacement Study	\$50.0
(45-06-01)	Promotional Testing	\$45.0
(45-06-01)	School Resource Offices (Training Supplies)	\$14.4
(45-06-04)	School Resource Officers (Personnel)	\$75.6
(45-06-05)	MDC-Printers and Bar Code Readers	\$96.0
(45-06-07)	Radar Replacement	\$52.0
(45-06-09)	Vest and Shotgun Replacement	\$56.0
(45-06-10)	800 MHz Radio Batteries	\$22.3
(45-06-10)	School Resource Officers (Supplies)	\$16.4
(45-06-11)	Front Seat Barriers	\$22.0
(45-06-11)	Police Vehicles	\$420.0
(45-07-10)	Motorcycle Education Program	\$30.0
(60-01-40)	Equipment	\$5.0
(65-01-02)	Software	\$40.5
(65-01-02)	Ventilation for Odor Control	\$8.0
(65-01-02)	Spectrophotometer Auto-Sampler	\$13.1
(65-01-02)	Hot Plate for sample preparation	\$0.7
(65-01-02)	Drying Oven	\$4.7
(65-01-02)	Nitrogen Combustion Analyzer	\$61.0
(65-01-02)	Kjeldahl Digester and Analyzer	\$27.5
(65-01-02)	Retsh Brinkman Sample Mill	\$8.5
(65-01-02)	Inductively Coupled Plasma Spectrophotometer	\$50.0
(65-01-03)	Training	\$11.0
(65-01-03)	Computers	\$5.0
(65-01-04)	Tractor and Mower for Blackbird	\$16.5
(65-01-04)	Fire Equipment	\$25.0
(65-01-11)	Training	\$5.0
(65-01-11)	Equipment (Recalibration)	\$2.8

(70-01-01)	Presidential Primary/Elections	\$62.7
(70-02-01)	Presidential Primary/Elections	\$584.8
(70-02-01)	Voting Machine Parts	\$15.7
(70-03-01)	Presidential Primary/Elections	\$118.7
(70-03-01)	Voting Machine Parts	\$10.0
(70-04-01)	Presidential Primary/Elections	\$85.9
(70-04-01)	Voting Machine Parts	\$2.0
(75-01-01)	IS&T Project/Database	\$60.0
(75-02-01)	Breathing Air System	\$130.0
(75-03-01)	EMT B Bridge Training	\$150.0
(76-01-01)	Computer Equipment	\$12.5
(90-01-02)	Computer Equipment	\$16.0
(90-01-02)	Vehicle	\$17.0
(95-03-10)	Adult Education Textbooks and Calculators	\$169.0
(95-08-01)	Louis L. Redding Chair	\$150.0

Section 66. Section 1 of this Act appropriates \$71.0 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.

1 The Cabinet Council is encouraged to use the Delaware Kids Count Project as a resource in the collection and analysis
2 of data on children and family issues.

3 The Cabinet Council is encouraged to explore with the University of Delaware and Delaware State University to
4 determine how these institutions can participate consistent with their land grant mission.

5 The Cabinet Council shall report quarterly to the Controller General on expenditure of funds in FY 2000.

6 Additionally, \$21.0 of this appropriation shall be used to support the University of Delaware, Cooperative Extension
7 newsletter series, Great Beginnings.

8
9 Section 67. Section 1 of this Act appropriates \$1,244.8 to the Office of the Budget, Contingencies and One-times,
10 Motor Fuel Tax operations (10-02-04). The purpose of this funding is to reimburse the Transportation Trust Fund of the
11 Department of Transportation, Office of Financial Management and Budget (55-01-02) for the operating cost of Motor Fuel Tax.

12
13 Section 68. Notwithstanding the provisions of any other law, for the fiscal year ending June 30, 2000 interest earnings
14 of the Delaware Strategic Fund as provided for in Section 5027, Title 29 of the Delaware Code, shall be used in the following
15 manner and not to exceed the amounts so noted:

16 (i) the first \$350,000 shall be used for the general operating expenses of the Delaware Small Business
17 Development Center.

18 (ii) the second \$300,000 shall be used to continue the Delaware Business Marketing Program within the Delaware
19 Economic Development Authority (10-03-03). It is the intent of the General Assembly that these funds shall
20 be used to match non-state contributions to the Delaware Business Marketing Program. Receipt of non-state
21 funds shall be deposited in a special fund for business marketing and recruitment purposes only. Expenditures
22 of the program shall be divided between non-state contributions and the state matching funds such that non-
23 state contributions are not less than one half of total expenditures. These funds shall not be used for hiring
24 full-time employees. On or before April 1, 2000, the Director of the Delaware Economic Development Office
25 shall provide to the Budget Director and the Controller General a report on the Delaware Business Marketing
26 Program. The report shall include an itemized list of non-state funds received, total expenditures and an
27 assessment of the performance of the program to date.

28 (iii) the third \$100,000 shall be used for general operating expenses of the Working Capital Delaware Program
29 (YWCA of New Castle County).

30 (iv) any remaining funds shall be used for the purposes of the Delaware Strategic Fund.

1
2 Section 69. Section 1 of this Act includes a one-time appropriation to the Delaware Economic Development Office,
3 Delaware Tourism Office (10-03-02), in the amount of \$64.0 for the Main Street Program. Of this amount, \$7.0 shall be used to
4 initiate a Main Street Program for the City of Newport, and another \$7.0 shall be used to initiate a Main Street Program for the
5 City of New Castle. If for any reason either city does not initiate a Main Street Program during the fiscal year ending June 30,
6 2000, the \$7.0 for that city shall revert to the General Fund.

7
8 Section 70. Section 1 of this Act contains a one-time appropriation for the Delaware Economic Development Office,
9 Delaware Tourism Office (10-03-02) for Tourism and Business Promotion matching grants. The funds appropriated are to be
10 distributed in accordance with subsection 5012, Title 29 of the Delaware Code.

11
12 Section 71. Section 1 of this Act appropriates \$65.0 for Other Items to Delaware Economic Development Authority
13 (10-03-03). Of this amount, \$15.0 shall be allocated for the Delmarva Advisory Council.

14
15 Section 72. The Delaware Economic Development Authority (10-03-01) will continue to use revenue from Blue Collar
16 Training Fund for the Workforce Development Grant. Funding for this grant shall be maintained at current levels.

17
18 Section 73. Section 1 of this Act appropriates \$317.7 to the Office of State Personnel, Operations (10-04-02) for
19 Generic Aides/Handicapped Employees. This appropriation is intended to encourage and enable qualified mentally and
20 physically handicapped persons to obtain state employment in a State agency or school district per the provisions of Title 29,
21 Chapter 59, Section 5924 of the Delaware Code.

22
23 Section 74. Section 1 of this Act provides authorization for a Staff Development Officer to be funded with
24 Appropriated Special Funds in the Office of State Personnel, Staff Development and Training (10-04-04). The position will
25 support statewide training programs for state managers, supervisors and employees. It is the intent of this Act to support these
26 statewide training programs, in part, with funds generated from the assessment of charges for courses on agencies participating
27 in certain classes held by the Office of State Personnel. The Office of State Personnel may set charges for courses to sustain or
28 create training programs with the funds placed in an Appropriated Special Fund account established by the Budget Director.

1 Section 75. Amend Section 5202, Title 29, Delaware Code, subsection (d)(3) by replacing the words, "State Treasurer"
2 with "Director of State Personnel."

3
4 Section 76. Amend Section 5206, Title 29, Delaware Code, by deleting the first sentence in its entirety.

5
6 Section 77. Amend Section 5114(e), Title 29, Delaware Code, by replacing the words, "The State Treasurer" with "The
7 State Personnel Director."

8
9 Section 78. Amend Section 5910, Title 29, Delaware Code, by adding a new subsection (e) to read as follows:

10 "5910(e) With the exception of Deferred Compensation pursuant to Title 29, Chapter 60A, and any other investment or
11 retirement savings plan, the Director of State Personnel shall be responsible for the management and administration of all
12 currently existing and future state employee benefits programs, including but not limited to Group Health, Group Life, flexible
13 benefits, dental, vision, prescription, long-term care, disability and the Blood Bank."

14
15 Section 79. Section 1 of this Act provides an appropriation of 2.0 ASF FTEs and \$64.8 ASF in the Office of State
16 Personnel (10-04-00). The State Personnel Director shall be the appointing authority and the two ASF FTEs will be housed in
17 the State Personnel Office. These positions shall be Personnel Officers who will work on personnel issues for the Department of
18 Transportation. The source of funding shall be the Department of Transportation, Division of Administration (55-02-01).

19
20 Section 80. The State Employees Pension Benefits Review Committee will continue to review the pension plan by
21 using appropriate and accepted comparative analysis, including, but not limited to, the benefit structure of the various state
22 pension systems for the purpose of evaluating current pension plan benefits and recommending changes.

23 The committee membership will consist of the Chairman and the Vice Chairman of the Legislative Joint Finance
24 Committee, one member of the Senate appointed by the President Pro Tem, one member of the House of Representatives
25 appointed by the Speaker, three members appointed by the Chairman of the Board of Pension Trustees, one member of the
26 Pension Advisory Council, the Pension Administrator, the State Personnel Director, the Budget Director, and the Controller
27 General.

28 The Budget Office, the Controller General's Office, and the Pension Office shall provide the committee with staff
29 support and such other resources as the committee may require.

1 Section 81. Whenever the annual valuation of the market value of the assets of the Special Pension Fund exceeds the
2 actuarial value of benefits available to persons entitled to receive special pensions by a factor of at least 20 percent, the Board of
3 Pension Trustees, in its sole discretion, may transfer the excess over 20 percent or any part of it to the State Employees Pension
4 Fund for the benefit of that Fund.

5
6 Section 82. Section 1 of this Act provides funding for a state employee pension rate of 9.40 percent. The components
7 of the rate are approximately 3.73 percent for the pension liability, 3.34 percent for the retiree health insurance liability and 2.33
8 percent for the Post-Retirement Benefit Fund. The 1991 Early Retirement Option (ERO) accounts for approximately .71 percent
9 of the pension liability and .55 percent of the retiree health insurance liability. If legislation is enacted as described in Section 83
10 of this Act, the above-established rates shall be appropriately adjusted.

11
12 Section 83. Section 1 of this Act contains an appropriation of \$398.0 in the Budget Office Contingency and One-time
13 Items (10-02-04) for Pension Death Benefits. This appropriation is contingent upon enactment of legislation during the first
14 session of the 140th General Assembly to increase the death benefits payable to a pensioner's beneficiary or estate pursuant to
15 §5316 and §5546, Title 29 of the Delaware Code. Should legislation be so enacted, the pension rates contained in Section 82 of
16 this act shall be appropriately adjusted to reflect the increased state contributions necessary to fund a \$1,000 increase in the
17 benefit. Should such legislation not be enacted, this appropriation shall revert to the general fund and the pension rates contained
18 in Section 82 shall remain unchanged.

19
20 Section 84. The Board of Pension Trustees may allocate the pension/health insurance monies received from the State
21 during any month to ensure that funds are available to pay health insurance premiums for retirees in each month.

22
23 Section 85. The duties of the State Personnel Director shall include the administration and management of a statewide
24 human resource information system and upon implementation, serve as the administrator of all data and processes supported by
25 the system throughout the State, including all government agencies, school districts, Delaware State University and Delaware
26 Technical and Community College.

27
28 Section 86. The Delaware Health Care Commission (10-05-01) is hereby authorized to reimburse Commission
29 members for mileage associated with Committee responsibilities.

Section 87. 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	300.0
Loan Repayment	<u>100.0</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 \$300.0 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. The loan repayment allocation of \$100.0 shall be used to recruit physicians, either medical doctors or doctors of osteopathic medicine, to Delaware. Recruitment tools include, but are not limited to, loan repayments as approved by the Delaware Health Care Commission.

Section 88. The General Assembly recognizes the valued relationship between the State and the Jefferson Medical College of Thomas Jefferson University. At the same time, the General Assembly wishes to expand its role to provide opportunities to Delaware residents to receive a medical education by offering opportunities for Delaware residents to attend a school of osteopathic medicine. It is the intent of the General Assembly that Delaware Institute of Medical Education and Research enter into discussions with the Philadelphia School of Osteopathic Medicine to allow the school to function as Delaware's school of osteopathic medicine. To this end, DIMER shall provide for a number of Delaware residents to be admitted to the Philadelphia School of Osteopathic Medicine on an annual basis, not to exceed 20 over a 4-year period. Additionally, it is anticipated that these students will return to Delaware to practice medicine, although it is not a condition of the program. A status report will be due by October 1 to the Budget Director and the Controller General.

1
2 Section 89. (a) Section 1 of this Act appropriates to the State Housing Authority (the "Authority") \$7,042.9 for its
3 discretionary operating expenses. Discretionary operating expenses include personnel costs, travel, contractual services, supplies
4 and materials and other normal business expenses of the Authority which are not required to be made pursuant to bond
5 resolutions, trust indentures, agreements with the Federal Department of Housing and Urban Development, or otherwise required
6 by operating agreements of the Authority.

7 (b) Nothing herein shall be construed to require any prior approval for the Authority to meet its previously contracted
8 obligations, including debt service requirements under bond resolution or trust indenture of the Authority, nor shall anything
9 contained herein require any such prior approval for any expenditure by the Authority under any such bond resolution or trust
10 indenture or under any agreement with the Federal Department of Housing and Urban Development.

11
12 Section 90. The Delaware State Housing Authority is hereby authorized to use up to \$325.0 of the interest income from
13 the Housing Development Fund for the support of administrative functions associated with that fund.

14
15 Section 91. Section 1 of this Act appropriates funding for a Senior Secretary in Criminal Justice Council (10-07-01) to
16 be used as dedicated secretarial support for the Executive Director of the Domestic Violence Coordinating Council. This
17 position shall be an exempt position and shall be excluded from classified service as defined under Title 29 Delaware Code,
18 Section 5903.

19
20 Section 92. In an effort to manage the cost/benefit of professional services, the Office of Information Services is hereby
21 authorized to implement a pilot project to utilize the services of Limited Term employees in lieu of contractual services.
22 Requests, accompanied by an implementation plan and/or status report, from the Executive Director of the Office of Information
23 Services for transfer of unexpended contractual services to personnel costs, for purposes of this pilot within the Office of
24 Information Services, may be made upon approval of the Budget Director and the Controller General. OIS employees hired as
25 Limited Term under this section shall be hired within the procedures of the Merit Rules and compensated at rates within salary
26 ranges as specified in the Merit System and Merit Comparable Salary Schedules.

OTHER ELECTIVE OFFICES

Section 93. 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 94. 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 95. 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 96. 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 the Office of State Personnel and the Office of the Budget.

Section 97. Section 1 of this Act contains ASF 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 98. The Office of State Treasurer (12-05-00) is authorized to establish and maintain a special fund (NSF) appropriation to be credited with stale check write-off amounts. Use of this account is limited to the processing of stale check reissues by the Office of the State Treasurer. On June 30 of each fiscal year, the unexpended stale 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.

1 Section 99. Section 1 of this Act provides a ASF of \$1,735.0 to the State Treasurer, Administration (12-05-01) Cash
2 Management Policy Board, authorized by Title 29, Chapter 27, Delaware Code, for the purpose of providing staff support and
3 operational expenses, including payment of fees for banking services. The \$1,735.0 in interest income on bank deposits shall be
4 coded as special fund revenue to provide funds for operation of the Cash Management Policy Board.

5
6 Section 100. Section 1 of this Act authorizes \$370.0 for Expense of Issuing Bonds in the Office of the State Treasurer,
7 Debt Management (12-05-03), for payment of expenses relating to the issuance of State long-term debt. Disbursement from the
8 Expense of Issuing Bonds fund shall not be made without the prior approval of the State Treasurer and the Secretary of Finance.

9
10 Section 101. Section 1 of this Act establishes a special fund appropriation entitled Electronic Data Interchange, in the
11 Office of the State Treasurer, Administration (12-05-01) Cash Management Policy Board to support the Electronic Data
12 Interchange/Electronic Funds Transfer initiative. Use of these funds shall be coordinated with and approved by the Executive
13 Director of the Office of Information Services and the Secretary of Finance.

14
15 Section 102. Notwithstanding Section 6059, Title 29, Delaware Code, the program participants shall pay for all costs,
16 excluding personnel, associated with the administration of the Deferred Compensation Program.

LEGAL

Section 103. Section 1 of this Act authorizes an appropriation for contractual services for the Office of Attorney General (15-01-01). Of this amount, \$605.4 shall be used for the purpose of providing services covering family violence in New Castle County, and \$325.7 shall be used for the purpose of providing services covering family violence in Kent and Sussex counties.

Section 104. Section 1 of this Act provides an appropriation of \$552.6 in Appropriated Special Funds and 11.0 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 105. 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. Two additional Deputy Attorneys General shall be assigned to the Family Court in Kent and Sussex counties for the purpose of prosecuting juvenile misdemeanor cases;

(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) One shall be exclusively dedicated to Labor Law Enforcement in the Department of Labor, Division of Industrial Affairs (60-07-01). 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;

(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;

(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. A second split-funded (.5 GF and .5 ASF) Deputy Attorney General shall be assigned to provide additional contract review, general legal services and legal counsel as needed for the Department of Administrative Services, Division of Professional Regulation;

(m) One split-funded (.5 NSF FTE and .5 GF FTE) Deputy Attorney General and 1.0 ASF 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) One General Fund support staff position shall be assigned to augment the Special Fund positions assigned to Family Court in Kent and Sussex counties per the Juvenile Accountability Incentive Block Grant;

(o) Four split-funded (1.0 GF and 3.0 NSF) positions, one Deputy Attorney General, two Investigators, and one Secretary, shall be assigned to the Medicaid Fraud Unit to be used for investigating incidents of abuse and neglect in Delaware nursing homes;

(p) One Special Fund Deputy Attorney General IV 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. Such work shall specifically include thoroughly preparing termination and temporary custody cases, in concert with division investigators and their supervisors, sufficiently before trial so as to ensure these cases are presented properly and effectively;

1 (q) One Special Fund Deputy Attorney General shall be assigned to the Drug Unit to handle forfeiture cases statewide.
2 Said Deputy Attorney General position shall be funded from assets and/or proceeds from the disposition of seized property
3 resulting from forfeitures;

4 (r) One Special Fund Deputy Attorney General and two Special Fund support staff shall be assigned to handle
5 personal injury litigation involving state-owned vehicles; and

6 (s) One split-funded (0.5 ASF FTE and 0.5 GF FTE) Deputy Attorney General shall be assigned to the Department of
7 Agriculture. Fifty percent of this position shall be assigned to work on issues related to nutrient management and shall be funded
8 by General Funds; 50 percent of this position shall be assigned to work on issues related to the Thoroughbred Racing
9 Commission and Harness Racing Commission, and shall be funded by Appropriated Special Funds.

10 (t) The Attorney General shall submit a semi-annual report to the Budget Director and Controller General that details
11 the number of Deputy Attorney General FTEs, the source of their funding and the divisions to which they are assigned. These
12 reports are due on November 30 and May 15.

13
14 Section 106. Section 1 of this Act makes an appropriation of \$15.0 to the Office of the Attorney General (15-01-01) in
15 Appropriated Special Funds to establish an Attorney General Opinion Fund. The Office of the Attorney General is authorized to
16 publish and sell the opinions of the Attorney General; to deposit the proceeds of any sales in a special fund to be designated
17 "Attorney General Opinion Fund"; and to expend all monies deposited in such fund for any expense connected with the
18 publishing or sale of opinions of the Attorney General. Copies of the published opinions will be distributed at no cost to the
19 General Assembly, the Governor and state agencies. If at the end of the fiscal year, the amount deposited in this fund exceeds
20 \$15.0, the amount exceeding \$15.0 shall be deposited into the General Fund.

21
22 Section 107. Section 1 of this Act makes an appropriation of \$836.0 Appropriated Special Funds, \$400.0 General
23 Funds and 22.0 positions, split-funded 66 percent Appropriated Special Funds and 34 percent General Funds to the Office of the
24 Attorney General to support the Child Support Enforcement function. The Child Support Enforcement function in the Attorney
25 General's Office will operate on a reimbursement basis, wherein the State makes the initial expenditures and is reimbursed from
26 federal funds controlled by the Department of Health and Social Services. The reimbursement rate for operations will be 66
27 percent of total direct costs; the reimbursement rate for indirect costs will be 25 percent of federal dollars spent on direct salary
28 costs.

1 Notwithstanding the provisions of Title 29, Chapter 64, Subsection 6404 (h)(1)(2)(3), of the Delaware Code, the
2 Attorney General's Office shall be allowed to retain the federal reimbursement of direct costs in an Appropriated Special Funds
3 account to pay the Appropriated Special Funds share of operating expenses associated with the Child Support function.

4 The Attorney General's Office shall also be allowed to retain up to a maximum of \$30.0 of the departmental portion of
5 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
6 clerical positions. The statewide portion of indirect cost recoveries will be deposited to the indirect cost account in the Budget
7 Office. The remainder of the indirect cost recoveries and any unused portion of indirect cost funds in the Attorney General's
8 Office will be deposited into a separate account in the Office of the Treasurer, to be established by the Budget Office, and
9 retained to be used to support the General Fund portion of the budget for this function in subsequent years.

10 Adjustments to Appropriated Special Fund spending authority for the Office of the Attorney General (15-01-01) can be
11 made upon the concurrence and approval of the Budget Director and the Controller General.

12
13 Section 108. Notwithstanding any other laws to the contrary, including, but not limited to, Part VI of Title 29,
14 Delaware Code, the Attorney General is authorized to enter into a contract for the production, distribution and marketing of the
15 video entitled "Crossing the Line" on such terms and conditions as the Attorney General deems appropriate. All revenues
16 received by the Attorney General from such contract shall be deposited in a Non-Appropriated Special Fund. Revenues received
17 and deposited into such NSF account shall be used for the purpose of reproducing, marketing, and distributing copies of this
18 film.

19
20 Section 109. Section 1 of this Act appropriates \$1,500.0 in the Office of the Budget Contingency and One-Time Items
21 for the Selective Market Program. Of this amount, \$676.9 shall be used to implement a salary matrix in the Department of
22 Justice as approved by the Joint Finance Committee, notwithstanding Chapters 5.000 and 6.000 of the Merit Rules. This salary
23 matrix is intended to address the below labor market salaries of the Deputy Attorneys General.

24 The salary matrix and promotional criteria shall be distributed to all eligible Deputy Attorneys General on July 1, 1999.
25 Deputy Attorneys General shall receive an increase to the new entry-level salary or the salary increase provided for in Section
26 8(d)(1) of this Act, whichever is greater, effective July 1, 1999.

27 A review committee shall be made up of 2 representatives from the Department of Justice and 3 representatives from
28 the State Personnel Office. This committee shall determine the initial employee distribution throughout the salary matrix based
29 on documentation provided by the employee. In the event that an employee does not agree with their initial placement, the

1 employee may appeal via an interview and final determination shall be made by the review committee. This decision shall not
2 be subject to further appeal.

3 Deputy Attorneys General shall be considered for promotional increases, effective January 1, 2000, based on the
4 approved salary matrix. Employees in the Deputy Attorneys General I and II classes shall be eligible for an increase to the new
5 entry level salaries and a promotional increase. Employees in the Deputy Attorneys General III, IV and V classes are eligible for
6 an increase to the new entry level salaries and a promotional increase based on the salary matrix. The combination of these two
7 salary increases shall not exceed 15 percent of an employee's salary as of June 30, 1999. In the event that an employee is
8 eligible for an increase greater than 15 percent, the difference shall be provided in the subsequent fiscal year. Deputy Attorneys
9 General I and II may exceed the 15 percent cap in Fiscal Year 2000 only if the new entry level salary is greater than 115 percent
10 of their salary on June 30, 1999. Additional increases due to promotional raises shall be provided in the subsequent fiscal year.
11 The State Personnel Director and the Attorney General shall provide a written assessment of the program to the Budget Director
12 and the Controller General by April 1, 2000. Thereafter, a committee consisting of the Attorney General, the State Personnel
13 Director, the Budget Director and the Controller General will periodically review the Department of Justice salary plan.

14
15 Section 110. Amend Title 29, Section 4603, Delaware Code, by adding new Subsection (d):
16 "Effective January 1, 2000, the Public Defender and Chief Deputy Public Defender shall be prohibited from engaging in the
17 practice of law outside the duties of the Office of the Public Defender."

18
19 Section 111. A Committee shall be formed consisting of representatives from the Office of State Personnel, State
20 Budget Office, Controller General's Office, Public Defender and Attorney General's Office for the purpose of studying the
21 National Standards relating to Attorney General and Public Defender compensation. This committee shall make
22 recommendations to the Joint Finance Committee by January 1, 2000 regarding their findings relative to Delaware's Attorney
23 General and Public Defender compensation.

STATE

Section 112. Section 1 of this Act appropriates \$300.0 ASF and 1.0 ASF Information Resources Administrator to Office of the Secretary, Administration (20-01-01). This position and funds shall be dedicated to public information access programs in conjunction with the Archives Information Center. This position shall serve as a resource for state and local governments in facilitating access to public information through the effective utilization and coordination of information technology media. The activities of this position may include, but are not limited to web page design and the development of best practices in information dissemination. The Department shall report to the Budget Director and Controller General by April 1, 2000, as to the activities and accomplishments of this effort.

Section 113. 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 114. 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 115. 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 116. Pursuant to Title 29, Section 5903(4) the position of Director of the Delaware Heritage Commission (20-06-01) shall be exempt from the Merit System.

Section 117. 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

1 building rentals at Buena Vista, Belmont Hall, Dayett Mills, McCrone House, John Dickinson Plantation and the Meeting House
2 Galleries to support these operations.

3
4 Section 118. Notwithstanding the provisions of Title 29, Delaware Code, Section 6102 (a), and Title 5, Delaware Code,
5 Section 1106, the Office of the State Bank Commissioner is authorized to retain \$100.0 of the Bank Franchise Tax for costs
6 associated with the collection and administration of the Bank Franchise Tax.

7
8 Section 119. Section 1 of this Act makes an appropriation to the Division of Libraries in the amount of \$1,871.6 for
9 Library Standards. Of that amount, the Division of Libraries may reserve up to \$187.2 for planning and evaluation grants to
10 determine each library's attainment of state and federal library standards. The remaining funds shall be paid to libraries in two
11 installments equal to 50 percent of the total amount allocated to that library, one installment upon signature of the contract and
12 the second installment in January of the fiscal year. Funds granted to any library under the provisions of Title 29, Chapter 66,
13 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
14 account for the benefit of the library from which the unspent funds came. These funds may be spent in subsequent years for
15 purposes described in Title 29, Chapter 66, Delaware Code. The use of such carryover funds shall not be used as part of any
16 subsequent years' formula payment.

FINANCE

Section 120. The Department of Finance, Office of the Secretary, is authorized during Fiscal Year 2000 to maintain special funds with the State Treasurer for the acquisition of technology and payment of other costs incidental to the implementation of computer systems at the Department of Finance. Deposits to the special funds shall be from the collection of delinquent taxes. Deposits to the special funds shall not exceed \$678.3.

Section 121. 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 judgments and warrants in the offices of clerks of various courts, shall be transferred by the Director of the Division of Revenue to the General Fund within 30 days from the end of each quarter of the calendar year. A detailed report on all expenditures from and collections to this special fund shall be sent annually to the Budget Director and the Controller General.

Section 122. 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 delinquent collections 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 123. The Director of the Division of Revenue shall have the authority to enter into agreements according to which contingency and other 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

1 of such money held in the escrow, custodian or other account established under this paragraph. No account shall be used to pay
2 for employees of the Division of Revenue. Section 1 of this Act establishes an Appropriated Special Fund account "Escheat"
3 from which charges relating to receiving and processing remittances and reports by holders, and claims by owners of abandoned
4 property, as well as advertising and travel fees and associated costs may be paid and into which abandoned property remittances
5 may, at the discretion of the Director, be deposited. Unencumbered balances on June 30, in excess of \$30.0, shall revert to the
6 General Fund. A semi-annual report of amounts in escrow or custodian accounts shall be furnished to the Budget Director and
7 the Controller General.

8
9 Section 124. The Division of Revenue is authorized to require payment of fees for issuance of certificates or other
10 documents reflecting the status of taxes, if any, owed by the taxpayer requesting such certificate. In addition, the division is
11 authorized to regulate payment of fees for collection of debts owed to claimant agencies. Payment of these fees shall be deemed
12 to reduce the contractual services expenditures of the division and shall be recorded as expenditure-reducing items.

13
14 Section 125. Pursuant to Section 4815 (b) (2), Title 29 of the Delaware Code, funds from the State Lottery Fund shall
15 be released to an appropriately established account within the Division of Alcoholism, Drug Abuse and Mental Health on or
16 before the fifteenth day of each month, the amount of which shall be determined based on the results of video lottery operations
17 conducted during the immediately preceding month.

18
19 Section 126. (a) In the event that the State Lottery's amount of contractual services shall exceed the amount in Section
20 1 of this Act due to increased lottery ticket sales, the Appropriated Special Fund Budget in Section 1 of this Act may be amended
21 by the Secretary of Finance, the Controller General and the Budget Director, provided that the total operating budget for this
22 fiscal year shall not exceed 20 percent of gross sales as limited by Title 29, Section 4815(a) of the Delaware Code.

23 (b) In the event the State Lottery's amount of contractual services shall exceed the amount in Section 1 of this Act due
24 to increased video lottery net proceeds, the Appropriated Special Funds Budget in Section 1 of this Act may be amended by the
25 Secretary of Finance, the Controller General and the Budget Director, as limited by Title 29, Section 4815(b) of the Delaware
26 Code.

27
28 Section 127. Amend Section 2712(a)(1), Title 29 of the Delaware Code by striking in its entirety and substituting in
29 lieu thereof the following new Section 2712(a)(1):

1 “(a)(1) Effective with the pay cycle beginning July 1, 1999, the salaries of all State officials and employees, including
2 the Governor, shall be paid bi-weekly. The bi-weekly rate shall be determined by dividing the annual salary by 26. All
3 state officials and employees who leave state service shall receive full payment for all days worked in their final lagged
4 paycheck. Public and higher education employees, whether they elect payment over 10 or 12 months, shall receive
5 their full contract amount. Public and higher education, 10-month contractual employees who elect payment over the
6 contract period shall receive the exact annual salary stated in the contract, divided by 22.”

7
8 Section 128. Amend Section 5106(a), Title 29 of the Delaware Code by striking it in its entirety and substituting in lieu
9 thereof the following new Section 5106(a):

10 “(a) Upon receipt of written authorization from any state employee, the Secretary of Finance shall deduct from the
11 employee’s salary such sum as the employee shall direct for state provided employee benefits. Effective with the pay
12 cycle beginning July 1, 1999, deductions shall be in equal amounts and withheld from all paychecks received by the
13 employee, with the exception of deductions for employee health, life and dental insurance premiums which shall be
14 withheld from the first two paychecks received during any month. The Secretary of Finance will set forth rules of
15 practice and procedure with regard to employee deductions.”
16

ADMINISTRATIVE SERVICES

Section 129. During Fiscal Year 2000, 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 130. Section 1 of this Act 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 131. Upon receipt of information from the DMA (Delaware Manicurist Alliance), the Board of Barbering and Cosmetology shall publish a newsletter periodically to its members containing pertinent materials relative to nail technology.

Section 132. 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 133. Notwithstanding the provisions of Title 29, Subsection 8806(e) of the Delaware Code, funds generated by Delaware Surplus Services 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 134. During Fiscal Year 2000, the Department of Administrative Services, Division of Facilities Management (30-05-10), shall retain the rental fees as Appropriated Special Funds for the buildings known as the Daniel L. Herrmann Courthouse and the Sussex County Courthouse. The retained portion must be deposited as per state laws and shall be disbursed per Section 1 of this Act.

Section 135. For energy backcharge purposes, the Department of Administrative Services (host department) Fiscal Year 2000 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 136. (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, 2002:

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.

Section 137. Notwithstanding the provisions of Section 5117, Title 29, Delaware Code, state agencies may pay for employee parking in the Government Center Parking Garage as long as such payments are continuances of payments made prior to May 31, 1998. Such payments shall cease when the employee leaves the positions he or she occupied prior to May 31, 1998.

Section 138. Personnel in the Department of Administrative Services, Division of Facilities Management who respond to weather related emergencies, and are not covered under FLSA, shall be entitled to receive compensation at their straight time rate of pay for all overtime services performed beyond the normal work week. The method of compensation is subject to the availability of funds and/or the operational needs of the Department of Administrative Services, Division of Facilities Management.

Section 139. Section 1 of this Act appropriates \$800.0 to the Department of Administrative Services, Facilities Management (30-05-10). These funds for state agency underground storage tanks shall not be subject to reversion until June 30, 2002.

HEALTH AND SOCIAL SERVICES

Section 140. Section 1 of this Act includes appropriations to the Department of Health & Social Services, Division of Administration, Office of the Secretary (35-01-10) and Division of Social Services (35-07-01) to fund Senate Bill No. 20 of the 140th General Assembly or similar legislation in the total amount of \$286.9. These amounts shall revert to the General Fund of the State of Delaware on June 30, 2000, should Senate Bill No. 20 of the 140th General Assembly or similar legislation not be enacted into law.

Section 141. 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 and Other Costs, \$6,400.0.

Section 142. 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 143. 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.

1 Section 144. (a) The amount appropriated by Section 1 of this Act to the Department of Health and Social Services for
2 Title XIX Federal Programs (Medicaid) - Other Than State Institutions shall be expended solely in accordance with the
3 following conditions and limitations:

4 (i) This appropriation shall be used for the purpose of continuing the program of medical assistance provided within
5 the state plan under Title XIX of the Social Security Act and the requirement of Section 121(a) of P.L. 89-97 and
6 all subsequent amendments enacted by the Congress of the United States and commonly known as Title XIX of the
7 Social Security Act;

8 (ii) The state plan of medical care to be carried out by the Department of Health and Social Services shall meet the
9 requirement for Federal Financial Participation under the aforementioned Title XIX, and the sums expended by the
10 Department pursuant to this Act shall be limited to:

11 (1) Services mandated by the Health Care Financing Administration (HCFA), including:

12 a) Acute care inpatient general hospital services (other than services in institutions for tuberculosis or mental
13 diseases)

14 b) Outpatient hospital services

15 c) Rural health clinic services and federally-qualified health center services

16 d) Laboratory and X-ray services

17 e) Nursing facility (NF) services

18 f) Early and periodic screening, diagnosis and treatment (including routine eye care, dental services and other
19 medically necessary services that are not covered for the general population) for individuals under age 21
20 only known as EPSDT

21 g) Family planning services (including voluntary sterilization)

22 h) Physician services

23 i) Home health services including assistive technology such as durable medical equipment and supplies,
24 prosthetics and orthotics, PT, OT and speech and hearing services

25 j) Nurse-midwife services

26 k) Services furnished by a certified nurse practitioner

27 l) Transportation

28 m) Medicare premiums and/or coinsurance and deductible amounts as mandated for dual Medicare/Medicaid
29 eligibles, Qualified Medicare Beneficiaries, Specified Low Income Beneficiaries, and individuals qualified
30 under Section 4732 of the Balanced Budget Act of 1997

- 1 n) Additional services mandated by HCFA through future revisions to the Social Security Act
- 2 (2) Optional services, including:
- 3 a) Podiatry services
- 4 b) Clinic services, including mental health clinics, ambulatory surgical centers (ASCs) or free-standing
- 5 surgical centers (FSSCs) and rehabilitation facilities.
- 6 c) Pharmaceutical products
- 7 d) Services for individuals age 65 or older in institution for mental diseases (ICF/IMDs)
- 8 e) Institutional services for the mentally retarded (ICF/MRs)
- 9 f) Emergency hospital sites not approved by Medicare (for clients traveling out-of-state)
- 10 g) Private duty nursing
- 11 h) Non-traditional services provided under a federally approved waiver for maintaining individuals in the
- 12 community as an alternative to institutionalization
- 13 i) Hospice services
- 14 j) Rehabilitation and specialty hospital services
- 15 k) Other medically necessary services that are funded by the State
- 16 (3) To the following groups/individuals who are determined eligible under the Title XIX Program:
- 17 a) Pregnant women, and infants under the age of one, with family income up to 185 percent of the poverty
- 18 limit;
- 19 b) Children up to age 6 (through age 5) with family income up to 133 percent of the poverty limit;
- 20 c) Children up to age 19 (through age 18) with family income up to 100 percent of the poverty level;
- 21 d) Pregnant teens;
- 22 e) Children whose families, sponsors or foster parents receive benefits under Title IV-E and IV-D of the
- 23 Social Security Act and/or who meet Medicaid income and resource requirements;
- 24 f) Foster children and children in private facilities (under age 21) for whom a public agency is assuming full
- 25 or partial financial responsibility;
- 26 g) Children (under age 21) for whom any Division within the Department of Services for Children, Youth and
- 27 Their Families has custody or consent to place, who have been removed from their own home, and who are
- 28 in a medical facility for a temporary planning period prior to placement;
- 29 h) Children under age 18 who receive General Assistance (GA);
- 30 i) Federal or State-funded adoption assistance children;

- 1 j) Infants placed with private agencies for adoption;
- 2 k) Children age 18 or under who require an institutional level of care, who qualify as blind or disabled, and
- 3 who have personal income and resource below the limit for Supplemental Security Income (SSI), but who
- 4 can be cared for safely and cost-effectively at home, may be covered;
- 5 l) Families who would have qualified for the following groups which have been replaced with Temporary
- 6 Assistance for Needy Families (TANF) program effective March 10, 1997;
- 7 m) Cash assistance recipients;
- 8 n) Cash assistance applicants with a budgeted need of less than \$10;
- 9 o) Work Transition/Prospective - including:
- 10 1. Families who lose eligibility for cash assistance due to new or increased earnings remained eligible for
- 11 Medicaid for up to 24 additional months, or
- 12 2. Families who lose eligibility for cash assistance due to new or increased income from child support
- 13 remain eligible for Medicaid for four additional months.
- 14 p) Income Deeming Eligibles - When income deemed from a step-parent, grandparent, sibling or the sponsor
- 15 of an alien makes an individual ineligible for cash benefits, Medicaid determines eligibility excluding that
- 16 deemed income;
- 17 q) Individuals who are categorically related to the Supplemental Security Income (SSI) program, including:
- 18 1) SSI Beneficiaries,
- 19 2) Recipients of Mandatory State Supplement Payments,
- 20 3) Recipients of Optional State Supplement Payments,
- 21 4) Deemed SSI Clients due to:
- 22 • Loss of SSI due to an increase in Social Security benefits,
- 23 • Disabled individual's loss of SSI due to employment,
- 24 • Disabled Widows and Widowers, or
- 25 • Adult Disabled Children.
- 26 r) Qualified Medicare Beneficiaries (QMBs);
- 27 s) Qualified Working Individuals (QDWIs);
- 28 t) Specified Low Income Medicare Beneficiaries (SLIMBs);
- 29 u) Institutionalized Individuals with incomes at or below a percentage of the SSI standard as specified by the
- 30 legislature (250 percent in 1997);

v) Waivered individuals for home and community-based services as an alternative to institutionalization at the same percentage of SSI specified in subsection u above, including

1) Mentally Retarded,

2) AIDS/HIV, or

3) Elderly and Disabled.

w) Adults with incomes less than or equal to 100 percent of the Federal Poverty Level if enrolled in a managed care organization.

(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.

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.

Section 145. 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

1 Vaccines

2 Food Inspection

3 Medicaid Contractors/Lab Testing and Analysis

4 Tuberculosis (TB)

5 Sexually Transmitted Diseases (STD)

6 Child Development Watch

7 Preschool Diagnostic and Development Nursery (PDDN)

8 Home Visits

9 Food Permit

10 Water Operator Certification

11 Long Term Care Prospective Payment

12 Notwithstanding the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and
13 expend fees from the aforementioned accounts, except as noted below. Corresponding Appropriated Special Fund spending
14 authority has been provided in Section 1 of this Act.

15 The Children with Special Needs and Child Health programs shall continue to deposit 30 percent of program collections
16 to the General Fund.

17
18 Section 146. The sum of \$170.0 is hereby advanced from the General Fund of the State to the Management Services
19 IPU (35-01-20), in order that the Public Welfare Revolving Fund emergency checks can be paid on a timely basis and without
20 interruption.

21
22 Section 147. Section 1 of this Act includes an appropriation to the Department of Health and Social Services, Division
23 of Public Health, Director's Office/Support Services (35-05-10) for contractual services. Of that amount, \$260.0 shall be used
24 for the purpose of providing school nursing services three or more days a week to non-public schools in New Castle County and
25 Kent County.

26 The Secretary of the Department of Health and Social Services will ensure that the contracts with the various schools in
27 this program are executed no later than August 15 of each year. The Secretary will also ensure that timely payments are made to
28 all contractors.

1 Section 148. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Public
2 Health, Community Health (35-05-20), in the line item, "Office of Narcotics and Dangerous Drugs", in the amount of \$40.0.
3 This amount shall be used at the discretion of the Drug Control Administrator and shall not be utilized for normal operating
4 budget items attributed to the Office of Narcotics and Dangerous Drugs.

5
6 Section 149. The Division of Public Health, Community Health (35-05-20), is appropriated \$4,189.5 in "School-Based
7 Health Centers" for planning, implementing and operating school-based health centers. In addition, funding for 3.0 General
8 Fund positions related to the operation of school-based health centers is appropriated under personnel costs for the continued
9 operation of the Middletown School-Based Health Center and for the administration and planning of all school-based health
10 centers.

11 During Fiscal Year 2000, Community Health shall implement up to two new school-based health centers of which two
12 will be open for up to 10 months and one will be open for up to two months. Status reports shall be submitted to the Budget
13 Director and the Controller General not later than December 15, 1999, and May 15, 2000.

14
15 Section 150. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division
16 of Public Health, Community Health (35-05-20), for contractual services. Of that amount, \$84.0 shall be available for medicine,
17 equipment and part-time nursing services for a community-based adult health services clinic serving the Claymont area of New
18 Castle County.

19
20 Section 151. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division
21 of Public Health, Community Health (35-05-20) for contractual services. Of that amount, \$65.0 shall be used to contract for
22 mammography screening. These services shall be provided by the mobile mammography van. In addition to the above General
23 Funds, \$19.0 shall be made available from the Preventive Health and Health Services Block Grant or other federal funds.

24
25 Section 152. Section 1 of this Act provides an appropriation of \$120.0 to the Department of Health and Social Services,
26 Division of Public Health, Community Health (35-05-20) to provide vaccinations to individuals who are members of volunteer
27 ambulance companies or volunteer fire companies acting as "first responders" in the State of Delaware. The Division of Public
28 Health shall purchase vaccine and administer or contract-vaccine at local fire stations or other sites mutually agreed upon by the
29 fire companies and the Division of Public Health. No such vaccinations shall be furnished until after certification by the
30 volunteer fire or ambulance company on a form provided by the Division of Public Health, indicating that the person for whom

1 the vaccination is desired, is a member in good standing of a volunteer ambulance or volunteer fire company in the State of
2 Delaware. A record of the names and addresses of all persons immunized shall be maintained by the Division of Public Health.
3 To insure the success of this program, the Division of Public Health and representatives of the Delaware Volunteer Firemen's
4 Association shall work collaboratively in the best interests of all parties. The Division of Public Health may promulgate
5 reasonable rules and regulations regarding the vaccination of volunteer firemen and individuals who volunteer for ambulance
6 companies. If resources allow, after the needs of the volunteer community have been met, similar assistance may be offered to
7 other fire and ambulance companies such as the Wilmington City fire company. Such funds, as are necessary from this fund,
8 may also be spent to provide any required post vaccination antibody testing in order to assure adequate protection has been
9 achieved.

10
11 Section 153. Section 1 of this Act provides an appropriation for the Department of Health and Social Services, Division
12 of Public Health, Community Health (35-05-20) to provide hepatitis B and other necessary childhood vaccinations for children
13 between infancy and young adulthood who are uninsured, are not eligible for any Federal program providing the vaccination,
14 and are otherwise medically indigent.

15
16 Section 154. The State desires to establish a permanent funding program for rodent control activities at the local level
17 by providing the City of Wilmington \$15,000; New Castle County \$15,000; Kent County \$10,000; and Sussex County \$10,000.
18 The Department of Health and Social Services, Division of Public Health, Community Health (35-05-20) shall dispense these
19 funds to local governments in lump sum payments to be made no later than September 1, 2000; establish program objectives and
20 spending guidelines; require regular expenditure reporting to the State; and allow unexpended funds to carry over at the local
21 level into the next fiscal year. Any unexpended carry over funds, as determined by the final fiscal year local level expenditure
22 report, will be used to reduce the amount of award the following fiscal year in order to maintain original levels of funding. The
23 local government carry over to FY 2000 will be \$10,000 (\$5,000 in Kent County and \$5,000 in Sussex County). The award
24 amount in Section 1 of this Act has been adjusted accordingly.

25
26 Section 155. Section 1 of this Act includes appropriations to the Department of Health & Social Services, Division of
27 Public Health, Community Health (35-05-20) for an Environmental Health Specialist position and related support costs in the
28 total amount of \$42.4. This position shall be used to inspect nail salons and related businesses in relation to the Board of
29 Barbering and Cosmetology rules and regulations.

1 Section 156. Section 1 of this Act appropriates funding to the Division of Public Health, Emergency Medical Services
2 (35-05-30) and 2.0 NSF FTEs to Delaware Technical Community College, Terry Campus (90-04-06) for paramedic training. It
3 is the intent of the General Assembly that the Division of Public Health shall pursue a contractual arrangement with Delaware
4 Technical and Community College to provide a tuition-based paramedic training program.

5
6 Section 157. The Department of Health and Social Services, Alcoholism, Drug Abuse and Mental Health (35-06-00)
7 will be able to bill for additional Medicaid Revenue due to a waiver of the Institution for Mental Diseases exclusion, as part of
8 the Medicaid Managed Care waiver. This additional revenue shall be deposited to the General Fund, and the division shall make
9 every effort to ensure that these bills are submitted to the appropriate entities in an expeditious manner.

10
11 Section 158. Section 1 of this Act provides General Funds in the amount of \$2,800.0 in the Department of Health and
12 Social Services, Division of Alcoholism, Drug Abuse and Mental Health. This amount is supported by disproportionate share
13 revenues of \$3,534.5 that are projected to be collected from the federal government during Fiscal Year 2000. The department
14 shall deposit disproportionate share revenues to the General Fund and shall continue to maintain its efforts to ensure that the
15 State receives its allotted disproportionate share payments from the federal government. The department shall report quarterly to
16 the Budget Director and the Controller General on disproportionate share revenue received.

17
18 Section 159. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division
19 of Alcoholism, Drug Abuse and Mental Health, Inpatient Mental Health (35-06-30), for contractual services. Of that amount,
20 \$41.2 shall be made available for a Nurse Intern Program to enable graduate nurses to take graduate courses to increase their
21 skills in specialty areas.

22 It is understood that participants in this program will provide clinical services with compensation to Delaware
23 Psychiatric Center during the duration of their graduate level education. It is further understood that these individuals shall
24 remain in the employ of Delaware Psychiatric Center for a minimum of one year after graduation or reimburse the State for any
25 and all tuition received.

26
27 Section 160. Section 1 of this Act provides funds for a Dietitian position in the Inpatient Mental Health (35-06-30).
28 The purpose of this position is to allow the IPU to provide services by a registered Dietitian as required for certification. This
29 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 2000 shall be finalized by October 1, 1999.

Section 161. 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 162. 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 163. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism and Drug Abuse (35-06-40) for personnel costs. Included in this appropriation is 1.0 FTE exempt position #1389. When this position becomes vacant, it shall be reclassified to a comparable Merit System Classification.

Section 164. 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 165. (a) Section 1 of this Act appropriates \$1,717.5 in Social Services (35-07-00) under Early Intervention for the Part C 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

1 through the early intervention process and to ensure coordination with the Program for Children with Disabilities. In addition, the
2 IRMC may recommend the transfer of General Fund positions and/or General Fund dollars from the Department of Health and
3 Social Services as necessary to operate this program. The lead agency shall report to the Budget Director and the Controller
4 General on additional revenues that will be generated from Medicaid matching funds for reimbursable appropriate services that
5 will be deposited into the General Fund in Fiscal Year 2000.

6 (b) As required by Regulation §303.521 under IDEA, there will be no charge to the parents for the following:
7 "(1) implementing the Child Find requirements in §303.321; (2) evaluation and assessment, as included in §303.322, and
8 including the functions related to evaluation and assessment in §303.12; (3) service coordination as included in §303.22 and
9 §303.344(g) and (4) administrative and coordinative activities related to the development, review and evaluation of IFSPs in
10 §303.340 through §303.346; and to the implementation of the procedural safeguards in Subpart E and the other components of
11 the statewide system of early intervention services in Subparts D and F."

12 (c) The Secretary of the Department of Health and Social Services shall ensure that under the Part C Birth to Three
13 Program, no child will be denied services because of his/her parent's inability to pay. The following will be adhered to by the
14 Department of Health and Social Services in developing Part C/vendor agreements: 1) vendors will agree to bill Third Party
15 Insurance including Medicaid and clients; 2) client fees will be based on the DHSS scale developed by the Ability to Pay
16 Committee and found in the department's policy Memorandum 37; and 3) those agencies who have sliding payment scales
17 currently will be permitted to continue using them as long as those scales do not require a greater financial burden than that of
18 the Department of Health and Social Services scale.

19 (d) Management Services shall submit a monthly report to the Budget Director and the Controller General outlining the
20 number of children screened and assessed by the program, the number of children receiving services, and the number of children
21 transitioned out of the program.

22
23 Section 166. Section 1 of this Act includes appropriations to the Department of Health & Social Services, Division of
24 Public Health, Delaware Hospital for the Chronically Ill (35-05-40) and Division of Social Services (35-07-01) to fund Senate
25 Bill No. 115, as amended, 140th General Assembly or similar legislation in the total amount of \$745.8. These amounts shall
26 revert to the General Fund of the State of Delaware on June 30, 2000, should Senate Bill No. 115, as amended, of the 140th
27 General Assembly or similar legislation not be enacted into law.

28
29 Section 167. Section 1 of this Act makes an appropriation to the Department of Health and Social Services, Social
30 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 168. 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 169. Section 1 of this Act includes 2.0 NSF FTEs in the Department of Health and Social Services, Social Services (35-07-01). These Medicaid Eligibility Specialist positions will be funded through voluntary contributions from the Medical Center of Delaware and from federal matching funds. These positions 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 170. 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 \$16,000.0 ASF for the Medicaid program in Social Services, (35-07-00); the \$1,296.2 ASF for child support programs in Child Support Enforcement, (35-10-00); the \$4,499.1 ASF for programs in Public Health (35-05-00); and the \$6,764.4 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.

1
2 Section 171. The Department of Health and Social Services, Division of Social Services (35-07-01) is authorized to
3 establish bank accounts to advance funds from the Employment and Training program to clients or vendors in a timely manner.
4 These advances would be for supportive services or welfare diversion services in the nature of clothing and transportation
5 allowances and other services, to advance client self-sufficiency, as proposed in Delaware's Welfare Reform plan "A Better
6 Chance".
7

8 Section 172. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division
9 of Social Services (35-07-01) for Child Care. Of that amount, \$700.0 shall be used for a portion of the increase necessary to
10 assure that all child care providers are reimbursed at least 75 percent of the local market rate based on the latest market study.
11 Federal Temporary Aid to Needy Families (TANF) funds in the amount of \$300.0 shall be used to fund the remainder of the rate
12 increase. TANF spending on child care shall be increased by an additional \$1,185.0 to fund slots in the program.
13

14 Section 173. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division
15 of Social Services (35-07-01) for Child Care. Of that amount, \$1,200.0 shall be used to increase child care eligibility to 200
16 percent of the federal poverty level beginning January 1, 2000.
17

18 Section 174. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division
19 of Social Services (35-07-00) for contractual services. Of that amount, \$750.0 is for DCIS II system maintenance. The Division
20 of Social Services shall have the authority to contract for positions needed to provide system maintenance. The Division shall
21 also have the authority, with approval from the Budget Director and Controller General, to transfer a portion of these funds to
22 Personnel Costs and establish up to 3.5 GF positions and 3.5 NSF positions in order to support DCIS II system maintenance.
23

24 Section 175. The State accepts the provisions and benefits of the Vocational Rehabilitation Act of 1973 (P.L. 93-112),
25 as amended. The Department of Health and Social Services shall act as the sole state agency with the Secretary of the
26 Department as the State Officer, and Visually Impaired (35-08-00) as the Designated State Unit for all monies from the Act that
27 are designated for persons with visual impairment and blindness, as defined in a Cooperative Agreement dated December 1985,
28 between Visually Impaired and Vocational Rehabilitation (60-08-00), Department of Labor. The department shall cooperate
29 with the U.S. Department of Education, Rehabilitation Services Administration and, in accordance with all state laws, prepare
30 the State Plan and carry out the Rehabilitation Act of 1973 and amendments thereto.

1
2 Section 176. The Secretary of the Department of Health and Social Services shall report to the Budget Director and the
3 Controller General by September 1, 1999, on the status of the implementation of additional dental services to Medicaid eligible
4 children on a statewide basis. The Secretary shall consider the use of dental vans suitably equipped with appropriate dental
5 professionals or other service delivery mechanisms.

6
7 Section 177. Section 1 of this Act appropriates \$1,705.7 in personnel costs and 34.4 FTEs to Visually Impaired, (35-
8 08-00). This section authorizes 1.0 FTE in addition to the 7.0 FTEs itinerant teachers available to meet caseload requirements
9 for the Braille Literacy Act. This additional FTE may be filled if the September 1999 educational unit count indicates the
10 number of teachers required to meet caseloads for visually impaired students is greater than the FY 2000 complement of
11 teachers.

12
13 Section 178. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division
14 for the Visually Impaired (35-08-01), for contractual services. Of that amount, \$18.9 shall be used to compensate correctional
15 inmates for the purpose of producing Braille materials for visually impaired school children.

16
17 Section 179. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division
18 of Long-Term Care Residents Protection (35-09-10) for personnel costs. Of that amount, \$285.6 and 7.0 FTEs shall be used for
19 Quality Assurance and Surprise Inspection. Of these positions, 2.0 FTEs shall be used for surprise inspections.

20
21 Section 180. Section 1 of this Act provides an appropriation of \$1,296.2 Appropriated Special Funds (ASF) in the
22 Department of Health and Social Services, Child Support Enforcement (35-10-00), for the operation of the division. Revenue
23 from child support collections shall fund this account and the related 17.4 ASF FTEs. The department shall continue its efforts
24 to maintain collections related to child support programs, and all revenue in excess of the division's ASF authority shall be
25 deposited as designated by Title 29, Section 6102 of the Delaware Code.

26
27 Section 181. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Mental
28 Retardation, Institutional Services (35-11-20) for contractual services. Of that amount, up to \$10.0 shall be available for services
29 provided by Camp Barnes.
30

1 Section 182. The Division of Mental Retardation, Community Services (35-11-30) receives Medicaid reimbursement
2 for the provision of day rehabilitation services provided in state operated day centers. Notwithstanding the provisions of Title
3 29, Section 6102 of the Delaware Code, the Division shall be allowed to collect and deposit the Medicaid reimbursement in an
4 Appropriated Special Fund account entitled "Day Rehabilitation Services Reimbursement." Receipts in the account may be used
5 to fund community residential and day program contracts currently funded out of the Purchase of Care and Purchase of
6 Community Services lines.

7
8 Section 183. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Mental
9 Retardation, Community Services (35-11-30), for contractual services to reimburse facilities to provide sheltered workshop
10 services to clients while they are actively attending sheltered workshop programs. The Director of Mental Retardation shall
11 submit a report detailing the various cost components of each facility's per diem to the Budget Director and the Controller
12 General no later than December 1, 1999. The Director of Mental Retardation shall ensure that only reasonable and appropriate
13 cost items shall be included in each facility's per diem. The reimbursement shall not in the aggregate exceed the appropriation
14 amount in Fiscal Year 2000.

15 The Division is encouraged, where appropriate, to provide supported employment opportunities for these clients within
16 the appropriation limit.

17
18 Section 184. The Division of Mental Retardation (35-11-00) is encouraged, where appropriate, to reallocate resources
19 so as to maximize community-based residential placements for persons with mental retardation. Such reallocation initiatives
20 must be made within the total Division's appropriation limit with the approval of the Budget Director and the Controller General.
21 These reallocation initiatives shall not compromise the standard of care of the remaining Stockley Center population.

22
23 Section 185. The Division of State Service Centers, Family Support (35-12-10) maintains appropriation accounts (35-
24 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
25 publish a Human Services Directory, respectively.

26
27 Section 186. Section 1 of this Act provides an appropriation of \$50.0 to the Department of Health & Social
28 Services, Division of State Service Centers, Family Support IPU (35-12-10) for Hispanic Affairs. Members of the
29 Council on Hispanic Affairs shall serve without compensation, except that they may be reimbursed for reasonable
30 and necessary expenses incident to their duties.

1
2 Section 187. The Division of State Service Centers, Service Center Management IPU (35-12-20), currently operates 14
3 facilities throughout the State for which a Tenant User Fee for service is charged to partially offset the cost of Service Center
4 Operations. The holding account for this function is entitled "Facility Reimbursement".

5 Notwithstanding the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and
6 deposit to the aforementioned accounts. Corresponding Appropriated Special Fund spending authority has been provided in
7 Section 1 of this Act.

8
9 Section 188. Section 1 of this Act makes an appropriation to the Department of Health and Social Services, State
10 Service Centers, Community Services (35-12-30), for emergency assistance. Some of this appropriation may be used for
11 programs of longer than 30 days duration.

12
13 Section 189. The position of Director, Community Services, shall remain exempt from classified service until such
14 time as the position becomes vacant.

15
16 Section 190. Section 1 of this Act includes an appropriation for Personnel Costs and an authorization of GF FTE
17 General Fund positions in the Department of Health and Social Services, Division of State Service Centers, Volunteer Services
18 IPU (35-12-40). Of that amount, \$30.0 and 1.0 GF FTE shall be used to fund a bilingual position for the Foster Grandparents
19 Program.

20
21 Section 191. The Division of Services for Aging and Adults with Physical Disabilities (35-14-00) will receive
22 Medicaid reimbursement for the administration of community based services for the Aging and Adults with Physical Disabilities
23 population. Notwithstanding the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect
24 and deposit the Medicaid reimbursement in an Appropriated Special Fund account entitled "Community Based Services
25 Reimbursement." Receipts in the account may be used to maintain existing services and provide additional services for adults
26 with physical disabilities. Such services are not to exceed the estimated annualized revenue, and are subject to initial and on-
27 going review by the Budget Director and the Controller General.

Section 192. 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 non-personnel costs. Of that amount, \$52.1 shall be utilized for the Joining Generations Program.

Section 193. Section 1 of this Act provides an appropriation to the Department of Health and Social Services (35-05-20) for personnel costs. Included in this appropriation is 1.0 ASF FTE for a Dental Director position that shall be excluded from classified service as defined under Title 29, Delaware Code, Section 5903.

CHILDREN, YOUTH AND THEIR FAMILIES

Section 194. To maintain the accuracy of information regarding Delaware's juvenile justice system, specifically its institutions, Levels III, IV and V residential alternative programs and non-secure detention:

- (a) A .5 position, BP#7785, will be transferred from Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitative Services (YRS) (37-05-30) to Executive, Criminal Justice, Statistical Analysis Center (SAC) (10-07-03). All juvenile related SAC positions shall be located at YRS with access to all appropriate computer systems. After July 1, 1999, the Budget Director and the Controller General shall transfer \$51.7 in personnel costs; \$.6 in travel; \$3.0 in contractual services; and \$.7 in supplies and materials in implementing the above transfer.
- (b) YRS will provide SAC with copies of the actual documents and access to the originals covering bail disposition, release disposition, adjudicational sentencing disposition, program alternative calendars, rosters, movement information, alternative placement discharge reports, alternative placement fiscal records and other records necessary to verify juvenile offender movements, placements, identifications, and demographics. SAC will also have access to documents maintained by contract programs.
- (c) SAC will produce quarterly juvenile offender institution movement and population reports; prepare and monitor the juvenile institution population forecast; and prepare the juvenile institution Levels III, IV and V residential alternative program recidivism study. These reports will be distributed to Legislative committees related to juvenile justice, the Budget Director, the Governor, the Controller General, YRS, and criminal justice agencies.

Section 195. 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 196. Section 1 of this Act appropriates \$150.0 to the Department of Services for Children, Youth and Their Families, Office of the Secretary, 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

1 limited to, those parents who have received a first-time home visit and who have been identified with at-risk factors, such as
2 abuse or neglect. The FSCC shall determine the appropriated division of funds between home visiting and parent education
3 services and shall solicit proposals for disbursement to providers of each program. It is intended that this consolidated process
4 will result in a collaborative effort to target resources in the most efficient and effective manner, focusing on statewide need.
5 Staff for the Department of Health and Social Services; Children, Youth and Their Families; and Education shall be available to
6 assist the FSCC in this process.

7
8 Section 197. For Fiscal Year 2000, the Division of Management Services (37-01-00) shall have 1.0 FTE exempt
9 position in addition to those authorized by Title 29, Section 5903, Delaware Code. When position #55138 becomes vacant, it
10 shall be classified by the Director of Personnel in accordance with the Merit System, Title 29, Chapter 54, Delaware Code.

11
12 Section 198. Funds which are appropriated for foster care of children in Section 1 of this Act in the Department of
13 Services for Children, Youth and Their Families, Family Services (37-06-00), are made available with the goal of limiting the
14 number of children who remain in foster care for more than two years. For the year beginning October 1, 1999, the goal will be
15 220 children. This goal statement is intended to satisfy the requirements of the Federal Adoption Assistance and Child Welfare
16 Act (P.L. 96-272).

17
18 Section 199. For the Fiscal Year 2000, the Division of Family Services (DFS) is granted new positions authority. DFS
19 agrees to eliminate 1 typist FTE and one data entry FTE through attrition.

20
21 Section 200. For the fiscal year ending June 30, 1999, any unused authority in the following appropriations shall be
22 considered continuing in nature and shall not be subject to Delaware Financial Management System (DFMS) appropriation file
23 maintenance until June 30, 2000.

24 FY98-37-01-15-9899 Maintenance & Restoration

25 FY98-37-05-10-9880 DYRS Study

26
27 Section 201. The Division of Family Services is hereby directed to formally notify, in advance, the Foster Care Review
28 Board of any meeting, hearing or other event of which the Board desires notification. Said notification shall be directed to the
29 Executive Director of the Board.

1 Section 202. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and
2 Their Families, Division of Child Mental Health, Periodic Treatment (37-04-30) in Contractual Services. Of that amount, \$210.0
3 shall be used to expand the Juvenile Drug Court Program statewide.

4
5 Section 203. The Secretary of the Department of Services for Children, Youth and Their Families shall certify to the
6 Governor and the General Assembly that the mixing of adjudicated and non-adjudicated youths shall not take place in Ferris
7 School.

8
9 Section 204. During Fiscal Year 2000 any employee who is currently enrolled in an education program as part of the
10 Ferris School Restructuring Transition Plan shall continue to receive financial support from the Division of Youth Rehabilitative
11 Services until the completion of a relevant bachelor's degree. Any remaining balance in 37-0-50-01-98 shall remain authorized
12 and available for training and staff development within the division. Special consideration shall be given to probation and parole
13 officers.

14
15 Section 205. Indications are that the excessive expenditure of casual/seasonal and overtime in the Division of Youth
16 Rehabilitation Services, Secure Care (37-05-50) is being caused by high utilization of sick leave and incidences of tardiness, in
17 addition to vacancy rates, training and transportation costs and the occasional use of correctional officers. As a means of
18 monitoring and improving the problem areas, the Secretary of the Department of Services for Children, Youth and Their
19 Families shall file a quarterly report with the Budget Director and the Controller General on casual/seasonal and overtime
20 expenditures. The report should include but not be limited to sick leave usage, incidence of tardiness, vacancy rates, training and
21 transportation costs and the use of correctional officers at the Ferris School, New Castle County Detention Center and Stevenson
22 House. The report should reflect all actions (including disciplinary) being taken to expeditiously correct the noted problem
23 areas.

24
25 Section 206. The NSF account (37-05-50-80-04) established in FY 1996 shall remain authorized until June 30, 2000.
26 This appropriation will allow the Department of Children Youth and Their Families to receive reimbursements from employees
27 who do not successfully complete Ferris work-force transition training. These funds may also be used for general training and
28 staff development in DYRS.

1 Section 207. Section 1 of this Act includes an appropriation for Salary Contingency-Overtime in the Office of the
2 Budget, Contingencies and One-time Items (10-02-04). Of that amount, the item amounting to \$305.8 for overtime in the
3 Department of Services for Children, Youth, and Their Families, Division of Youth Rehabilitative Services, Secure Care (37-05-
4 50) shall be transferred to the Department and used for overtime with the consent of the Budget Director and Controller General
5 after the department has demonstrated that every effort has been made to control and limit the use of overtime.

6
7 Section 208. The Department of Services for Children, Youth and Their Families shall submit semi-annual reports to
8 the Budget Director and the Controller General that detail the expenditures of the internal program unit of Community Services
9 (37-05-30) by dispositional guideline level, outlines the numbers of youth served by various programs within the unit and
10 summarizes the personnel complement associated with each program within the unit. These reports shall be due on
11 November 30, 1999, and May 30, 2000.

12
13 Section 209. Section 1 of this Act provides an appropriation to the Department of Services For Children, Youth, And
14 Their Families, Division of Youth Rehabilitation Services, Secure Care (37-05-50) for contractual services. Of that amount up
15 to \$100.0 may be used for pre-trial diversion in the Superior Court (02-03-10).

16
17 Section 210. Section 1 of this Act provides an Appropriated Special Fund authorization of \$341.7 to the Department of
18 Services for Children, Youth and their Families (37-00-00) for the purpose of supporting the Young Criminal Offender Program
19 located at the Department of Correction, Multi-Purpose Criminal Justice Facility (38-04-06).

20
21 Section 211. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and
22 Their Families, Family Service, Intake and Investigation (37-06-30) for Child Welfare/Contractual Services. Of that amount
23 \$215.7 shall be used to support the Children's Advocacy Center.

24
25 Section 212. (a) In addition to the positions authorized in Section 1 of this Act, for the Division of Family Services
26 (37-06-00), Intake/Investigation (37-06-30) and Intervention/Treatment (37-06-40), the Budget Director may authorize up to 15
27 additional training positions for the purpose of training investigative and treatment workers. The Budget Director may authorize
28 additional recruit positions accordingly.

29 (b) The Division may also, with the accordance of the State Personnel Director, the Budget Director and the Controller
30 General, begin to develop additional retention strategies for caseworkers in the investigation and treatment units. These

1 strategies shall include, but are not limited to the increased use of career ladders, job rotation policies and the development of an
2 internship program in conjunction with the institutions of higher learning in the State. The Director of the Division of Family
3 Services shall present recommendations to the State Personnel Director for review and comment by October 1, 1999.

4
5 Section 213. For the purposes of retaining and attracting experienced investigation and treatment workers in the
6 Division of Family Services, the Division may competitively recruit for Family Crisis Therapists in their investigation and
7 treatment units. It is anticipated that the Division shall hire a minimum of two Family Crisis Therapists per investigation and
8 treatment units, subject to the availability of successful candidates. Current Division of Family Services employees who
9 successfully apply for these positions shall have their position reclassified to Family Crisis Therapist. Such reclassifications or
10 reclassifications of vacant positions to Family Crisis Therapist shall be effective upon the approval of the State Personnel
11 Director, Budget Director and the Controller General. The Division of Family Services is authorized to transfer positions
12 between budget units in order to adjust its complement to ensure the correct number of FTEs are in each functional unit of the
13 Division. The Division of Family Services shall submit a quarterly report to the Budget Director and the Controller General
14 detailing any adjustments to the complement, the number of Family Crisis Therapists hired and retention statistics.

15
16 Section 214. Section 1 of this Act appropriates 4.0 NSF FTEs to provide additional Probation Officers to serve youth
17 on probation or parole in the Division of Youth Rehabilitative Services, Community Services (37-05-30). These additional
18 officers will serve as part of a new program designed to more vigorously enforce violations of probation or parole by DYRS
19 clients. Federal funds shall be available for these positions and to provide residential placements for youths who violate the
20 conditions of their probation or parole. Such placements may be for two weeks for the first offense, three months for the second
21 offense and until the youth reaches age 18 for the third offense.

22
23 Section 215. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth & Their
24 Families, Family Services, Prevention/Early Intervention IPU (37-06-20) for Contractual Services. Of that amount, \$67.0 shall
25 be used to provide prevention services in the Milford area.
26

CORRECTION

Section 216. (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.

(c) 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 Probation and Parole Officer Basic Training classes. During the training sessions, up to 25 positions will be made available to accommodate the class being trained. No funding will be authorized for these 25 positions. In order to utilize these positions, the Department will use salary savings realized throughout the year.

Section 217. 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 218. 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 2001 by October 31, 1999, to the Budget Director and the Controller General.

Section 219. 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 \$16.0 for supplies and materials, \$23.5 for casual/seasonal, \$11.5 for contractual services and \$2.0 for travel.

1 Section 220. Section 1 of this Act appropriates the sum of \$19.0 in "gate money" or "release money" to the Department
2 of Correction, Prisons, Bureau Chief - Prisons (38-04-01). The General Assembly intends that these funds be used for inmates,
3 who upon their release, are financially unable to obtain transportation away from the facility. The funds thus appropriated shall
4 be used for the express purpose of providing cash payments to eligible inmates being released from an adult correctional facility
5 and shall be expended as follows:

6 (a) Upon release, a prisoner who within 30 days prior to release has \$50.00 or more in his/her inmate account or
7 accounts shall not be eligible for such payment, but shall be paid in cash the amount in his/her inmate account or accounts.

8 (b) Upon release, a prisoner who has less than \$50.00 in his/her inmate account or accounts shall be paid in cash the
9 amount remaining in his/her account or accounts and may be paid an additional sum sufficient to ensure transportation to his/her
10 place of residence. Such sum sufficient, together with the funds available in the inmate account, shall not exceed \$50.00.

11 Any prisoner who, after using option (a) or (b) of this Section, has insufficient funds to provide a one-way bus ticket to
12 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
13 residence, as well as sufficient funding to provide food during travel.

14
15 Section 221. Section 1 of this Act provides an appropriation for personnel costs to the Department of Correction,
16 Delaware Correctional Center (38-04-03). Included in this appropriation is \$15.0 for legal services as required by the Warden of
17 Delaware Correctional Center.

18
19 Section 222. Section 1 of this Act provides an appropriation for personnel costs to the Department of Correction -
20 Delaware Correctional Center (38-04-03). Included in this appropriation is 1.0 position and personnel costs to allow the
21 department to oversee a program to manufacture reading materials in Braille for the visually impaired.

22
23 Section 223. Section 1 of this Act appropriates funds to Baylor Women's Correctional Institution (38-04-05) in
24 contractual services for a contract to provide a program for female offenders at BWCI to address anger and behavior issues from
25 a feminine psychological perspective. The Warden of the facility will submit an annual report to the Joint Finance Committee,
26 Budget Director, Controller General and Commissioner of Correction by June 1 of each year, which will include but not be
27 limited to the mission of the organization, the statement of the problem, a synopsis of the program, the number of participants,
28 statistics relating to recidivism rates of those participating in the program and an annual budget of the organization.

1 Section 224. (a) Section 1 of this Act makes an appropriation of \$3,652.3 to the Department of Correction, Drug and
2 Alcohol Treatment Services (38-01-31) for Drug and Alcohol Treatment Services; and \$132.0 to the Bureau Chief - Community
3 Corrections (38-06-01); and \$305.9 Probation and Parole (38-06-02). These funds are intended to support drug and alcohol
4 programs provided by the department to individuals in its custody or under its supervision. The administration of these contracts
5 shall be the responsibility of the Commissioner of Corrections or his designee.

6 (b) On or before August 1, 1999, the department is to submit a plan on how these funds will be spent during the fiscal
7 year. This plan shall be submitted for approval to the Budget Director and the Controller General.

8 (c) The Commissioner of Correction and the Secretary of Health and Social Services, or their designees, shall jointly
9 participate in developing the appropriate requests for proposals (RFPs) for contract services to provide drug and alcohol
10 treatment. All selected contract providers shall report on a regular basis to the Department of Correction on all follow-up
11 regarding referrals and services provided to the offender population.

12
13 Section 225. (a) Of the total positions authorized in Section 1 of this Act for the Morris Correctional Institution (38-
14 04-07), three positions shall be used to continue the existing highway beautification project.

15 (b) Of the total positions authorized in Section 1 of this Act for the Delaware Correctional Center (38-04-03), four
16 positions shall be used to continue the existing highway beautification project.

17 (c) Of the total positions authorized in Section 1 of this Act for the Sussex Correctional Institution (38-04-04), four
18 positions shall be used for a highway beautification project.

19 (d) Section 1 of this Act also makes an appropriation for contractual services to Morris Correctional Institution (38-04-
20 07). Of this amount, \$5.0 shall be used for "tipping" fees.

21
22 Section 226. Section 1 of this Act provides an appropriation to Community Corrections, Probation and Parole (38-06-
23 02). The department must submit a semi-annual report to the Budget Director and the Controller General that details the
24 expenditure of these funds by SENTAC level (levels I, II and III) and the average personnel complement for each level. These
25 reports are due on December 31 and June 30.

26
27 Section 227. Section 1 of this Act provides an appropriation Community Corrections, Probation and Parole (38-06-02)
28 for contractual services. Of this appropriation, \$94.0 shall be used to support a community restorative justice program in New
29 Castle County.

1 Section 228. Section 1 of this Act provides an appropriation of 6.0 ASF FTEs and \$239.8 ASF in Department of
2 Correction, Multi-Purpose Criminal Justice Facility (38-04-06). These positions shall be Correctional Officers who will
3 supervise inmate work crews primarily for completing projects requested by DelDOT. The source of funding shall be the
4 Department of Transportation, Maintenance (55-04-70). Adjustments to Appropriated Special Fund spending authority for this
5 program can be made upon the concurrence and approval of the Budget Director and the Controller General.

6
7 Section 229. Section 1 of this Act provides an appropriation to Community Corrections, House Arrest (38-06-04) for
8 the purpose of supporting a program of home confinement using electronic monitoring devices. The supervision of offenders
9 assigned to home confinement and the use of the electronic monitoring devices shall be restricted to the area within the
10 geographical boundaries of the State of Delaware, unless otherwise determined by the Commissioner of the Department of
11 Correction.

12
13 Section 230. Section 1 of this Act appropriates \$6,100.0 in contractual services to Department of Correction, Prisons,
14 Bureau Chief-Prisons (38-04-01) for out-of-state boarding of Delaware prisoners in Virginia. As Delaware prisoners are brought
15 back from Virginia, the Department of Correction is authorized to transfer funds from this contractual services appropriation to
16 other Department of Correction budget units and appropriations as needed, subject to the approval of the Budget Director and
17 Controller General.

18
19 Section 231. Pursuant to appropriations in the Department of Correction (38-04-11) and the Department of Education
20 (95-03-10) in Section 1 of this Act, the Department of Correction and the Department of Education may contract with local
21 school districts or state agencies for the operation of prison education services. To manage these services, the Department of
22 Correction may use an existing vacancy during Fiscal Year 2000 or may reimburse a school district or state agency to cover
23 salary and expenses for those services. These educational services shall include programs provided to juvenile inmates in the
24 Young Criminal Offender Program and inmates between the ages of 18 and 21, including those requiring special education
25 services. These services will be provided utilizing existing teachers that are in the Department of Correction. Students served
26 under these contracts shall not be included in the calculation for unit count purposes as defined in Chapter 17, Title 14, Delaware
27 Code. The Budget Director and Controller General may transfer funds between lines and departments to pay for this program.

28 The Department of Correction is authorized to reestablish up to 6.0 GF teacher positions for the hiring of teachers from
29 a vocational technical school district who taught in and have been laid off from teaching in the Department of Correction

education program during Fiscal Year 1999. Upon hiring of these positions, the Department of Correction may transfer funding for such positions from the contractual services line in Education (38-04-11) to the personnel costs line in Education (38-04-11).

Section 232. The Department of Correction, House Arrest (38-06-04) shall provide 24 hour, 7 day a week supervision of community correction's offenders. The Department shall determine the number of employees needed on duty throughout each 24-hour period and arrange staff coverage accordingly. At no time shall the ratio of Probation Officers I's to other staff exceed 50% during night time and weekend hours.

Section 233. Notwithstanding the provisions of Title 29, Sections 5943(c), (h), and (j) of the Delaware Code, the State of Delaware, Department of Correction shall not seek the reimbursement of overpayments of stand-by duty pay (Merit Rule 5.1440) made to its employees before June 1, 1999.

NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 234. Section 1 of this Act authorizes the Division of Fish and Wildlife, Wildlife/Fisheries (40-05-02) to spend up to \$3,974.6 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 2000 Capital Improvement Program. Any deviation from the listed projects must be approved by the Budget Director and the Controller General.

Section 235. 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. 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 236. 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, 2000, and July 31, 2000, respectively.

Section 237. Section 1 of this Act appropriates \$112.0 to the Division of Water Resources, Watershed Assessment (40-08-07) for Inland Bays Research. The appropriation shall be used to support citizen-monitoring activities including, but not limited to, the Stream Watch Program in the amount of \$72.0 and the Inland Bays Citizen Monitoring Program in the amount of \$40.0. In addition, \$200.0 of the Watershed Assessment (40-08-07) contractual services funding shall be used by the Center for the Inland Bays for programs promoting strategies to improve the quality of water in the Inland Bays.

Section 238. 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 239. Section 1 of this Act appropriates \$581.9 in General Funds and \$129.5 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 240. 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 241. 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 242. 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 243. 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 244. 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 245. Section 1 of this Act appropriates \$4,027.7 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/seasonal positions for Killens Pond Waterpark and \$23.5 shall be used for programs and services at rental facilities at Bellevue State Park. In addition, \$1.5 of this appropriation is to be used as the state share to replace playground equipment in cooperation with the Friends of Bellevue.

Section 246. The budget complement of the Department of Natural Resources and Environmental Control, Division of Water Resources, Environmental Services (40-08-02) includes 2.0 General Fund Analytic Chemist FTEs, position numbers 58598 and 8339. When one of these positions becomes vacant, it shall be converted ASF immediately. The remaining position shall not be converted.

Section 247. Section 1 of the Act appropriates \$4,260.6 to the Department of Natural Resources and Environmental Control, Division of Water Resources, Management and Support (40-08-01). Of that amount, \$1.0 shall be set aside for the Environmental Science Scholarship program.

Section 248. Section 1 of this Act appropriates \$496.2 General Funds to the Department of Natural Resources and Environmental Control, Division of Parks and Recreation, Cultural and Recreational Services, (40-06-03). Of that appropriation \$10.1 is to be spent on Promotion and Programs for Trap Pond State Park as follows: \$5.0 in Contractual Services, \$5.0 in Supplies and Materials and \$.1 for Travel.

Section 249. Section 1 of this Act appropriates \$400.0 to the Department of Natural Resources and Environmental Control to annualize the competency based pay project. Notwithstanding Chapters 5.0 and 6.0 of the Merit Rules, this play plan is intended for the enforcement classes within the division of Fish and Wildlife, Parks and Recreation, and Air and Waste Management, and shall be based upon the Competency Based Pay Plan report provided to the Controller General's Office on June 8, 1998.

The competency based pay plan shall provide a plan for employees to follow in order to achieve promotional increases based on objective, measurable, pre-determined standards for all enforcement employees. These standards include, but are not limited to, training and education, certification, time and experience, public relations, performance review and operational readiness.

1 The promotional increases shall be based on a competency based matrix. The matrix shall provide for promotional standards
2 both within and between pay grades. There shall be three levels that an employee must achieve within one paygrade before in
3 order to be eligible for promotion to a higher paygrade. These three levels are skill building, full performance, and expert.
4 Decisions related to promotion to a higher paygrade shall be determined be an Enforcement Oral Board made up of 2
5 representatives from the Department of Natural Resources and Environmental Control and 3 representatives from the State
6 Personnel Office.

7 Salary increases provided to an individual employee shall not exceed 15 percent over the salary increase provided in
8 Section 8 of this Act. In the event that an employee is eligible for an increase greater than 15 percent, the difference shall be
9 provided to the employee in the subsequent fiscal year.

10
11 Section 250. Any individual employed by New Castle County, Department of Community Services as of
12 April 30, 1998, who elected to become a state employee continuing employment with the Brandywine Zoo, effective May 1,
13 1998, shall be entitled, at his or her election, to remain as a member of the county pension plan in which he or she was enrolled
14 as of May 1, 1998.

15
16 Section 251. Section 1 of this Act appropriates \$439.5 to the Division of Soil and Water Conservation, District
17 Operations (40-07-04) for contractual services. Of that amount, \$130.0 shall be used to hire additional field staff personnel for
18 the preparation of nutrient management plans.

19
20 Section 252. Section 1 of this Act appropriates 3.0 ASF FTEs to the Division of Air and Waste Management, Air
21 Quality Management (40-09-02) to support the Title V permitting program. Authorization of these positions is contingent on the
22 passage of legislation reauthorizing the Clean Air Title V permitting program.

23
24 Section 253. Section 1 of this Act appropriates funds to the Hazardous Substance Cleanup Act (HSCA) Cleanup Fund
25 in the Division of Air and Waste Management, Waste Management (40-09-03). A maximum of \$500.0 ASF per fiscal year will
26 be set aside from the HSCA Cleanup Fund to address orphaned and abandoned underground storage tank (UST) systems. These
27 USTs shall include those where the responsible parties have shown to the satisfaction of the Department of Natural Resources
28 and Environmental Control that they do not have the ability to pay for the necessary UST system removal and the remediation of
29 any resulting contamination. In such case, the Department shall not seek cost recovery of the funds expended under the HSCA
30 fund.

1
2 Section 254. Section 1 of this Act appropriates to the Department of Natural Resources and Environmental Control,
3 Division of Parks and Recreation, Operations and Maintenance (40-06-02), 2.0 General Fund FTEs and 10 month funding to
4 establish a Physical Plant Maintenance Trades Mechanic position and a Park Ranger for Killens Pond State Park. Of this
5 appropriation \$2.6 is to be used to purchase uniforms and equipment for the Park Ranger.
6

7 Section 255. Section 1 of this Act appropriates \$120.0 in a Budget Office Contingency (10-02-04) to fund the
8 Environmental Training Center at Delaware Technical and Community College, Owens Campus. Funding will be passed
9 through the Department of Natural Resources and Environmental Control and is to be used to provide training for state and local
10 water and wastewater operators.
11

PUBLIC SAFETY

Section 256. 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 257. 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 258. 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 259. 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 260. Section 1 of this Act authorizes the conversion of 6.2 NSF FTEs within the Department of Public Safety funded via the COPS Universal Hiring Program to General Funds:

(a) 2.3 FTEs in State Police, Patrol (45-06-03). Each of these positions will retain their NSF funding status until such time as available federal funding is depleted.

1 (b) .3 FTEs in Capitol Police (45-02-10); 2.5 in State Police, Patrol (45-06-03); and 1.1 in State Police, Criminal
2 Investigation (45-06-05). Each of these positions will retain its NSF funding status until such time as each commences its third
3 year of the grant.
4

5 Section 261. Notwithstanding Chapters 63 and 69 of Title 29 of the Delaware Code or any other statutory provision to
6 the contrary, the Department of Public Safety is authorized to enter into agreements with private telecommunications companies
7 to use space for communication facilities on telecommunications towers under their administration. The revenues paid to the
8 State under these agreements shall be designated for use by the Division of State Police in support of mobile data computing
9 telecommunications infrastructure cost, effective retroactively.
10

11 Section 262. Notwithstanding the provisions of Section 6102(o)(3), Title 29, Delaware Code, any remaining balance in
12 the Inspection and Maintenance (I/M) Fund shall not be subject to General Fund deposit until June 30, 2000. These funds may
13 be used for costs associated with Division of Motor Vehicle lane construction.
14

15 Section 263. Funds remaining in the Department of Public Safety, Division of State Police (45-06-01) FY 1998 one-
16 time appropriation "One-Time Items" originally allocated for the "Promotional Testing Project" shall be a continuing
17 appropriation to be used for the "Job Task Analysis Project."
18

19 Section 264. Section 1 of this Act appropriates \$40.0 to a special line entitled "Tobacco Enforcement" for the
20 Department of Public Safety, Division of Alcoholic Beverage Control. A portion of these funds can be used to compensate
21 DABC agents for tobacco related overtime services performed beyond the normal work week. This payment is contingent upon
22 the approval of an overtime plan by the Secretary of Public Safety and the concurrence of the Budget Director and the Controller
23 General.
24

TRANSPORTATION

Section 265. 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 266. The department shall provide a quarterly report of potential liabilities and expenditures from the Environmental Contingency account to the Office of Controller General and the Budget Office.

Section 267. 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 268. Section 1 of this Act makes an appropriation of \$514.9 to the Division 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, School 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 269. The Office of Information Services shall bill the Department of Transportation, Division of Administration (55-02-01) on an actual usage basis.

Section 270. 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 fiscal year ending June 30, 1999, any authorizations in the following accounts shall remain as continuing appropriations and shall not be subject to deauthorization until June 30, 2000:

<u>Fiscal Year Appropriation</u>	<u>Account Code</u>	<u>Remarks</u>
1998	(55-01-01-68-00)	Operations/Capital
1999	(55-01-01-68-00)	Operations/Capital
1999	(55-01-01-68-05)	Salary Contingency
1999	(55-01-01-68-06)	Environmental Contingency
1999	(55-01-01-68-15)	Personnel Costs
1998	(55-01-02-68-00)	Operations/Capital
1999	(55-01-02-68-00)	Operations/Capital
1999	(55-01-02-68-15)	Personnel Costs
1998	(55-01-03-68-00)	Operations/Capital
1999	(55-01-03-68-00)	Operations/Capital
1999	(55-01-03-68-15)	Personnel Costs
1997	(55-02-01-68-02)	Contractual/Supplies
1998	(55-02-01-68-01)	Travel
1998	(55-02-01-68-02)	Contractual/Supplies
1998	(55-02-01-68-03)	Energy
1998	(55-02-01-68-04)	Capital Outlay
1999	(55-02-01-68-01)	Travel
1999	(55-02-01-68-02)	Contractual/Supplies
1999	(55-02-01-68-03)	Energy
1999	(55-02-01-68-04)	Capital Outlay
1999	(55-02-01-68-15)	Personnel Costs
1996	(55-03-01-68-00)	Operations/Capital
1998	(55-03-01-68-00)	Operations/Capital
1999	(55-03-01-68-00)	Operations/Capital
1999	(55-03-01-68-15)	Personnel Costs

1998	(55-04-01-68-00)	Operations/Capital
1999	(55-04-01-68-00)	Operations/Capital
1999	(55-04-01-68-15)	Personnel Costs
1999	(55-04-40-68-15)	Personnel Costs
1997	(55-04-50-68-02)	Contractual/Supplies
1998	(55-04-50-68-02)	Contractual/Supplies
1998	(55-04-50-68-03)	Energy
1999	(55-04-50-68-02)	Contractual/Supplies
1999	(55-04-50-68-03)	Energy
1999	(55-04-50-68-04)	Capital Outlay
1999	(55-04-50-68-15)	Personnel Costs
1998	(55-04-60-68-00)	Operations/Capital
1999	(55-04-60-68-00)	Operations/Capital
1999	(55-04-60-68-15)	Personnel Costs
1997	(55-04-70-68-02)	Contractual/Supplies
1997	(55-04-70-68-04)	Capital Outlay
1998	(55-04-70-68-02)	Contractual/Supplies
1998	(55-04-70-68-03)	Energy
1998	(55-04-70-68-04)	Capital Outlay
1999	(55-04-70-68-02)	Contractual/Supplies
1999	(55-04-70-68-03)	Energy
1999	(55-04-70-68-04)	Capital Outlay
1999	(55-04-70-68-05)	Snow/Storm Contingency
1999	(55-04-70-68-15)	Personnel Costs
1998	(55-04-80-68-00)	Operations/Capital
1999	(55-04-80-68-00)	Operations/Capital

1999	(55-04-80-68-15)	Personnel Costs
1997	(55-04-90-68-00)	Operations/Capital
1997	(55-04-90-68-02)	Contractual/Supplies
1998	(55-04-90-68-02)	Contractual/Supplies
1998	(55-04-90-68-03)	Energy
1998	(55-04-90-68-04)	Capital Outlay
1999	(55-04-90-68-01)	Travel
1999	(55-04-90-68-02)	Contractual/Supplies
1999	(55-04-90-68-03)	Energy
1999	(55-04-90-68-04)	Capital Outlay
1999	(55-04-90-68-15)	Personnel Costs
1998	(55-06-01-85-70)	Transit Administration
1998	(55-06-01-85-72)	Transit Operations
1999	(55-06-01-85-70)	Transit Administration
1999	(55-06-01-85-71)	Transit Ops Plng/Cust Srv
1999	(55-06-01-85-72)	Transit Operations
1999	(55-06-01-85-81)	Newark Transportation
1999	(55-06-01-85-83)	Kent & Sussex
1999	(55-06-01-85-89)	Taxi Service
1996	(55-07-10-68-00)	Operations/Capital
1998	(55-07-10-68-00)	Operations/Capital
1999	(55-07-10-68-00)	Operations/Capital
1999	(55-07-10-68-15)	Personnel Costs

Section 271. Section 1 of this Act authorizes disbursement of \$1,936.7 in Transportation Trust Funds for Debt Service, General Obligation.

Section 272. Section 1 of this Act makes an appropriation in the amount of \$12,159.1 to the Division of Highway Operations, Expressways Operations/Toll Administration (55-04-90). Additionally, the Turnpike Operating Reserve Fund is authorized at \$920.8.

The appropriation for this unit may be allocated among the State's toll roads as follows:

LINE ITEM	TOLL OPERATIONS		MAINTENANCE	TOTAL
	I-95	SR-1	Interstate, I-95, SR-1	ALL
Personnel Costs	3,320.4	1,834.0	2,949.2	8,103.6
Energy	70.2	232.9	242.7	545.8
Capital Outlay	30.0	43.0	63.0	136.0
Contractual/Supplies	824.5	764.2	1,759.0	3,347.7
Travel	26.0	0.0	0.0	26.0
TOTALS	4,271.1	2,874.1	5,013.9	12,159.1
Total Positions	95.0	43.0	79.0	217.0

Section 273. Section 1 of this Act makes an appropriation to Maintenance Districts (55-04-70) in the amount of \$2,500.0 to establish a Special Line called "Snow/Storm Contingency" that will provide for the expenses of weather/emergency operations. 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 274. Section 1 of this Act includes six (6.0) TFO positions and \$445.2 TTF to implement the recommendations of the 1998 Delaware Department of Transportation Operations Review.

1 (a) Of these six positions, two (2.0) positions shall be exempt positions assigned to the Office of the Secretary (55-01.
2 01) for the creation of a Program Management Unit to implement the recommendations of the Operations Review.
3 Notwithstanding the provisions of any state law to the contrary, these positions shall be non-classified, limited-term status and
4 shall not extend beyond June 30, 2000, without specific reauthorization in the Annual Appropriations Act. The Secretary of
5 Transportation shall, with the approval of the State Personnel Director, Budget Director and Controller General, establish the
6 salary commensurate with the qualifications of the proposed incumbents.

7 (b) The Secretary of Transportation shall submit for approval to the Budget Director and Controller General a plan
8 outlining appropriate position classifications including job duties and responsibilities for the remaining four (4.0) positions.
9 Upon formal establishment of these positions, the Budget Director and Controller General are authorized to transfer the positions
10 with the necessary TTF authorizations to the appropriate budget unit.

11

12 Section 275. During Fiscal Year 2000, the Department of Transportation shall be prohibited from changing its
13 departmental policy regarding access pipe installation on private homeowner entrances. Specifically, the Department shall not
14 charge said homeowners for the labor costs associated with the installation of the access pipe.

15

LABOR

Section 276. (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, 1999. 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.

1 A record of all equipment and supplies purchased with funds herein appropriated shall be kept by the sponsoring agent,
2 and at the conclusion of the ten-week program such supplies and equipment shall be reverted to the Department of Labor.

3 (c) The funds appropriated for the Delaware State Summer Youth Employment Program shall not be co-mingled with
4 funds appropriated from any other source. The guidelines for youth employment and administrative costs for all persons
5 employed in the State Summer Youth Employment Program shall be based in accordance with prior years practice of payment
6 for services.

7
8 Section 277. Section 1 of this Act appropriates \$55.0 General Fund Contractual Services to the Division of
9 Employment and Training. This appropriation is to be used to fund a non-profit professional apprenticeship and training
10 program for young Delawareans ages 18-30. The training and apprenticeships shall include leadership skills, team building,
11 problem solving and community issues.

AGRICULTURE

Section 278. Section 1 of this Act appropriates \$884.1 in ASF to the Harness Racing Commission and \$579.6 ASF to the Thoroughbred Racing Commission, respectively, for operational expenses. Each Commission's revenues, derived from fees, fines and licenses, shall be used to cover their respective operational expenditures. Should revenues be insufficient to cover the operational costs of either Commission, funds may be transferred from State Lottery revenues (Title 29, Chapter 48, Section 4815, Delaware Code) to cover such shortfalls with the concurrence of the Budget Director and the Controller General.

Section 279. (a) All fees collected to cover the cost of fingerprinting and criminal history checks for the Thoroughbred Racing Commissions shall be deposited in the Thoroughbred Racing Commission (65-01-10) Fingerprints line. No more than \$49.0 in Appropriated Special funds shall be expended from that fund and funds within that appropriation can not be used for any other purpose.

(b) All fees collected to cover the cost of fingerprinting and criminal history checks for the Harness Racing Commission shall be deposited to the Harness Racing Commission (65-01-05) Fingerprints line. No more than \$30.0 in Appropriated Special Funds shall be expended from that fund and funds within that appropriation can not be used for any other purpose.

Section 280. Section 1 of this Act includes ASF funding and ASF position authorizations in the Department of Agriculture, Harness Racing Commission IPU (65-01-05). Two (2.0) of these positions shall be used for the State Steward and Presiding Judge. These positions shall be exempt from the classified service as provided in Title 29, Chapter 59 of the Delaware Code.

Section 1 of this Act includes ASF funding and ASF position authorizations in the Department of Agriculture, Thoroughbred Racing Commission IPU (65-01-10). Three (3.0) of these positions shall be used for the Racing Stewards. These positions shall be exempt from the classified service as provided in Title 29, Chapter 59 of the Delaware Code.

Section 281. Amend Title 3, Chapter 100, Subsection 10003(d) by deleting the first sentence and substituting in lieu thereof the following new sentence:

"Members of the Harness Racing Commission shall receive a \$150.00 stipend for each meeting. The Chairperson of the Commission shall receive \$250.00 per meeting. The Commission shall meet no more than 16 times per year."

1 Section 282. Amend Title 3, Chapter 101, Subsection 10101(e) by deleting the first sentence and substituting in lieu
2 thereof the following:

3 "Members of the Thoroughbred Racing Commission shall receive a \$150.00 stipend for each meeting. The
4 Chairperson of the Commission shall receive \$250.00 per meeting. The Commission shall meet no more than 16 times
5 per year."
6

ELECTIONS

Section 283. While conducting an election or referendum for any Public School district, the district may not charge rent or custodial fees associated with the use of its space. For the clarification of County Department of Elections costs relating to public school district elections, Smyrna School District and Milford School District elections will be conducted by Kent County Department of Elections; Woodbridge School District elections will be conducted by Sussex County Department of Elections.

Section 284. One-time funding that was transferred to the Department of Elections for the final phase of the Electronic Campaign Finance Project, which is scheduled to be completed by December 31, 1999, shall not revert until June 30, 2000.

Section 285. The Department of Elections may indemnify and hold harmless any U.S. Government entity for claims of damages arising from the State of Delaware contracting with said entity for the purposes of using their facility as a polling place to conduct elections. Furthermore, the State of Delaware shall purchase insurance against said claims of damage to protect against such claims and indemnify the U.S. Government.

Section 286. 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 the Department of Elections, Commissioner of Elections (70-01-01) in the amount of \$442.2, which includes all costs for transporting voting machines used in all public school elections.

The Department of Elections for the county responsible for conducting a public school election shall appoint, compensate and train an inspector and such election officers as it deems necessary to properly staff the polling places designated for use in a public school election. The respective Department of Elections shall also designate two of the other election officers to join with the inspector in deciding all questions regarding voter eligibility. All other questions concerning operation of the polling place shall be decided by the inspector.

The total statewide expenditures for school elections shall not exceed the amount appropriated in Section 1 of this Act or approved transfers for said purpose.

Section 287. Section 1 of this Act contains an appropriation, 70-01-01, titled Voter Purging, for the purpose of assisting the Department of Elections with its statewide efforts to maintain the voter rolls in an orderly manner.

FIRE PREVENTION

Section 288. During the first six months of Fiscal Year 2000, 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, 2000.

Section 289. Section 1 of this Act provides an appropriation of \$100.0 to the State Fire Prevention Commission (75-03-01) in the line item "Statewide Fire Safety Education". These funds are to be matched by members of the Delaware Association of Volunteer Firemen and are to be used for the purpose of operating a Statewide Fire Safety Education Program.

Section 290. 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 291. Section 1 of this Act appropriates \$5.0 to the State Fire Marshal's Office (75-01-01) for the purchase of smoke detectors for the deaf and hearing impaired and Juvenile Firesetter Intervention Program.

Section 292. Section 1 of this Act includes a one-time appropriation of \$150.0 to the State Fire Prevention Commission (75-03-01) for the reimbursement of EMT B Bridge training. Any volunteer EMS provider who received EMT B certification after June 16, 1998 is eligible for reimbursement. Any person receiving reimbursement and does not remain active in the volunteer EMS service for at least six months will be required to return the cost of the tuition to the Fire Prevention Commission.

NATIONAL GUARD

Section 293. 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 294. 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.

HIGHER EDUCATION

Section 295. (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 \$2,252.4 for energy.

(b) The University of Delaware shall pay on a regularly scheduled basis as determined by the Secretary of Finance to the State Treasurer, at a rate determined under Title 29, Section 6340, Delaware Code, or otherwise by the Secretary of Finance, the amount of all fringe benefits applicable to salaries and wages paid to employees of the University of Delaware as the term "employee" is defined in Title 29, Sections 5501(a) and 5505, Delaware Code, or any other fringe benefit costs applicable to the University of Delaware.

(c) Section 1 of this Act provides an appropriation for "Operations" of the University of Delaware (90-01-01). Included in that appropriation is the increased amount for library books of \$200.0.

(d) Section 1 of this Act provides an appropriation for MCI/Equipment. These funds shall not be subject to reversion until June 30, 2002.

Section 296. Section 1 of this Act appropriates amounts for "Scholarships", "Agricultural Programs" and "Other Programs" to the University of Delaware (90-01-01). Those amounts shall be allocated as follows:

Scholarships:

General Scholarships	\$ 1,909.0
Scholarships	1,703.7
Minority Student Recruitment	1,253.2
Aid to Needy Students	1,207.6
Governor's Scholars Program	467.9
Student Employment Program	136.9
Academic Incentive	<u>114.6</u>
Total	\$ 6,792.9

Agricultural Programs:

Agricultural Experimental Station	\$ 572.0
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1	Agricultural Cooperative Extension	679.3
2	Agricultural Research and Education Center	275.3
3	Poultry Disease Research	548.5
4	Crop Extension	174.8
5	Agricultural Environmental Quality	178.9
6	Soil Testing and Pesticide Control	234.4
7	Diagnostic Poultry Program	<u>138.4</u>
8	Total	\$ 2,801.6
9		
10	<u>Other Programs:</u>	
11	Sea Grant	\$ 472.7
12	Urban Agent Program	115.0
13	Public Service and Applied Research Projects	381.4
14	Research Partnership Fund	1,226.2
15	Minority Recruitment	247.6
16	Financial Services Center	30.1
17	Local Government Research and Assistance	192.3
18	Graduate Education (Southern Delaware)	68.9
19	Library Automation	52.0
20	MALS/BALS - Southern Delaware	59.8
21	Nurse Practitioner	228.9
22	Science, Engineering and Technology Service Program	36.8
23	Management Training and Technical Assistance	56.8
24	Molecular Biology/Biotechnology Program	427.0
25	Math/Science Education for DE Teachers	470.0
26	Advanced Materials	209.5
27	Center for Community Development and Family Policy	238.9
28	Training and Research (Educational Management)	102.4
29	Computer Aided Math Instruction	80.0
30	Advanced Electronics and Materials Initiative	609.5

1	Field Hockey Coach	30.9
2	Delaware Center for Teacher Education	304.3
3	Research on School Finance Issues	77.2
4	Delaware Education Research and Development Center	202.9
5	Delaware Research Scholars Program	96.0
6	Milford Professional Development School	101.3
7	Information Technology Partnership	2,213.9
8	ITV Technician	45.0
9	Core Content Teacher Education	270.0
10	Biotechnology	320.0
11	Computer Aided Instruction, Arts & Science	<u>35.0</u>
12	Total	\$ 9,002.3

13

14 Section 297. Section 1 of this Act appropriates \$1,226.2 for the "Research Partnership Fund" at the University of
15 Delaware, subject to the following:

16 (a) This appropriation shall be used to match, at least on a dollar-for-dollar basis, grants or contracts from private
17 industry to conduct cooperative research with the University. The objective of the cooperative research efforts shall be to attract
18 new high-technology research facilities and industries to locate within the State of Delaware;

19 (b) This appropriation shall be used to match "new" money and cannot be allocated to any projects in progress; and,

20 (c) Approximately 40 percent of the Research Partnership Funds will be used to support small start-up companies
21 located in Delaware, 40 percent will be used to support research within large corporations, and 20 percent will be used to support
22 the University of Delaware Research Institute; and,

23 (d) The University President shall submit to the Governor, members of the General Assembly, the Budget Director, and
24 the Controller General, within 120 days after the close of each fiscal year, a report containing an account of how these funds
25 were expended; what new industrial research organizations were attracted to the State; and plans for the ensuing fiscal year.

26

27 Section 298. Section 1 of this Act provides an appropriation to the University of Delaware (90-01-01) for Agricultural
28 Programs. Within that appropriation are sufficient funds to fully fund 4.0 Agricultural Extension Agents in New Castle County,
29 3.0 Agents in Kent County and 2.5 Agents in Sussex County.

30

1 Section 299. Section 1 of this Act provides an appropriation to the University of Delaware for the Information

2 Technology Partnership. The University shall submit to the Controller General and the Budget Director, by December 1, 1999, a
3 report detailing the status of faculty, projected enrollment, private contributions, student internship opportunities and other
4 aspects of the program as they relate to this appropriation.

5
6 Section 300. Section 1 of this Act provides an appropriation to the University of Delaware for the Milford Professional

7 Development School. The University and the Milford School District shall submit to the Controller General and the Budget
8 Director, by March 1, 2000, a joint report detailing the implementation status of this program as it relates to the appropriation
9 herein.

10
11 Section 301. Section 1 of this Act appropriates \$163.5 to Delaware State University for the establishment of an Early

12 Childhood Montessori Teacher Training Program in Wilmington. The University shall submit to the Controller General and the
13 Budget Director, by September 1, 1999, a report detailing the progress of this program.

14
15 Section 302. Section 1 of this Act makes an appropriation to Delaware State University (90-03-01) for General

16 Scholarships. Of that amount, \$22.0 shall be for state scholarships for high ability students and \$20.0 shall be for departmental
17 scholarships to attract high achievers into the sciences.

18
19 Section 303. For the fiscal year covered by this Act, in order to continue the assessment of procedures implemented

20 during Fiscal Year 1993 intended to reduce the administrative burden incurred as a result of processing accounting transaction
21 data into two independent accounting systems, the Budget Director has authorized Delaware State University to:

22 (a) Discontinue detail data input to the Delaware Financial Management System (DFMS) for encumbrance and vendor
23 payment transactions related to General Fund, federal financial assistance and college funds;

24 (b) Effect vendor payment disbursements of the above identified funds on Delaware State University checks, generated
25 through the University Accounting System and drawn on a University bank account; and,

26 (c) Summarize General Fund and federal financial assistance fund disbursements on a weekly, post disbursement basis,
27 and draw down the corresponding amounts through the standard DFMS Payment Voucher process.

28 This authorization does not provide for any change to the processing of encumbrances and vendor payment transactions
29 related to Bond/Capital funds; it does not affect payroll processing and does not relax or alter any control requirements
30 prescribed by law or policy related to procurement, encumbrance and payment activity.

1 The University shall comply with specific procedures developed and prescribed by the Office of the Budget and the
2 Department of Finance, Division of Accounting. In addition, the University shall cooperate fully with the Office of Auditor of
3 Accounts to aid in any review or examination of the University's accounting procedures, records and system.

4 Operations as enabled by this section shall be periodically reviewed and evaluated during the stated period by the Office
5 of the Budget, the Department of Finance and the Office of Auditor of Accounts. Any procedural/control weaknesses identified
6 shall be addressed and resolved, and this authority may be withdrawn for cause at any time during the stated period, with the
7 allowance that Delaware State University will be provided reasonable time to revert to standard processes.

8
9 Section 304. Section 1 of this Act provides funds for Delaware State University (90-03-01) MCI/Equipment. These
10 funds shall not be subject to reversion until June 30, 2002.

11
12 Section 305. Section 1 of this Act provides an appropriation to Delaware Technical and Community College, Office
13 of the President (90-04-01), for Parallel Program Operations and Parallel Program Academics. This appropriation is to assist in
14 the provision of the Delaware Technical/University of Delaware Parallel Program which will be operated jointly by the two
15 institutions under a contract initiated by Delaware Technical and Community College. Under this contract, the University of
16 Delaware will teach students at Delaware Technical and Community College's facilities. Future budget requests will be made
17 jointly by Delaware Technical and Community College and the University of Delaware, and budget cuts, if necessary, will be
18 shared on a pro rata basis. Approval of tuition and other fees will be made by the Board of Trustees of the institution that
19 delivers the relevant service and after the institutions have reached an agreement for tuition sharing. Representatives from both
20 institutions will meet at least once each semester to review program operations.

21
22 Section 306. Section 1 of this Act provides funds for Delaware Technical and Community College (90-04-00)
23 MCI/Equipment. This appropriation may be utilized for the acquisition of computer hardware and software. These funds shall
24 not be subject to reversion until June 30, 2002.

25
26 Section 307. Section 1 of this Act contains an appropriation of \$183.3 for the Delaware Institute for Veterinary
27 Medical Education (DIVME) (90-07-01). Notwithstanding current Laws of Delaware relating to the DIVME Program, these
28 funds shall be used to provide tuition support for up to seven persons at the Virginia-Maryland Regional College of Veterinary
29 Medicine for Delaware residents accepted to veterinary school.

1 Section 308. The line item, Subvention, in Section 1 of this Act, Delaware Institute of Dental Education and Research
2 (90-08-01), as provided by Title 14, Chapter 88, Delaware Code, provides for three dental internships and sufficient funds to
3 contract with Delaware Psychiatric Center to continue the Dental Internship Program. This program also will serve clients in the
4 Community Mental Retardation Program.

1 The University shall comply with specific procedures developed and prescribed by the Office of the Budget and the
2 Department of Finance, Division of Accounting. In addition, the University shall cooperate fully with the Office of Auditor of
3 Accounts to aid in any review or examination of the University's accounting procedures, records and system.

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5 of the Budget, the Department of Finance and the Office of Auditor of Accounts. Any procedural/control weaknesses identified
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7 allowance that Delaware State University will be provided reasonable time to revert to standard processes.

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14 the provision of the Delaware Technical/University of Delaware Parallel Program which will be operated jointly by the two
15 institutions under a contract initiated by Delaware Technical and Community College. Under this contract, the University of
16 Delaware will teach students at Delaware Technical and Community College's facilities. Future budget requests will be made
17 jointly by Delaware Technical and Community College and the University of Delaware, and budget cuts, if necessary, will be
18 shared on a pro rata basis. Approval of tuition and other fees will be made by the Board of Trustees of the institution that
19 delivers the relevant service and after the institutions have reached an agreement for tuition sharing. Representatives from both
20 institutions will meet at least once each semester to review program operations.

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3 contract with Delaware Psychiatric Center to continue the Dental Internship Program. This program also will serve clients in the
4 Community Mental Retardation Program.

EDUCATION

Section 309. At the end of Fiscal Year 1999, 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 310. The annual state salaries contained in Title 14, Chapter 13 are based upon the following:

<u>Schedule</u>	<u>Hours Per Day</u>	<u>Days Per Year</u>
Schedule 1305	7.5	185
Schedule 1308	7.5	261
Schedule 1311	8.0	261
Schedule 1322 (a)	7.5	185
Schedule 1324	7.5	185
Schedule 1326	7.5	Not applicable

Absent an existing collective bargaining agreement to the contrary, district employees who work less than the specified time shall have their annual salary adjusted accordingly. Upon ratification of a new or extension of an existing collective bargaining agreement, the local district shall establish hours and days worked that are consistent with those specified above.

Section 311. (a) The positions included in Section 1 of this Act that are authorized to the Department of Education 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.

(b) The Secretary of Education is authorized to undertake a review of the organization of the Department of Education pursuant to the provisions of Section 103(a)(4), Title 14, Delaware Code. Upon completion of the review, the Secretary may present a reorganization plan to the co-chairs of the Joint Finance Committee (JFC) and obtain written approval of the co-chairs. Upon approval of the co-chairs, the Secretary shall obtain the written approval of the Governor, as required under Section 103(a)(4), Title 14, Delaware Code. Pursuant to the provisions of Section 103(a)(2), this written approval shall constitute approval for the Secretary to fix the salaries of certain officers within the Department, provided, however, that the level of salary shall be clearly delineated in any reorganization plan presented to the JFC co-chairs and the Governor.

1 Section 312. The Department of Education shall continue to provide funding through its discretionary federal special
2 education funds for the local share of education costs associated with prison inmates aged 18 to 21 years, who qualify as special
3 education students.

4
5 Section 313. The Department of Education shall continue to work towards the implementation of school-level financial
6 data during FY 2000. Due to the State's movement from the DFMS to ASAP, the Department shall work with the Department
7 of Finance in the design of the new accounting system.

8
9 Section 314. For Fiscal Year 2000, the inflation factor for the local per pupil payments required under the state's
10 Enrollment Choice Program, as specified in Title 14, Section 408(e), Delaware Code, and for the local per pupil payments
11 required under the state's Charter School Program, as specified in Title 14, Section 509(d), Delaware Code, shall be 3.0 percent.

12
13 Section 315. Local school districts shall provide a preliminary report to the Department of Education by March 1, 2000
14 indicating how funding appropriated for Division II - All Other Costs and Division III - Equalization will be used to support
15 vocational education programs within the district. If the funding expended on vocational programs is less than the amount
16 generated based upon the September 30 unit count, the district shall indicate how the balance of funds will be expended. Local
17 districts shall submit a final report reflecting actual expenditures to the Department of Education by July 31, 2000. The
18 Department of Education shall forward a copy of these reports to the Budget Director and the Controller General.

19
20 Section 316. Section 1 of this Act makes an appropriation to Public Education, State Board of Education and State
21 Board for Vocational Education and Department of Education, State Board and Department of Education (95-01-01) for the
22 support of Professional Standards Council activities. The Governor and the General Assembly recognize the need to continue
23 implementation of the Professional Standards Council's "Educational Plan for Certification and Career Development". This
24 appropriation is intended for use in the following areas: standard setting for PRAXIS II; teacher and administrator assessment
25 procedures; revision and update of teacher and administrator evaluation procedures (DPAS); diversity recruiting; professional
26 recertification and, expanding the Alternative Route to Teacher Certification program. For purposes of this appropriation, it is
27 assumed the Educational Plan will provide for mandatory recertification of teachers and administrators on a five-year basis.
28 These funds represent steps toward meeting that goal.

1 Section 317. Section 1 of this Act provides an appropriation of \$529.5 to Public Education, State Board of Education
2 and State Board for Vocational Education and Department of Education, State Board and Superintendent and Department of
3 Education (95-01-01) for Standards and Assessment. Part of the Standards and Assessment program agenda is to support the
4 development and completion of performance indicators.

5
6 Section 318. Section 1 of this Act makes an appropriation of \$35.0 to Public Education, State Board of Education and
7 State Board for Vocational Education and Department of Education, State Board and Department of Education (95-01-01) for
8 Odyssey of the Mind. This appropriation shall be made available to school students to assist in defraying out-of-state travel
9 expenses associated with this program.

10
11 Section 319. Section 1 of this Act makes an appropriation of \$500.0 to Public Education, State Board of Education and
12 State Board for Vocational Education and Department of Education, State Board of Education and Department of Education (95-
13 01-01) for Student Mentoring. Of this amount \$350.0 shall be used by the Department of Education to review and award grants
14 competitively to schools with grades kindergarten through eighth grade. Programs selected shall provided at-risk children with
15 academic tutoring and instruction, with the involvement of parents and volunteer mentors. School districts shall make direct
16 application to the department of behalf of individual school buildings, addressing in their proposal the following: (a) one on one
17 tutoring for academically at risk students; (b) early childhood preventive intervention strategies; (c) adherence to academic
18 standards as adopted by the State Board of Education; (d) parental involvement; and (e) provision of program evaluation and
19 performance evaluation. Local schools are encouraged to utilized such programs for students during non-core academic class
20 time. Grant awards for individual schools, of no more then \$30,000 each, shall be determined by the department no later than
21 November 30, 1999, and funds shall be allocated by December 31, 1999. The remaining \$150.0 may go to the University of
22 Delaware for the Delaware Mentoring Council for technical assistance and professional development for mentors and other
23 activities.

24
25 Section 320. (a) It is the intent of the General Assembly that the sum of \$7,089.1 allocated in Section 1 of this Act be
26 used for Minor Capital Improvements and annual maintenance to school buildings. These funds shall not be subject to reversion
27 until June 30, 2002.

28 (b) This amount shall be paid by the Department of Education to local districts in the following amounts. Districts may
29 use up to 20 percent of the amount shown without the prior approval of a project plan by the Department of Education.

1		Maximum	Maximum	
2	<u>School District</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
3	Appoquinimink	\$266,536	\$177,691	\$444,227
4	Brandywine	671,640	447,760	1,119,400
5	Special	3,828	0	3,828
6	Christina	1,151,769	767,846	1,919,615
7	Special	71,159	0	71,159
8	Colonial	614,987	409,991	1,024,978
9	Special	11,876	0	11,876
10	New Castle Vo-Tech	342,052	0	342,052
11	Red Clay	927,575	618,383	1,545,958
12	Special	14,330	0	14,330
13	Caesar Rodney	319,772	213,181	532,953
14	Special	16,293	0	16,293
15	Capital	370,594	247,063	617,657
16	Lake Forest	205,820	137,213	343,033
17	Milford	226,550	151,033	377,583
18	Polytech	105,119	0	105,119
19	Smyrna	201,462	134,308	335,770
20	Cape Henlopen	235,383	156,922	392,305
21	Special	14,232	0	14,232
22	Delmar	43,402	28,935	72,337
23	Indian River	436,610	291,073	727,683
24	Special	16,195	0	16,195
25	Laurel	120,430	80,287	200,717
26	Seaford	220,837	147,225	368,062
27	Sussex Vo-Tech	114,933	0	114,933
28	Woodbridge	107,297	71,531	178,828
29	East Side Charter	4,711	3,141	7,852
30	Campus Community	17,667	11,778	29,445

1	Positive Outcomes	3,533	2,355	5,888
2	Wilmington Charter	32,507	21,671	54,178
3	Total to Schools	\$6,889,100	\$4,119,387	\$11,008,487
4				
5	STATE BOARD OF EDUCATION	115,000	76,667	191,667
6	VOCATIONAL EQUIPMENT	<u>85,000</u>	<u>56,667</u>	<u>141,667</u>
7	TOTAL	\$7,089,100	\$4,252,721	\$11,341,821

8

9 Section 321. Amend Section 7528(a), Title 29, Delaware Code by inserting between "and" and "portable" the

10 following words "purchase or lease of".

11

12 Section 322. For Fiscal Years 1998, 1999, and 2000, all programs for which tuition charge forms were approved by the

13 Department of Education and subsequently paid by local school districts are deemed consistent with the intentions of Title 14,

14 Chapter 6, Delaware Code. All such programs shall be considered tuition eligible for those years. Nothing in this section shall

15 be intended to prohibit the prosecution of any violations of Delaware law with regards to unauthorized expenses included within

16 the tuition eligible programs.

17 The Department of Education in conjunction with the Budget Office and the Office of the Controller General shall

18 review programs currently eligible to charge tuition and establish guidelines for determining allowable tuition charges within

19 these programs.

20

21 Section 323. Section 1 of this Act provides appropriations of \$285,796.7 for Formula Salaries and \$95,753.9 for Other

22 Employment Costs to Public Education, School District Operations, Division Funding (95-02-01). These amounts provide

23 salaries and other employment costs for the following categories as determined by the September 30 unit count entitlement of

24 each school district: Title 14, Section 1305, Section 1306, Section 1307, Section 1308, Section 1309, Section 1310, Section

25 1311, Section 1321, Section 1324, Section 1331 and Section 1332, Delaware Code. These appropriations also contain salaries

26 and other employment costs funds for the Americanization Program operated by the Caesar Rodney and Red Clay Consolidated

27 School Districts. These sums are \$8.8 and \$97.6, respectively.

28

29 Section 324. The Department of Education shall transfer \$20.0 to the Department of Public Safety, Division of State

30 Police to reimburse qualified applicants for the cost of criminal background checks for the purpose of serving as substitute

1 teachers on a first come, first served basis. The Division of State Police shall send quarterly reports to the Department of
2 Education regarding expenditures of said funds.

3
4 Section 325. Section 122(e), Title 14, Delaware Code, requires the Department of Education to review all regulations
5 to ensure that all regulations are current and not burdensome, and (f) and (g) provide a means for districts to pursue waivers of
6 state regulations. The Federal Education Flexibility Partnership Act of 1999 allows districts to apply for waivers of federal
7 regulation in states that have adopted challenging content and performance standards, have aligned assessments to those
8 standards, have established a system of school and district accountability, and allow waiver of State statutory and regulatory
9 requirements relating to education.

10 Upon federal approval of the Department of Education's application for Ed Flex, the Department may waive State
11 statutory and regulatory requirements pursuant to the Federal Education Flexibility Partnership Act of 1999. Such waivers must
12 be applied for according to procedures and policies determined by DOE and must be related to Title I, Part B of Title II, Title IV,
13 Title VI, Part C of Title VII, and the Carl D. Perkins Vocational and Technical Education Act of 1998. State programs for which
14 waivers may be granted include, but are not limited to, extra time, school climate and discipline, academic excellence, early
15 reading intervention, student mentoring, professional and curriculum development. The Budget Director and the Controller
16 General shall review and approve the Department of Education waiver process.

17
18 Section 326. The Delaware Code notwithstanding, during Fiscal Year 2000, the Budget Director is authorized to
19 continue funding for issues such as, but not limited to, the number of administrative positions and activity busing for which the
20 State was required to provide funding as a result of a 1978 federal court order. This authorization, as it relates to administrative
21 positions, shall apply only to positions filled for employment, and shall not be considered as authorization to fund any cash
22 options pursuant to Chapter 13, Title 14, Delaware Code.

23
24 Section 327. Line Item funds appropriated in Section 1 of this Act to Public Education, School District Operations,
25 Other Items (95-02-02) are to cover adjustments in the Appropriation Units of the State Board of Education and State Board for
26 Vocational Education and Department of Education, Block Grants and Pass Through Programs, Pupil Transportation, or the
27 local school districts. Examples of such use are: salary line transfers and adjustments; unit adjustments; state share of tuition
28 payment for private placement of handicapped pupils; for Delaware residents of the Delmar School District attending Maryland
29 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 Department of Education 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 328. Section 1 of this Act makes an appropriation to Public Education, School District Operations, Other Items (95-02-02) for Guaranteed Unit Count. The appropriation is sufficient to fund 20 guaranteed units. In the event that more units are required districts shall receive partial unit funding in proportion to the units available.

A school district that loses enrollment as a result of a decision to close a school or program shall not be guaranteed units lost as a result of that decision.

Section 329. 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 -	

1	Residence - Other Costs	206.5
2	Contractual Services	11.4
3	5. John G. Leach	<u>50.0</u>
4	Total	\$384.9

5

6 Section 330. Section 1 of this Act makes appropriations to Public Education, School District Operations, Division

7 Funding (95-02-01) for Division II - All Other Costs and Energy. During the fiscal year ending June 30, 2000, a school district

8 upon approval of the Budget Director and the Controller General, may transfer part of its allocated appropriation from Division

9 II - Energy to Division II - All Other Costs. A school district may use Division II - Energy funds to obtain engineering studies

10 required for Exxon or Stripper Well funds. A Division II - Energy Unit shall be valued at \$1,480.00. A Division II - All Other

11 Costs Unit shall be valued at \$3,247.00. The Division II - All Other Costs appropriation shall be used for all school costs

12 (including library resources) except salaries and other employment costs, state and local benefits, debt service, energy, and

13 transportation of pupils to and from their regular sessions of school.

14

15 Section 331. For FY 2000, any school district whose per unit amount for Division III - Equalization funding, as

16 computed under the provisions of Section 1707, Title 14 of the Delaware Code, is less than the computed per unit amount in FY

17 1999, shall receive Equalization funding based on the FY 1999 per unit amount. New units generated in FY 2000 will be funded

18 at the FY 2000 computed amount.

19

20 Section 332. Amend Section 1707(b)(3), Title 14, Delaware Code by striking said section in its entirety and inserting in

21 lieu thereof the following:

22 "Authorized amount" means \$27,000 for Fiscal Year 2000 and as established in the annual State Budget Appropriation Act

23 thereafter."

24

25 Section 333. Section 1 of this Act provides an appropriation of \$53,788.9 to School District Operations, Division

26 Funding (95-02-01) for Division III - Equalization. Pending the outcome of negotiations between the Office of the Attorney

27 General, the Budget Director and the Controller General regarding an audit of the New Castle County Vo-Tech School District,

28 the Budget Director and Controller General are authorized to transfer \$250.0 from this appropriation to the Office of the Budget,

29 Contingencies and One-Time Items (10-02-04) for Salary Contingency.

1 Section 334. Amend Title 14, Chapter 13, Section 1321(16) Delaware Code by deleting "a. One physical therapist for
2 each 30 such pupils; b. One occupational therapist for each 40 such pupils; c. One speech/language clinician for each 50 such
3 pupils." And inserting in lieu thereof the following

4 "a. For students who are physically impaired excluding those students who are orthopedically disabled, as defined in b. below:

5 i) One physical therapist for each 30 such pupils for a period of ten months;

6 ii) One occupational therapist for each 40 such pupils for a period of ten months;

7 iii) One speech/language clinician for each 50 such pupils for a period of ten months;

8 b. For students who are orthopedically disabled, defined as being limited to traumatic brain injury, cerebral palsy, muscular
9 dystrophy, spina bifida, juvenile rheumatoid arthritis, amputation, arthrogryposis, or contractures caused by fractures or burns:

10 i) One physical therapist for each 30 such pupils for a period of twelve months;

11 ii) One occupational therapist for each 40 such pupils for a period of twelve months;

12 iii) One speech/language clinician for each 50 such pupils for a period of twelve months".

13
14 Section 335. Amend Title 14, Chapter 13, Section 1321(16) Delaware Code by deleting "Personnel employed
15 according to this paragraph shall be employed for 10 months."

16
17 Section 336. Amend Title 14, Chapter 13, Section 1321(16) Delaware Code by deleting "the dollar value of the
18 contract shall not exceed the authorized salary for a teacher holding the master's degree and having 10 years of experience and
19 employed for a period of 10 months per year as provided for in §1305 of this title," and inserting in lieu thereof "the dollar value
20 of the contract shall not exceed the authorized salary for a teacher holding the master's degree and having 10 years of experience
21 and employed for a period as specified in this paragraph as provided for in §1305 of this title,".

22
23 Section 337. Amend Title 14, Chapter 13, Section 1321(12) Delaware Code by deleting the sentence "When providing
24 services of therapist by contract, the dollar value of the contracts shall not exceed the authorized salary for a teacher holding the
25 master's degree and having 10 years of experience and employed for a period of 10 months per year as provided for in §1305 of
26 this title, times the number of therapists authorized." Substituting in lieu thereof the following "When providing services of
27 therapist by contract, the dollar value of the contracts shall not exceed the authorized salary for a teacher holding the master's
28 degree and having 10 years of experience and employed for a period of 12 months per year, divided by the number of months in
29 the terms of the contract, as provided for in §1305 of this title, times the number of therapists authorized."

1 Section 338.

2 Section 1 of this Act provides an appropriation of \$5,516.1 to Public Education, Block Grants and Pass
3 Through Programs, Adult Education Work Force Training Block Grant (95-03-10). This appropriation shall be allocated by the
4 Department of Education to the following programs/districts: Adult Incarcerated (New Castle County Vocational Technical
5 School District), Adult Trade Extension (statewide), Apprentice Program (statewide), James H. Grove High School (statewide),
6 Adult Basic Education (statewide), New Castle County Learning Center (Christina School District), Delaware Skills Center
7 (New Castle County Vocational Technical School District), Alternative Secondary Education Program (statewide), Communities
8 in Schools of New Castle County (Colonial and Brandywine School Districts), Marine Mechanics Apprentice Program (Sussex
9 Vo-Tech) and Interagency Council on Adult Literacy. For Fiscal Year 2000, each program shall receive no less than the same
10 allocation from this appropriation as its Fiscal Year 1999 allocation, except that the allocations for the following programs shall
11 be increased by the amounts shown: Delaware Skills Center, 90.5; Communities in Schools, \$90.0; and James H. Grove High
12 School, \$105.0.

13 Section 339.

14 Section 1 of this Act makes an appropriation of \$ 6,523.9 to Public Education, Block Grants and Pass
15 Through Programs, Professional Accountability and Instructional Advancement Fund (95-03-10).

16 (a) The following allocations shall be provided:

- 17 (1) \$204.2 for Alternative Routes programs. \$129.2 is provided for the Alternative Routes to Certification
18 program, to be used to implement this project in FY 2000, based upon the recommendations of the
19 Professional Standards Council. The remaining \$75.0 may be used for the Summer Institute program.
20 (2) \$135.2 for National Certification Stipends, to be used to defray costs borne by teachers seeking National Board
21 Certification through the National Board for Professional Teaching Standards.
22 (3) \$2,866.5 shall be allocated by the Department of Education to districts for professional and curriculum
23 development activities. Districts shall submit applications to the Department of Education detailing the
24 district's plan for the utilization of these funds. The Department of Education shall review and approve plans
25 and allocate an amount not to exceed \$331.00 per certified employee, based on a district's personnel
26 complement for the 1998-99 school year. Grants are to be used for developing and implementing curriculum
27 based on the content standards established by the Curriculum Frameworks Commission, as approved by the
28 State Board of Education or for other professional development activities, including, but not limited to:
29 Discipline, Special Education/Inclusion Collaboration/Consensus Building, Conflict Resolution, Shared
30 Decision Making, local school board member training, and Educational Technology. Districts are encouraged
31 to collaborate as a means of maximizing resources as well as focusing district activities on consistent

principles. Grants may be utilized for training, planning, in-service programs and contractual services. The Department of Education is authorized to transfer 50 percent of the estimated district grant amount on July 30, 1999. The remaining 50 percent shall be transferred within 30 days of the final approval of the district application for funding.

In the application, districts shall detail the proposed utilization of funds as well as the incorporation of the following criteria:

- (a) Integration of the proposal with existing resources and programs such as the Comprehensive Discipline Act, Goals 2000, Delaware Principals Academy, Delaware Teachers Center, Drug Free Schools, Title 1 and 2, Special Education and local funds dedicated to Standards and Assessment.
 - (b) Inclusion of local staff in planning of the 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.
- (4) \$140.0 for Delaware Principals Academy activities. The Department of Education 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 Education to the operating agency. All expenditures from this allocation shall serve principals from the State of Delaware only.
- (5) \$600.0 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 statewide program.
- (6) \$600.0 for Tuition Reimbursement of which \$50.0 shall be used exclusively for tuition reimbursement for Early Childhood Education courses and \$50.0 for summer school courses. This allocation provides, at the discretion of the Department 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 or courses in an Education Technology Certificate Program. 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

1 district board, superintendent or state agency. Local school district boards of education are required to
2 prioritize the allocation of the funds they receive to support the educational advancement efforts of regular
3 education teachers taking special education and/or mainstreaming related courses and other educational
4 priorities established by the local boards of education based on staff development goals or to ameliorate
5 identified deficiencies. This allocation may be used by local school districts to defray the costs for teachers
6 seeking application for National Board Certification from the National Board for Professional Teaching
7 Standards.

8 Reimbursement for tuition may be made for courses taken during summer school or during the
9 academic year for which a passing grade of B or better is obtained. No reimbursement shall be in excess of
10 the tuition charged a Delaware resident taking a course with an equal number of credit hours at the University
11 of Delaware. Of the total allocation made by Department of Education, a minimum of .75 percent shall be
12 allocated to state agencies and the balance shall be allocated to the several school districts in amounts equal to
13 each school district's proportion of Division I units to the total number of Division I units statewide on
14 September 30, 1999. Any funds not expended by a school district or a state agency shall be transferred to
15 other districts or agencies. In the event that any district's allocation is not sufficient to provide total
16 reimbursement to all eligible employees, the district shall pro-rate the funds so that each eligible employee
17 receives a share of the total district allocation equal to the individual employee's reimbursable expenditure
18 divided by the total reimbursable expenditure of all employees in the district multiplied by the district
19 allocation. Funding for each school district shall be divided into two equal parts. The first one-half shall be
20 prorated as described above among eligible employees who complete their courses prior to February 1, 2000.
21 The second one-half shall be prorated as described above among eligible employees who complete their
22 courses prior to June 15, 2000. In the event that funds remain in either half year, the district shall be
23 authorized to reallocate those funds to reimburse eligible employees in the other portion of the year who did
24 not receive full reimbursement. This Section shall supersede collective bargaining agreements to the
25 contrary.

- 26 (7) \$628.4 for the Department of Education for the Teacher to Teacher Instructional Cadre which provides for the
27 purchase of release time of exemplary teachers in the content areas in which the State Board of Education has
28 adopted content standards, who will provide assistance to districts on a statewide basis in designing,
29 demonstrating and implementing best teaching practices in the development of curriculum to meet the
30 established standards. The Department of Education is authorized to transfer 50 percent of the estimated

1 district grant amount on July 30, 1999. The remaining 50 percent shall be transferred within 30 days of the
2 final approval of the district application for funding.

- 3 (8) \$744.5 for the Summer School for Teachers Program. Of this appropriation, \$578.7 will be allocated to the
4 University of Delaware and \$165.8 to Delaware State University to fund summer programs for the
5 professional development of teachers. It is intended that curriculum of the summer classes offered through
6 this program, to teachers and aides, be consistent with the curriculum standards which are currently under
7 development or have previously been adopted by the State Board of Education. Both the University of
8 Delaware and Delaware State University shall incorporate into their Summer School for Teachers course
9 structure, the appropriate and necessary elements that will enable participants to develop relevant classroom
10 curriculum as well as to gain additional exposure to best teaching practices in the standardized content areas.
11 The Department of Education shall continue to make staff available to assist each institution in the
12 preparation of the summer coursework. Future budget requests for this program will be made by the
13 Department of Education in their annual budget request, following consultation with the University of
14 Delaware and Delaware State University.

15 (b) Any funds remaining subsequent to these allocations may be disbursed at the discretion of the Department of
16 Education for professional accountability and instructional advancement activities.

17
18 Section 340. (a) Section 43 of this Act continues appropriations to Public Education, Block Grants and Pass
19 Through Programs, Professional Accountability and Instructional Advancement Fund (95-03-10) for Shared Decision Making.
20 Based on the current level of activity in the program, such funds are sufficient to meet the needs of the Shared Decision
21 Making program in FY 2000. The Governor and General Assembly recognize the importance of increased local board and
22 school building level authority as a means toward improving student achievement and increasing accountability. This
23 recognition is consistent with the requirements contained within the Federal Improve America's Schools Act (IASA) for any
24 school receiving funds under said Act. Pursuant to Chapter 8, Title 14, Delaware Code, individual school buildings within
25 local school districts that have adopted a district transition plan as specified in Section 803(d), Chapter 8, Title 14, Delaware
26 Code, may apply for a school level grant to conduct structured conversations at the school building level, and subsequently
27 develop a school transition plan. These grants shall be funded in the amount of \$7.5 per school building and shall be provided
28 to the local school district. As stipulated in Chapter 8, Title 14, Delaware Code, one-third of the amount (\$2.5) shall be made
29 available for the school level structured conversation, and the remaining two-thirds (\$5.0) will be used to design a transition
30 plan at the school building level. Funding for these grants will be provided through a combination of prior year appropriations

1 within the Professional Accountability and Instructional Advancement Fund (95-03-10) for this purpose, and Federal Goals
2 2000 funds, if a local district decides to prioritize its Goals 2000 application in favor of Shared Decision Making.

3 (b) Local School Districts that applied for a district level grant pursuant to Section 807(b), Chapter 8, Title 14,
4 Delaware Code, by April 1, 1999, shall receive a district level grant from prior year funds. Districts are eligible for grants in
5 the amount of \$20.0 per district, provided they meet the criteria established in the Delaware Code. Approximately one-third
6 of that award (or \$6,667) shall be available for the district level conversations, and the remaining two-thirds (or \$13,333) will
7 be used to design a transition plan at the district level.

8 (c) Local school districts shall address the district's progress or intentions pursuant to the provisions of Chapter 8, Title
9 14, Delaware Code in the IASA consolidated application in a format specified by the Department of Education. Local school
10 districts that did not make application for the school level grants specified in Chapter 8, Title 14, Delaware Code, on or before
11 May 1, 2000, shall prioritize the use of Goals 2000 funding based on the competitive criteria developed by the State of Delaware.
12 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
13 other than Shared Decision Making shall not be eligible for funds for the purposes described in this Section from any source
14 during FY 2000. The Federal Goals 2000 funding for this purpose shall be made available at such time that a local school
15 district meets the requirements contained in Chapter 8, Title 14, Delaware Code. Local school districts that do apply for school
16 level grants as specified in Chapter 8, Title 14, Delaware Code shall make the full amount of the grants available to school
17 buildings for the purposes specified in Chapter 8, Title 14, Delaware Code, regardless of the source of such funding, in the
18 amounts specified in subsection (a) of this Section. Sufficient funding shall be made available to each local school district to
19 provide for these grants and to cover indirect costs and audit fees. Pursuant to the Federal Goals 2000 requirements, each local
20 school district must insure that 50 percent of the total district grant is provided to schools with special needs as defined by the
21 local district. Special needs may be indicated by a high number or percentage of students from low-income families, low student
22 achievement, or other similar criteria developed by the local school district.

23 (d) It is anticipated that individual school buildings that are successful in developing a school transition plan, and
24 subsequently desire to develop a school improvement plan as specified in Section 806, Chapter 8, Title 14, Delaware Code, will
25 be provided school improvement grants pursuant to said Chapter. It is anticipated that these grants will be composed of the
26 conversion of certain discretionary state resources.

27
28 Section 341. Section 1 of this Act makes an appropriation to the State Board of Education Block Grant and Pass
29 Through Programs, Academic Excellence Block Grant (95-03-10). Of the amount appropriated, \$21,665.4 shall be used to fund
30 units for academic excellence in the school districts in accordance with Section 1716, Title 14, Delaware Code. The balance of

1 \$3,982.5 shall be allocated to school districts in proportion to the number of Division I Units each district enrolls on the last
2 school day in September 1999. School districts may use the funds to: purchase computer hardware, software or services;
3 calculators; library resources; fund homebound instruction costs; provide substitute teachers; provide additional nurses so long
4 as the district is entitled to less than one nurse per school; provide a student work-study program; provide conflict resolution
5 training; provide extended day or extended year programs for students performing below the standard level; provide stipends
6 for professionals engaged in curriculum or professional development activities sponsored by a local school district or the
7 Department of Education, outside of the regular school day. Included in this amount are sufficient funds to increase the daily
8 rate for Class A Substitutes to \$75.00, Class B Substitutes to \$61.00 and Class C Substitutes to \$47.00. School districts may
9 form consortia, utilizing homebound funds, to purchase or provide services. No homebound funds may be spent to provide
10 services to students who have been suspended or expelled from school, except for special education students. The State Board
11 of Education shall provide an annual summary of school district plans for use of Academic Excellence funds to the Budget
12 Director and Controller General no later than December 1 of each year.

13
14 Section 342. For the fiscal year beginning July 1, 1999, any local school district that has had two consecutive failed
15 current expense tax referendums during the time period July 1, 1997 to January 1, 2000, is authorized to exercise the cash option
16 on Academic Excellence units up to the total number of units provided under that program. This provision will apply for Fiscal
17 Year 2000 only. In addition, districts meeting this criteria are authorized to utilize funds derived from this cash option to pay
18 local salary supplements. Any district that has had a successful current expense tax referendum subsequent to two consecutive
19 failed current expense tax referendums is ineligible for the provisions of this section.

20
21 Section 343. Section 1 of this Act appropriates \$135.2 within Public Education, Block Grants and Pass Through
22 Programs, Professional Accountability and Instructional Advancement Fund (95-03-10). This appropriation is to be used in FY
23 1999, along with any local school district and privately donated funding, to defray costs for teachers seeking national board
24 certification from the National Board for Professional Teaching Standards (NBPTS). Recognizing the effort involved in
25 pursuing such certification as well as the value it will bring to Delaware teachers and students, commencing January 1, 1998, a
26 certification obtained under this program by a teacher paid under Title 14, Section 1305, Delaware Code, shall result in an
27 additional \$1,500.00 in pay for each year such certification is maintained. The Department of Education shall report annually to
28 the Budget Director and Controller General the number of certificates obtained under this program. This section shall be null
29 and void should legislation be enacted, which includes recommendations of the Education Salary Schedule Improvement
30 Committee as constituted by Executive Order No. 50.

1
2 Section 344. Section 1 of this Act provides an appropriation of \$9.9 to Public Education, Block Grants and Pass
3 Through Programs, K-12 Pass Throughs (95-03-15) for the Delaware Nature Society. It is the intent that this money be used to
4 provide summer programs including an eighth grade program in environmental heritage.
5

6 Section 345. Section 1 of this Act provides an appropriation of \$163.5 to Public Education, Block Grants and Pass
7 Through Programs, K-12 Pass Throughs (95-03-15) for the READ-ALOUD Delaware Program. READ-ALOUD Delaware is to
8 continue to develop and foster programs for the purpose of encouraging regular reading to preschool-aged children as an
9 effective way to prepare them for learning. The monies passed through to READ-ALOUD Delaware shall be used to provide
10 programs in each county, focused on the more disadvantaged segment of the population of preschool-aged children.
11

12 Section 346. Section 1 of this Act provides an appropriation of \$97.2 to Public Education, Block Grants and Pass
13 Through Programs, K-12 Pass Throughs (95-03-15) for Advanced Studies. The Department of Education shall transfer this
14 appropriation to the University of Delaware to help fund a summer school program, for college credit, for gifted and talented
15 students.
16

17 Section 347. Section 1 of this Act provides an appropriation of \$136.5 to Public Education, Block Grants and Pass
18 Through Programs, K-12 Pass Throughs (95-03-15) for the Delaware Institute for Arts in Education. Of this appropriation,
19 \$25.0 shall be used to implement a new Wolfrap program. The Department of Education shall transfer this appropriation to
20 the University of Delaware, which acts as the fiscal agent for this statewide program.
21

22 Section 348. Section 1 of this Act provides an appropriation of \$201.2 to Public Education Block Grants and Pass-
23 Through Programs, K-12 Pass Throughs (95-03-15) for the Center for Economic Education. Of this amount, \$30.0 is
24 appropriated to develop a pilot program to test a professional development model for systematically training teachers in
25 content and pedagogy and provide them with ongoing support in the classroom.
26

27 Section 349. In order that the children for whom the learning disability and socially or emotionally maladjusted units
28 were devised shall be the sole beneficiaries of all funds available for such children, the State Board of Education shall require
29 strict adherence to approved guidelines before release of any funds designated for such children. The State Board of Education
30 shall particularly ascertain that no educable mentally handicapped are being classified as learning disabled; and that strict

1 guidelines are developed to determine eligibility of socially or emotionally maladjusted children so that this category does not
2 become a catch-all for low-achieving, unmotivated or disruptive pupils without serious physiological or neurological disorders.
3 All pupils classified learning disabled or socially or emotionally maladjusted must be reevaluated at least every two years, except
4 psychological evaluation shall be made at least every three years. The State Board shall report annually to the Budget Director
5 and the Controller General on or before April 1 on the actions and results of actions required by this section.

6
7 Section 350. Section 1 of this Act makes an appropriation of \$637.2 ASF to Public Education, Block Grants and Pass
8 Through Programs, Special Needs Programs (95-03-20) for the Children's Services Cost Recovery Project (CSCR). All
9 local school districts shall fully participate in the implementation and operation of the project for the fiscal year ending June
10 30, 2000. Local school district participation shall be on a district-wide basis.

11 The following resources are appropriated to operate the Children's Services Cost Recovery Project during the fiscal
12 year ending June 30, 2000. No appropriation is made for the purchase of additional state-owned vehicles pursuant to this
13 section. The appropriated funds for supplies and in-state travel which, pursuant to this section, are passed through to the local
14 school district shall be dedicated to implementing the Children's Services Cost Recovery Project.

15 In addition, 13.0 FTE staff positions are appropriated to support this project: 1.0 FTE shall be located at the
16 Department of Education. The Department of Education is hereby permitted to authorize the hiring of up to 12.0 FTEs in the
17 local school districts for the sole purpose of implementing this section. The 12.0 FTEs in the local school districts shall be paid
18 in accordance with the Financial Secretary Salary Schedules 1308 and 1309 including the local salary supplement in place at the
19 employing school districts. At the discretion of the Department of Education, 1.0 FTE may be paid in accordance with the
20 Administrative Secretary Salary Schedules 1308 and 1309 including the local salary supplement in place at the employing local
21 school district.

22 All revenue generated through the cost recovery project from local school district sources will, after the deduction of all
23 operational project costs, be divided on a 70/30 basis between the State General Fund and the local school district's operating
24 funds. Any funds returned to a local school district that were generated through recovery on non-transportation services
25 provided by a tuition-based special school must be made available to the special school for expenditure at the special school.

26 Audit exceptions, including any penalties and fees, will be covered from drawdowns on future recoveries on a 70/30
27 basis between the State General Fund and the local school district operating funds where the exception occurred.

28
29 Section 351. For the purpose of participating in the Children's Services Cost Recovery Project, provisions of the
30 Delaware Code to the contrary notwithstanding, school psychologists certified or otherwise licensed by the State Board of

1 Education in accordance with the provisions of Title 14, Section 1092, Delaware Code, shall be considered in compliance with
2 qualification standards equivalent to state licensure to practice psychology as set forth in Title 24, Section 3508, Delaware
3 Code. Such equivalent state licensure status shall be limited to the delivery of services related to State Board of Education or
4 local school district approved school programs conducted within the course of the regular school day at a State Board of
5 Education or local school district approved school site or least restrictive environment location. The provisions of this Section
6 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
7 or description of services incorporating the words "psychology," "psychological," and/or "psychologist" within the meaning of
8 Title 24, Section 3502, Delaware Code, except as may be herein specifically provided.

9
10 Section 352. Section 1 of this Act provides an appropriation of \$2,475.9 to Public Education, Block Grants and Pass
11 Through Programs, Special Needs Programs (95-03-20) for the operation of the Program for Children with Disabilities. The
12 school districts, in which children reside who are to be provided the special services, are authorized to levy and collect local
13 tuition tax to cover the local share of the program costs.

14
15 Section 353. Section 1 of this Act provides an appropriation of \$2,475.9 to Public Education, Block Grants and Pass
16 Through Programs, Special Needs Programs (95-03-20) for the Program for Children with Disabilities (PCD).

17 The Interagency Resource Management Committee (IRMC) shall be composed of the following members (or their
18 designee with full voting powers):

19 Secretary of Education who shall be the chairperson of the IRMC;

20 Secretary of the Department of Health and Social Services;

21 Secretary of the Department of Services for Children, Youth and Their Families;

22 Budget Director;

23 Controller General.

24 The affirmative vote of a majority of all members shall be required to take action.

25 The IRMC shall periodically review eligibility criteria for services under PCD and make recommendations as
26 appropriate.

27 The IRMC was created to promote interagency collaboration in the service of those eligible for the PCD, to promote the
28 cost-effective use of existing resources -- federal and state, public and private, and to promote the opportunity for coordination
29 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 Education, 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 (CCCCD) 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.

1
2 Section 354. Section 1 of this Act appropriates \$3,840.0 to Public Education, Block Grants and Pass Through

3 Programs, Special Needs Programs (95-03-20) for the Early Childhood Assistance Program. Funds are to be used to provide
4 early childhood programs for four-year olds in accordance with Title 14, Chapter 30. It is anticipated that for Fiscal Year 2000,
5 approximately 843 four-year-old children will be served via this funding. The Interagency Resource Management Committee
6 (IRMC) has administrative responsibility, which includes reviewing and disbursing grant awards; ensuring program compliance;
7 and providing an annual report to the Legislature and Family Services Cabinet Council regarding the activities of the program.
8 The IRMC shall issue a Request for Proposal (RFP) for prospective providers for all classrooms on an annual basis. The
9 Department of Education shall assist with the implementation and ongoing administration of this program. The IRMC shall
10 report to the Budget Director and the Controller General on or before January 1 each fiscal year on the status of the program.
11

12 Section 355. Amend Section 3001(b), Title 14 of the Delaware Code, by striking the last sentence thereof in its entirety
13 and substituting in lieu thereof the following: "All contracts may be in place for a period not to exceed three years; provided that
14 there is sufficient funding contained within the Annual Appropriations Act, and the contractor adheres to the required
15 performance standards, which include parental involvement and receipt of acceptable monitoring results which will be
16 completed at least once during the contract period."
17

18 Section 356. Section 1 of this Act makes an appropriation of \$14,006.4 to Public Education, Block Grants and Pass
19 Through Programs, Special Needs Programs (95-03-20) for Student Discipline Programs.

20 (a) A total of \$3,420.0 is allocated for the statewide implementation of programs for severe discipline cases. Of that
21 amount, a total of \$2,400.0 will be allocated to the three counties in the following manner: 50 percent to New Castle County, 25
22 percent to Kent County and 25 percent to Sussex County. Of the \$2,400.0, \$150.0 in New Castle County and \$75.0 in both Kent
23 and Sussex Counties must be utilized for transitional services. The remaining \$1,020.0 will be disbursed on a competitive basis
24 among the existing school district consortiums or to individual school districts. Of the \$1,020.0, \$820.0 will be utilized for
25 improvement of academic programs and \$200.0 will be utilized for extended year opportunities. If funds provided under this
26 section are used for costs associated with teachers and aides, as provided for in Title 14, Section 1305, Delaware Code, the funds
27 can only be used for costs associated with the state share. Programs receiving funds under this section may utilize no more than
28 \$200.0 in total from Pupil Transportation (95-04-01) for transportation expenses.

29 (b) A total of \$6,736.4 is authorized for disruptive students at the school and district levels. The base incentive grants
30 shall be provided to all school districts in the State as follows:

1	Schools grades K-6:	\$30.0
2	Schools grades 7-12:	\$40.0
3		

4 If funds provided under this section are used for costs associated with teachers and aides, as provided for in Title 14,
5 Section 1305, Delaware Code, the funds can only be used for costs associated with the state share.

6 Under Title 14, Chapter 16 of the Delaware Code, local school districts are eligible to receive a supplemental grant,
7 equal to double the base award, for grades 7, 8, 9 and 10, upon approval of the Department of Education and certification in the
8 district's grant application that the school is in compliance with the provisions of the Delaware Code requiring the establishment
9 of school site-based committees to govern discipline matters.

10 Each school shall receive no less than the amount received in the Fiscal Year ending June 30, 1999. In order to provide
11 districts with grants in a timely manner, all applications for base grants must be submitted for review by the Department of
12 Education no later than November 15 of each year.

13 (c) For the purpose of facilitating the continuation of services, districts receiving an allocation under the provisions of
14 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
15 Year. These districts are required to present program proposals to the Department of Education no later than November 15 each
16 year. Upon Department of Education approval, adjustments to program allocations will be made.

17 (d) The Department of Education shall determine common data definitions and data collection methodologies for each
18 program in this section. Districts shall use such definitions and methodologies and shall complete a full evaluation of each
19 program within 60 days of the close of the school year. Reports shall include, at a minimum, the number of students served,
20 reasons for service, measures of behavioral improvement, measures of academic improvement as appropriate, rates of recidivism
21 within programs, and number and types of referrals for additional services. Such reports will be used to determine needs for
22 program improvement and will be required as a condition of ensuing funding.

23 (e) A total of \$3,250.0 is authorized for prevention components administered by the Family Services Cabinet Council
24 (FSCC) in conjunction with the Department of Education and the Department of Services for Children, Youth and Their
25 Families. Funding shall be provided as follows:

26 (i) \$450.0 for the FSCC to identify three communities in which to develop comprehensive plans for
27 delivering services through a community-based, interagency collaborative effort. The FSCC in
28 conjunction with the Department of Education and the Department of Services for Children, Youth and
29 Their Families shall assist selective communities in developing appropriate pilot projects and may use

1 the funds for any project(s) which they deem likely to demonstrate effective and coordinated
2 prevention strategies.

3 (ii) \$2,800.0 to provide early intervention services through the Department of Services for Children, Youth and Their
4 Families, Family Crisis Therapist Program. Services are intended for grades K-3 and shall address but not be
5 limited to, problems such as Early Onset Conduct Disorder. The Department of Services for Children, Youth
6 and Their Families may enter into contractual agreements, may employ casual/seasonal personnel, or may create
7 the necessary positions with the approval of the Delaware State Clearinghouse Committee and maintain an ASF
8 or NSF account with sufficient spending authority to operate the program.

9 (iii) For purposes of implementing (i) and (ii) above, the FSCC with the Department of Education and the
10 Department of Services for Children, Youth and Their Families acting as lead agencies shall administer a
11 competitive Request for Proposal (RFP) process to determine grant awards to local districts. Grant awards shall
12 be for a period of 12 months. Factors that may be utilized in the evaluation of proposals can be, but are not
13 limited to, the following: links to Part II discipline funding or other district resources; the use of collaborative
14 partnerships; the relative need of the local school district community; and the recognition within a proposal of the
15 need to provide services to meet the presenting problems of both the child and the family. To the extent possible,
16 the Department of Services for Children, Youth and Their Families is authorized to pursue Medicaid cost
17 recovery for eligible services provide to Medicaid eligible children. Funds resulting from these efforts may be
18 used to expand these services with prior approval of the Budget Director and the Controller General.

19 (f) Based on the recommendations that resulted from House Joint Resolution 25 of the 139th General Assembly, a total
20 of \$525.0 shall be allocated for the implementation of a three-year pilot alternative school program beginning no later than
21 January, 2000. The program shall be developed utilizing research based best-practice models as described in "Comprehensive
22 Programs Which Improve Student Discipline, Final Report, April 1999". The program shall provide year-round services to no
23 more than 100 students. This program shall be considered a special school for the purposes of charging tuition payments to be
24 made by school districts of residence under the statutory provisions of Title 14, Chapter 6. The Department of Education and the
25 Department of Services for Children, Youth and Their Families, acting as lead agencies, shall oversee administration of the
26 program. Such oversight shall include an annual evaluation of the program. The Department of Services for Children, Youth
27 and Their Families may enter into contractual arrangements or may create no more than 13.0 ASF or NSF FTEs with the
28 approval of the Delaware State Clearinghouse Committee and maintain an ASF or NSF account with sufficient spending
29 authority to operate the program.
30

1 Section 357. Section 1 of this Act provides an appropriation of \$3,900.0 GF and \$890.0ASF to Public Education, Block
2 Grants and Pass Through Programs, Special Needs Programs, Unique Educational Alternatives (95-03-20) to implement Title
3 14, Section 3124, Delaware Code. For the fiscal year ending June 30, 2000, any placement made pursuant to this Section shall
4 be considered a special program placement and shall be eligible for inclusion in local school district tuition tax rate setting.
5 Districts shall contribute 30 percent of the total cost associated with the placement of any district student in such a program. The
6 provisions of the Delaware Code to the contrary notwithstanding, for the fiscal year ending June 30, 2000, the Department of
7 Education is authorized to continue utilizing funds appropriated in Section 1 of this Act to develop unique educational
8 alternatives, in lieu of private placement, for persons who have been, or who would otherwise be, identified as "complex or rare"
9 and unable to benefit from the regularly offered free, appropriate public educational programs and students in present education
10 programs within this State whose individual education plan requires services not presently available within the present unit
11 funding system. Unique educational alternatives shall be defined and approved by the Department of Education and may
12 include, but not be limited to, related and supportive services.

13
14 Section 358. Section 1 of this Act makes an appropriation of \$3,900.0 GF and \$890.0 ASF to the Public Education,
15 Block Grants and Pass Through Programs, Special Needs Programs, Unique Educational Alternatives (95-03-20). Before the
16 Department of Education can authorize expenditures for new placements from this appropriation, the case must be reviewed by
17 the Interagency Collaborative Team (ICT).

18 The ICT shall consist of:

19 Division Director, Division of Child Mental Health Services of DSCYF;
20 Division Director, Family Services of DSCYF;
21 Division Director, Division of Youth Rehabilitation Services of DSCYF;
22 Division Director, Division of Mental Retardation of DHSS;
23 Division Director, Division of Alcoholism, Drug Abuse and Mental Health of DHSS;
24 Director of the Office of the Budget or designee;
25 The Controller General or designee;
26 Director, Exceptional Children's Group, DOE, who will serve as Chair;
27 Associate Secretary, Improvement and Assistance, DOE.

28 A Director assigned to the ICT may designate staff to represent them on the ICT only if these designated representatives
29 are empowered to act on behalf of the Division Director including commitment of division resources for a full fiscal year.

30 The ICT shall invite to its meetings:

1 A representative of a responsible school district for the case under consideration;

2 The parents of the child;

3 Other persons the team believes can contribute to their deliberations.

4 The ICT shall:

5 Review existing assessments of new referrals;

6 Prescribe, if required, additional assessments for new referrals;

7 Review proposed treatment plans of new referrals;

8 Recommend alternatives for treatment plans of new referrals;

9 Coordinate interagency delivery of services;

10 Review at least annually, current Unique Educational Alternatives for the appropriateness of treatment plans
11 and transition planning;

12 If appropriate, designate a Primary Case Manager for the purpose of coordination of services agencies;

13 If appropriate, designate agencies to be involved in collaborative monitoring of individual cases.

14 The ICT will ensure that state costs incurred as the result of a Team recommendation or assessment of a child currently
15 funded from the Unique Educational Alternatives appropriation for this purpose in Section 1 of this Act will be covered from the
16 existing appropriation. New referrals will be assessed in the inter-agency manner described above. The ICT may accept and
17 review cases initiated by other agencies, but in all cases the school district of residence must be involved in the review.

18 Cases reviewed by the ICT will employ Unique Educational Alternatives funding to cover state costs to the extent
19 determined appropriate by the Interagency Collaborative Team. Other agencies may recognize a portion of the responsibility for
20 the treatment of these children if determined appropriate by the Team. Funds may be transferred upon the approval of the
21 Budget Director and the Controller General.

22 The ICT shall report on its activities to the Governor, Budget Director, President Pro-Tempore, Speaker of the House
23 and the Controller General by February 15 of each year. The report shall address the status of items addressed in the previous
24 February ICT Annual Report.

25
26 Section 359. Section 1 of this Act provides an appropriation of \$3,900.0 to Public Education, Block Grants and Pass
27 Through Programs, Special Needs Programs, Unique Alternatives (95-03-20). Funds may only be allocated to the Sussex ICT to
28 provide direct services and supports to interagency students that would be referred to the ICT. The local share of payment shall
29 continue to be subject to the same criteria as all other ICT decisions. This authorization is based on the signed Memorandum of
30 Agreement between the school districts and other ICT agencies.

1
2 Section 360. Any placement made pursuant to Section §3124, Title 14, Delaware Code in which the individual
3 involved is a ward of the State shall be funded fully from the State appropriation made for this purpose.
4

5 Section 361. Section 1 of this Act provides an appropriation of \$608.0 to Public Education, Block Grants and Pass
6 Through Programs, Special Needs Programs (95-03-20) for Exceptional Student Unit - Vocational. This appropriation shall be
7 used to continue the program of vocational education for handicapped students. The funds appropriated shall provide for
8 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
9 minutes per week of instruction or major fraction thereof after the first full unit and shall be in addition to the funding otherwise
10 provided under Title 14, Subsection 1703(d), Delaware Code. The deduct contained in Title 14, Subsection 1703 (i), Delaware
11 Code, shall not apply to the units authorized by this Section.
12

13 Section 362. (a) Section 1 of this Act provides an appropriation of \$10,428.0 to Public Education, Block Grant and
14 Pass Through Programs, Special Needs Program (95-03-20) for Extra Time for Students. The allocations shall be used
15 exclusively to provide extra instructional time for low achieving students in order that they may improve their academic
16 performance in the four primary content areas (mathematics, science, English language arts, and social studies) as measured
17 against the state standards of such subjects. The only exceptions to this requirement are that up to 15 percent of a district's
18 allocation may be used for Extended School Year (ESY) requirements, pursuant to the Administrative Manual for Exceptional
19 Children (AMPAC) and up to 10 percent of a district's allocation may be used to provide services to Limited English Proficient
20 (LEP) students. Of the amount set aside for LEP services, up to 50 percent may be used within the normal school day provided
21 the services are in the form of specialized instruction designed to help LEP students succeed in regular classroom settings. Of
22 the amount appropriated, \$400.0 may be used for the Early Intervention Reading Program as specified in this section. The
23 Department of Education is authorized to transfer 25% of the estimated district grant amount on July 30, 1999. The remaining
24 amount shall be transferred within 30 days of the final approval of the district application for funding.

25 (b) The following criteria shall apply to each of the components of the Extra Time for Students Program.

26 (1) In order to qualify for an allocation, each district shall submit an application to Department of Education by
27 November 15, 1999. The application must show evidence of building level staff involvement in the
28 development of the district proposal.

29 (2) The application provided to the Department of Education shall indicate the student populations to be served,
30 the type of program(s) proposed, the levels of academic improvement the additional services are intended to

1 achieve, and the measurement and/or evaluation process the district will use to determine program
2 effectiveness. Associated transportation costs shall also be included in the district application.

3 (3) Funding for this component shall only be used for academic instruction or remediation programs that are
4 offered to a targeted population of low achieving students. These programs must be provided at a time that is
5 in addition to the regularly scheduled six and one-half hour school day and/or the 180 day school year,
6 sufficient to improve student performance. The Department of Education shall promote the use of "Best
7 Practices" in this area through all available means.

8 (4) Funds appropriated pursuant to this Section may not be used for curriculum development or staff training
9 functions, but may be used for the purchase of supplies and materials necessary to operate extra time programs.
10 To the extent that these funds are used to pay salary expenses of district instructional staff, these funds may
11 only be used for costs associated with the State share of salaries, as provided under Title 14, Section 1305,
12 Delaware Code.

13 (5) In order to maximize resources provided under this program, local school districts are encouraged to match
14 their allocation, on a 70/30 state/local basis pursuant to the provisions of Title 14, Chapter 1902(b), Delaware
15 Code.

16 (6) Local school districts may use funds appropriated pursuant to this Section to contract with private or non-profit
17 instruction or tutoring services provided that there is evidence of building level conversations regarding
18 contracted services.

19 (7) If, after the applications are received by the Department of Education, a local district does not choose to utilize
20 the full amount to which they are entitled, the Department of Education may allocate any remaining amount
21 through a competitive RFP process.

22 (8) Funds appropriated pursuant to this Section shall be appropriated on a 15 month basis and shall not be subject
23 to reversion until September 30, 2000. Program expenses, however, may not be incurred subsequent to the
24 start of the 2000-2001 regular school year.

25 (c) The following criteria shall apply to the component of the program that serves students in any grade levels:

26 (1) Allocations for this component shall be provided in proportion to the total Division I units in each school
27 district, multiplied by the state portion of the average teacher salary in the district in the immediately preceding
28 fiscal year.

29 (d) The following criteria shall apply to the Early Intervention Reading Program for which \$400.0 is to be utilized.

- 1 (1) This funding shall serve students in kindergarten through grade 3 who are identified during their kindergarten
2 and first grade years as being inadequately prepared to succeed in reading or are performing below grade level
- 3 (2) This funding shall be utilized exclusively to provide supplemental services or teaching methods designed to
4 improve the reading abilities of students with the goal being that they achieve and maintain their appropriate
5 grade level reading ability. These services shall utilize intensive systematic multi-sensory phonics as the
6 instructional methodology.
- 7 (3) The funding for this component may provide services outside of the normal school operation timeframe as
8 specified in subsections (c) and (d) of this Section, or may be used during the regular school day, provided
9 however that the services being offered are supplemental to the reading instruction the student would otherwise
10 normally receive.

11 (c) On or before January 30, May 30, and August 30 of each year beginning with calendar year 2000, all districts shall
12 submit a report to the Department of Education on Extra Time programs. The report shall include but not be limited to the
13 following: state identification number for each student served, total number of program contact hours per student, content
14 area(s) addressed, and evidence of academic improvement. The Department of Education shall provide a format for such
15 reporting. The Department of Education shall provide an annual report to the Budget Director and Controller General no later
16 than October 15.

17

18 Section 363. Section 1 of this Act appropriates funds to provide Extra Time for Students. Local school districts are
19 encouraged to provide the corresponding local match to such appropriations and to provide additional resources to make Extra
20 Time for Students provisions available to any K-3 student who is identified by his or her teacher as functioning below grade
21 level in reading or mathematics. The goal of this provision of resources shall be to have the child function at grade level and
22 to avoid the need for state-mandated academic improvement activities. The Department of Education shall survey local school
23 districts to determine their level of local support for these purposes and their use of state Extra Time for Students funding to
24 help K-3 students function at grade level.

25

26 Section 364. Any provisions of the Delaware Code to the contrary notwithstanding, the Department of Education is
27 authorized and directed to provide aides for the purpose of providing mainstreaming services to deaf students as follows: four in
28 the Capital School District, three in the Lake Forest School District, two each for the Seaford School District and the
29 Woodbridge School District, and one in the Brandywine School District, the Caesar Rodney School District, and the Milford
30 School District.

1
2 Section 365. Section 1 of this Act makes an appropriation of \$409.7 to Public Education, Block Grants and Pass

3 Through Programs, Special Needs Programs (95-03-20), for Tech Prep 2+2. A Delaware Tech Prep Consortium is formed to
4 provide for overall program development and management, coordination and technical assistance. The Consortium will review
5 and provide technical assistance and in-service training for each proposal submitted to the Department of Education by any
6 partnership initiating or operating a Tech Prep Program. The Consortium will adopt rules and regulations consistent with state
7 regulations and federal legislation.

8 The Consortium Board of Directors shall include: the President or designee of the Delaware Technical and
9 Community College; the Superintendents of New Castle County Vocational-Technical School District, Kent County Polytech
10 School District and the Sussex County Vocational-Technical School District; the State Director of Vocational Education,
11 Department of Education, (Ex-Officio); the Executive Director of Delaware Advisory Council on Career and Vocational
12 Education; President or Designee, Delaware State University and Wilmington College and one representative of business and
13 industry. The Superintendent or designee of two comprehensive local school districts will also be appointed consistent with
14 the rules and regulations of the Consortium. Programs will be conducted in all three counties, on all campuses of Delaware
15 Technical and Community College and other postsecondary institutions as specified by the Consortium consistent with
16 federal legislation. All secondary schools are eligible.

17 Kent County Polytech School District will act as financial agent for the Consortium and an annual financial and
18 program report will be submitted to the co-chairpersons of the Delaware Legislative Joint Finance Committee.

19 The Consortium may select another member to serve as the financial agent in a subsequent year consistent with the
20 rules and procedures it adopts.

21
22 Section 366. (a) Section 1 of this Act provides an appropriation of \$3,300.0 to Public Education, Pupil
23 Transportation (95-04-01) for Non-Public School Transportation Reimbursements. This appropriation shall be allocated for
24 qualifying non-public, non-profit schools, based on the procedure adopted by the Joint Finance Committee on April 16, 1981.

25 (b) Transportation funds for public school districts during the fiscal year ending June 30, 2000, shall be allocated and
26 shall not exceed \$48,616.5 (of which \$500.0 is designated as a transportation contingency for the Charter and Choice initiatives),
27 according to bus contract or district transportation formula, as adopted by the State Board of Education on July 23, 1987, subject
28 to the following amendments and procedural modifications:

- 29 (1) The per gallon price used to calculate the gasoline allowance shall be based on the state contract bid price for
30 unleaded gasoline plus \$.07 per gallon for districts and plus \$.28 per gallon for contractors. For districts and

1 contractors north of the Chesapeake and Delaware Canal, the per gallon price shall be based on delivery to a
2 large-sized tank (5,000 or more gallons). In the case of contractors located south of the Chesapeake and
3 Delaware Canal, the per gallon price shall be based on delivery to a small-sized tank (275 - 1,900 gallons).
4 Upon determination by the Department of Education that a contractor located North of the Chesapeake and
5 Delaware Canal and operating five or fewer buses does not have existing storage capacity in the large tank
6 range, the per gallon price shall be based on the smaller tank size.

7 (2) The Fiscal Year 2000 operating allowance will be adjusted for inflation by a rate of three percent.

8 (3) For the fiscal year ending June 30, 2000, the allowable cost of a new bus purchased by a contractor shall be
9 the Fiscal Year 1999 state bid price for new buses minus two percent for salvage value, plus eleven percent
10 to account for dealer charges and profits not reflected in the state bid price due to the higher number of
11 buses being purchased and the lag time between the ordering and delivery. The Department of Education
12 shall continue to utilize the procedures developed in Fiscal Year 1989 for determining the allowable cost
13 for any size bus that it did not bid in Fiscal Year 1999. In addition to the procedure for establishing the
14 allowable cost of a new bus specified above, the Department of Education is requested to structure its bids
15 for buses in the fiscal year ending June 30, 2000, in such a manner that public school bus contractors will
16 be permitted to purchase buses from the successful lower bidder at the same price as the State of Delaware.
17 If a contractor elects to purchase a bus at the bid price, that bid price minus two percent for salvage value
18 will be the allowable cost in subsequent reimbursements to the contractor.

19 (4) The formula rate for reimbursing public school bus contractors for the cost of liability insurance shall be
20 determined by the Department of Education in consultation with the Insurance Commissioner based on the
21 data available on April 30 of the previous fiscal year.

22 (c) The Department of Education shall amend its transportation formula to permit replacement of a vehicle which has
23 operated 100,000 school-related miles and is seven model-years old or a vehicle which has operated 150,000 school-related
24 miles regardless of the age of the vehicle.

25 (d) The Department of Education is authorized to amend its formula to allow the purchase of diesel-powered buses as
26 the minimum standard in those sizes where gasoline-powered buses are no longer available.

27 (e) Except as specified in this Section, or for changes in the price of gasoline, or for the adjustments of those items
28 changed by state or federal laws, the Department of Education shall not change the transportation formula unless the change
29 has been authorized by the General Assembly and an appropriation therefore has been made by the General Assembly.

(f) The Department 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 Department 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 6.7 miles-per-gallon.

(h) Of the appropriation allocated for public school districts, \$64.0 is allocated to purchase a maximum of eight air conditioned buses to transport special need students. The Department of Education is authorized to amend its formula to allow the purchase of air conditioned buses which may be required to transport special education students that have a medical need for air conditioning (specified by a physician), and that go to a special education school.

Section 367. (a) During the fiscal year ending June 30, 2000, the Department of Education 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.

- 1 (10) Students attending Smyrna Middle School who reside in the Sunnyside Acres area between Sunnyside Road
2 and U.S. 13 and who would otherwise be required to walk along U.S. 13 in order to reach school.
- 3 (11) Students attending the Concord High School who live south of Naamans Road in the Talleybrook-Chalfonte,
4 Brandywood, Brandon and Beacon Hill areas who must walk along Grubb and/or Naamans Road with a
5 constant threat of injury.
- 6 (12) Students attending Richardson Park School and Conrad Junior High School who live on Brookside Drive.
- 7 (13) Students attending the Laurel Elementary Schools in Grades K-6 who live in the Town of Laurel and the
8 surrounding areas.
- 9 (14) Students attending Dover High School who live in Old Sherwood, south of Waples Avenue.
- 10 (15) Students attending the Mt. Pleasant Elementary School, who would be forced to walk along Bellevue Road.
- 11 (16) Students attending the Mt. Pleasant Elementary School, who would be forced to cross over and/or walk along
12 River Road between Lore and Bellevue.
- 13 (17) Students attending the Douglas Kindergarten Center, who would be forced to walk along Route 2 (Union
14 Street) or through Canby Park via the paths, with a constant threat of injury.
- 15 (18) K-3 - New Todd Estates Development to Jeannie Smith - because of hazards of Route 4 at Pierson Drive
16 intersection.
- 17 (19) Children living in West Wilmington Manor who walk to Wilmington Manor Elementary School.
- 18 (20) Woodbridge Elementary School students living in the town of Greenwood, west of the railroad tracks.
- 19 (21) Woodbridge Jr./Sr. High School students living on Route 13A from Route 13 north of Bridgeville to
20 Bridgeville north of town limits including streets with access to that part of Route 13A.
- 21 (22) Talley Jr. High School students who reside in the Ashburn Hills, Greentree, Stoney Brook areas, students who
22 reside in the Woodacre Apartments and students who live along Peachtree Road.
- 23 (23) Springer Middle School students residing in Eden Ridge III, Tavistock, Sharpley and Eden Ridge who must
24 cross Concord Pike.
- 25 (24) Indian River High School students who live east of Bedford Street.
- 26 (25) Smyrna Elementary School students who reside in the proximity of 4272 Judith Road.
- 27 (26) Students attending Eisenberg Elementary School who reside in the Castle Hills residential area.
- 28 (27) Students attending Castle Hill Elementary School who reside in the Swanwyck area.
- 29 (28) Lombardy Elementary School students who must cross Foulk Road.
- 30 (29) Central Middle School students who reside in the vicinity of 1508 Dinahs Corner Road.

1 (30) Students attending the Colwyck Elementary School who live in the Landers Park and Swanwyck Gardens
2 residential areas.

3 (31) Students attending Central Middle School, living in the area south of Kent General Hospital, to include
4 students living along and south of Westview Terrace, Dover Street, Hope Street and Sackarackin Avenue.

5 (32) Students of the Appoquinimink School District who reside in Odessa Heights.

6 (33) Students attending Brandywine High School who live in Concord Manor and are forced to walk along Shellpot
7 Drive and Windley Hill.

8 (34) Students attending Clayton Elementary, North Elementary or the Bassett Middle School in the Smyrna School
9 District who live on Buresch Drive.

10 The transportation of the students specified herein shall continue until the funds requested are appropriated and
11 construction is completed. Spur routes shall continue to be served as at present.

12
13 Section 368. During the fiscal year ending June 30, 2000, the Department of Education will continue and broaden
14 implementation of the computerized routing system for school bus transportation. During this implementation, the Department
15 is directed to continue to provide bus transportation services to any residential area which has received transportation services
16 since October 1, 1977.

17
18 Section 369. The National Highway Traffic Safety Administration (NHTSA) is conducting a two-year research
19 program to consider alternative methods of potentially improving federal school bus passenger crash protection requirements.
20 Based upon NHTSA's report, the Department of Education will recommend changes to the Delaware school bus specifications
21 so that all school buses will continue to be in compliance with federal safety standards.

22
23 Section 370. During the fiscal year ending June 30, 2000, the Department of Education is hereby directed that students
24 attending the Woodbridge School District, who live in the Canterbury Apartments in Bridgeville, will embark and disembark in
25 the parking lot of the apartment complex in lieu of the bus stop area along the heavily traveled U.S. 13.

26
27 Section 371. Section 1 of this Act appropriates \$51,916.5 to Pupil Transportation (95-04-00) for Public School
28 Transportation. Notwithstanding the provisions of Title 21, Chapter 43, Section 4366, Delaware Code, the following
29 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 Education 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 372. 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 373. 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 Department 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 374. Section 1 of this Act makes an appropriation to the Delaware Higher Education Commission (95-08-01) in the amount of \$2,072.6 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; \$180.0 shall be used for the FAME Scholarship Program; \$25.0 shall be used for the MERIT Scholarship Program; \$50.0 shall be used for the Professional Librarian/Archives Incentive Program. Any Herman M. Holloway Sr. Scholarship Program funds remaining after payment of the Holloway Scholarships, may be awarded to Delaware State University students with financial need who applied to the Scholarship Incentive Program.

1
2 Section 375. The Delaware Higher Education Commission (DHEC) in the initial award cycle of the SCIP program
3 shall not exceed 120 percent of the annual SCIP appropriation. Funds unused in any given fiscal year may be carried over into a
4 reserve account to be utilized for SCIP awards in the subsequent year. For Fiscal Year 2000, DHEC in consultation with the
5 Department of Education will develop an enhanced reporting/monitoring system and develop policy guidelines for the
6 administration of this program. DHEC, with approval of the Department of Education, shall submit this policy and potential
7 recommended changes to the Budget Director and Controller General no later than January 1, 2000.

8
9 Section 376. Section 1 of this Act makes an appropriation to the Delaware Higher Education Commission (95-08-01)
10 in the amount of \$2,072.6 for scholarships and grants. Of that amount, \$9.7 shall be used for the Charles L. Hebner Scholarship
11 Program per the provisions of House Bill No. 109 of the 140th General Assembly or similar legislation. If this bill or similar
12 legislation is not enacted, the appropriation shall revert to the General Fund of the State of Delaware.

13
14 Section 377. Section 1 of this Act appropriates \$600.0 to the Department of Education, Delaware Higher Education
15 Commission (95-08-01) for Delaware Student Testing Program Scholarships, to be named the Michael C. Ferguson
16 Achievement Awards. This scholarship program, required by the Education Accountability Act of 1998, will recognize students
17 who demonstrate superior performance on the assessments administered pursuant to 29 Del. C. §151(b) and (c). A total of 600
18 scholarships at \$1,000 each will be awarded to students annually in the following manner: the students with the 150 highest
19 scores on DSTP without reference to any other indicators of performances and the students with the 150 highest scores on DSTP
20 who participate in free and reduced lunch programs in grades eight and ten. The Department of Education will promulgate rules
21 and regulations to implement this program. Awards will be deposited on behalf of the recipient in the Delaware College
22 Investment Plan.

23
24 Section 378. During the fiscal year ending June 30, 2000, the Department of Education, with the approval of the State
25 Board of Education, is authorized to establish and maintain procedures, by regulation pursuant to Section 3110 (c) of Title 14,
26 Delaware Code, for the conduct of expedited due process hearings which shall be available to children with disabilities and their
27 parents where required by federal or state law, and/or Departmental regulation. For the purposes of such expedited due process
28 hearings, during the fiscal year ending June 30, 2000 the Department of Education is authorized to engage the professional
29 services of a cadre of single hearing officers to preside over such hearings.
30

1 Section 379. The Department of Education is authorized to operate a donated leave program beginning in the fiscal
2 year ending June 30, 2000. Such donated leave program shall conform, to the extent practicable, to the provisions of Section
3 5956, Title 29, Delaware Code.

4
5 Section 380. Section 1 of this Act appropriates \$1,098.8 to the Delaware Center for Education Technology (DCET).
6 It is the intent of the General Assembly that DCET be responsible for and engage in activities related to total project needs
7 and budgets for statewide education technology projects, the establishment of cost-sharing policies the initiation,
8 procurement and maintenance of statewide education technology contracts, implementation on an on-going basis of
9 professional training programs related to statewide education technology and providing technical assistance to the
10 Department of Education for the initiation of system-wide applications including administrative and curriculum development.

11
12 Section 381. Charter schools for which Fiscal Year 2000 shall be their first year of operation shall be eligible to receive
13 an amount equal to \$597.96 per full-time professional employee as determined by the September 30 unit count. The funds shall
14 come from the General Contingency and be used in a manner consistent with the funds provided to local school districts for
15 Technology for Staff and Students by the FY 1999 Capital Improvement Act.

16
17 Section 382. During Fiscal Year 2000, the Delaware Center for Education Technology (DCET) shall review and make
18 recommendations for the long-term maintenance and support of the statewide education telecommunications network. A report
19 with recommendations and a potential timeline for implementation shall be issued to the Budget Director and Controller General
20 no later than December 1, 1999.

21
22 Section 383. For the fiscal year ending June 30, 2000, no person shall serve as the member of a charter school board of
23 directors who is an elected member of a local school board of education.

24
25 Section 384. Amend Section 1321(e)(18), Title 14, Delaware Code by adding a sentence at the end to read as follows:
26 "This position is included in the total number of custodial personnel allowed."

SYNOPSIS

This Bill is the Fiscal Year 2000 Appropriation Act.

CHAPTER 95

FORMERLY

HOUSE BILL NO. 170

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE PLANE COORDINATE SYSTEM.

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

Section 1. Amend Chapter 55, Title 6, Delaware Code by deleting said chapter in its entirety, and inserting in lieu thereof the following:

"CHAPTER 55. PLANE COORDINATE SYSTEM.

§ 5501. Delaware Coordinate System.

The Systems of plane coordinates which have been established by the National Ocean Service/National Geodetic Survey (formerly the United States Coast and Geodetic survey) or its successors for defining and stating the geographic positions or locations of points on the surface of the Earth within the State of Delaware are hereafter to be known and designated as the Delaware Coordinate System of 1927 and the Delaware Coordinate System of 1983, respectively.

§ 5502. Definition of Delaware Coordinate System.

(a) For defining the Delaware Coordinate System of 1927, the following definition by the National Ocean Service/National Geodetic Survey (formerly the United States Coast and Geodetic Survey) is adopted:

The 'Delaware Coordinate System of 1927' is a transverse Mercator projection of the Clarke spheroid of 1866, having a central position meridian 75°25' west of Greenwich, on which meridian the scale is set at one part in 200,000 too small. The origin of the coordinates is at the intersection of the meridian 75°25' west of Greenwich and the parallel 38°20' north latitude. This origin is given the coordinates: $x = 500,000$ feet and $y = 0$ feet.

(b) For defining the Delaware Coordinate System of 1983, the following definition by the National Ocean Service/National Geodetic survey is adopted:

The 'Delaware Coordinate System of 1983' is a transverse Mercator projection of the North American Datum of 1983, having a central meridian 75°25' west of Greenwich, on which meridian the scale is set at one part in 200,000 too small. The origin of coordinates is at the intersection of the meridian 75°25' west of Greenwich and the parallel 38°00' north latitude. This origin is given the coordinates: $N = 0$ meters and $E = 200,000$ meters.

§ 5503. Description of plane coordinates.

The plane coordinate values for a point on the Earth's surface, used to express the geographic position or location of such point in the appropriate zone of this system, shall consist of two distances, expressed in U. S. Survey Feet and expressed in meters and decimals of a meter when using the Delaware Coordinate System of 1983. When using the Delaware Coordinate System of 1927, one of these distances, to be known as the 'x-coordinate,' shall give the position in an east-and-west direction; the other, to be known as the 'y-coordinate,' shall give the position in a north-and-south direction. When using the Delaware Coordinate System of 1983, one of the distances, to be known as the 'northing,' of 'N,' shall give the position in a north-and-south direction; the other, to be known as the 'easting' or 'E,' shall give the position in an east-and-west directional. In both cases these coordinates shall be made to depend upon and conform to plane rectangular coordinate values for the monument points of the North American National Geodetic Horizontal Network as published by the National Ocean Service/National Geodetic survey (formerly the United States Coast and Geodetic Survey) or its successors, and whose plane coordinates have been computed on the systems defined in this chapter. Any such station may be used for establishing a survey connection to either Delaware Coordinate System. The unit used to convert feet to meters shall be the United States survey foot, which is 39.37/12 feet for each meter.

§ 5504. Triangulation or traverse stations.

The position of the Delaware Coordinate System shall be as marked on the ground by Global Positioning System (GPS) of horizontal control stations established in conformity with standards adopted by the North American National Geodetic Horizontal Network as published by the National Ocean Service/National Geodetic Survey (formerly the United States Coast and Geodetic Survey) for first-order and second-order work, whose geodetic positions have been rigidly adjusted on the North American Datum of 1927 or the North American Datum of 1983, and whose coordinates have been computed on the systems defined in this chapter. Any such station may be used for establishing a survey connection with either Delaware Coordinate System.

§ 5505. Standard for recording coordinates in public records.

No coordinates based on either Delaware Coordinate System, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless such point is established in conformity with the standards of accuracy and specifications for first- or second- order geodetic surveying as prepared and published by the Federal Geodetic Control Committee (FGCC) of the United States Department of Commerce. Standards and specifications of the FGCC or its successor in force on the date of said survey shall apply. Publishing existing control stations, or the acceptance with intent to publish the newly established stations, by the National Ocean Service/National Geodetic Survey, shall constitute evidence of adherence to FGCC specifications. To meet local conditions, these limitations may be modified by the Secretary of the Department of Transportation in compliance with Chapter 101 of Title 29, Delaware Code, after consultation with the Office of State Planning Coordination, the Delaware Geographic Data committee, and the State Mapping Advisory Committee.

§ 5506. Use of term 'Delaware Coordinate System'.

As established for use, the Delaware Coordinate System of 1927 or the Delaware Coordinate System of 1983 shall be named; and in any land description in which it is used, it shall be designated the 'Delaware Coordinate System of 1927' or 'Delaware Coordinate System of 1983,' as applicable.

The use of the term 'Delaware Coordinate System of 1927' or 'Delaware Coordinate System of 1983' on any map, report of survey, or other document shall be limited to coordinates based on the Delaware Coordinate System as defined in this chapter.

§ 5507. Reliance on description.

(a) For purposes of describing the location of any survey station or land boundary corner in the State of Delaware, it shall be considered a complete, legal, and satisfactory description of such location to give the position of said survey station or land boundary corner on the system of plane coordinates defined in this chapter.

(b) Nothing contained in this chapter shall require a purchaser or mortgagee of real property to rely wholly on a land description, any part of which depends exclusively upon either Delaware Coordinate System.

(c) Nothing contained in this chapter shall require the exclusive use of the metric system as a descriptive element of official maps.

§ 5508. Transitional use of Delaware Coordinate System of 1927; effective date of exclusive use of Delaware Coordinate System of 1983.

The Delaware Coordinate System of 1927 shall not be used after a period beginning twelve months after the effective date of this act. Beginning on the date twelve months after the effective date of this act, the Delaware Coordinate System of 1983 shall be the sole system of plane coordinates used in this state."

Section 2. This Act shall not require revisions to maps or other documents accepted for recording before the effective date of this Act.

Approved July 01,1999

CHAPTER 96
FORMERLY
HOUSE BILL NO. 220

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE EXTREMELY
HAZARDOUS SUBSTANCES RISK MANAGEMENT ACT.

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

AMEND § 7714, Title 7 of the Delaware Code by deleting § 7714 in its entirety and substituting in lieu thereof the following:

"§ 7714. Violations and penalties.

(a) Whoever violates this chapter or any rule or regulation duly promulgated thereunder, shall be punishable by a civil penalty imposed by Superior Court of not less than \$1,000 nor more than \$10,000 per day per violation. In addition, the Secretary may seek injunctive or other relief in Chancery Court.

(b) (1) In his discretion, the Secretary may impose an administrative penalty of up to \$10,000 per day of violation whenever the Secretary determines that any person has failed to submit a complete risk management plan as required by § 7708 of this title or does not have a substantially complete risk management program in place as required by § 7709 of this title or does not comply with any provision of this chapter or rule or regulation duly promulgated thereunder. The Secretary may order those operations that present a real and imminent hazard to cease, after notification to the responsible person(s).

(2) Prior to assessment of an administrative penalty, written notice of the Secretary's proposal to impose such a penalty shall be given to the responsible person(s), and the responsible person(s) shall have 30 days from receipt of the notice to request a public hearing. Any public hearing, right of appeal and judicial appeal shall be conducted pursuant to § 7716 of this title. The amount of the administrative penalty shall be determined based on the nature, circumstances, extent and gravity of the violation or violations, and such other matters as justice may require.

(3) In the event of nonpayment of the administrative penalty after all legal appeals have been exhausted, a civil action may be brought by the Secretary in a court of competent jurisdiction for the collection of the administrative penalty, including interest, attorney's fees and costs. The validity and appropriateness of such administrative penalty shall not be subject to review.

(c) Any person who knowingly violates any applicable requirement of this chapter or of a risk management program or any person who knowingly makes a false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this chapter, or under any rule, regulation or order issued under this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction be subject to a criminal fine of not more than \$25,000 per day per violation, or imprisonment for 1 year, or both. The Superior Court shall have jurisdiction of offenses under this subsection. The Secretary may order those operations that pose a hazard to the public to cease.

(d) Any expenses or civil or administrative penalties collected by the Department under this section are hereby appropriated to the Department to carry out the purposes of this chapter."

Approved July 01, 1999

CHAPTER 97

FORMERLY

HOUSE BILL NO. 274

AN ACT TO AMEND CHAPTER 63, TITLE 21 OF THE DELAWARE CODE RELATING TO MOTOR VEHICLE AUCTIONS.

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

Section 1. Amend §6308, Chapter 63, Title 21 of the Delaware Code by striking the figure "10" as the same appears in the first sentence of subsection (e), and substituting the figure "30" in lieu thereof.

Approved July 01,1999

CHAPTER 98

FORMERLY

HOUSE BILL NO. 167
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO STATE POLICE.

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

Section 1. Amend Section 8301, Chapter 83, Title 11 of the Delaware Code by deleting the phrase "600. nor less than 525," as it appears in the fifth sentence of Section 8301 and substituting in lieu thereof the phrase "700. nor less than 580,".

Approved July 01,1999

CHAPTER 99

FORMERLY

HOUSE BILL NO. 188

AN ACT TO AMEND CHAPTER 108, VOLUME 62 OF THE LAWS OF DELAWARE REGARDING THE BOUNDARIES OF THE WARNER-GRANT TRUST LANDS.

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

Section 1. Amend Section 2 of Chapter 108, Volume 62 of the Laws of Delaware, by inserting the following language as a separate paragraph immediately after the paragraph "Containing 3,200 acres more or less of land (by scale)" appearing therein:

"EXCLUDING THEREFROM those certain parcels of real property, depicted upon Sussex County Tax Map 3-35-9, Parcels 13 and 13.01 (owned by and assessed to Hazell M. Smith) and that certain parcel of real property depicted upon Sussex County Tax Map 3-35-9, Parcel 13.02 (owned by and assessed to Gills Neck Realty Co.), the said parcels also being depicted upon a certain plat entitled "Plat of the Lands of Fish Products Co." dated November 20, 1948 and recorded in the Office of Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware in Plot Book 1, Page 63, said lands being depicted thereon on the South side of Old Lewes Creek, and on the North side of the Lewes-Rehoboth Canal."

Approved July 01, 1999

CHAPTER 100

FORMERLY

HOUSE BILL NO. 51

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION.

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

Section 1. Amend Section 3325, Title 19 of the Delaware Code, by striking the words "interest on fraud overpayments" as they appear after the phrase "following manner; first," in the fourth sentence of the last undesignated paragraph therein and by substituting in lieu thereof the phrase "principal on fraud overpayments in oldest to newest outstanding indebtedness order".

Section 2. Amend Section 3325, Title 19 of the Delaware Code, by striking the words "principal on fraud overpayments in oldest to newest outstanding indebtedness order" as they appear after "second," in the fourth sentence of the last undesignated paragraph therein and by substituting in lieu thereof the phrase "interest on fraud overpayments".

Section 3. This Act shall be effective upon enactment and shall apply to all unemployment insurance benefits fraud overpayments established prior to and subsequent to the date of enactment.

Approved July 01, 1999

CHAPTER 101

FORMERLY

HOUSE BILL NO. 215
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES TAXES.

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

Section 1. Amend § 5501(1) a. of Title 30 of the Delaware Code, by striking subparagraph (iii) in its entirety and substituting in lieu thereof the following:

"(iii) intrastate telephone services (which shall be interpreted to include intrastate commercial mobile radio services but shall not include electronic paging services) and telegraph communication services; and".

Section 3. Amend § 5501, Title 30 of the Delaware Code, by re-designating subsection (6) as subsection (7) and by adding thereto a new subsection (6) to read as follows:

"(6) 'Intrastate commercial mobile radio services' shall mean communication services that originate and terminate in Delaware utilizing a network of radio receivers and transmitters organized as 'cells' for the receipt and relay of voice or other source signals to or from instruments, whether or not the signals are also transmitted through fixed lines or wires, but shall not include electronic paging services. The origin of intrastate cellular communication service shall be determined by the location of the first cell site from which a call is initiated or, with the permission of the Director of Revenue, by any other reasonable means."

Section 4. Amend § 5506(e), Title 30 of the Delaware Code, by adding to the end of said subsection the following sentence:

"There shall be a presumption that all cellular communication services are provided to nonresidential consumers or users unless it can be demonstrated that the services are charged to a service address which is a residence and which has no other telephone service. Such presumption may be rebutted by the consumer a showing to the Division of Revenue that the use of the service took place inside the user's or consumer's residence."

Section 5. This Act shall be effective for tax periods commencing after February 29, 1992.

Section 6. The enactment of this legislation shall create no implication with respect to the services or charges therefore subject to taxation hereunder prior to the date of the enactment of this legislation. The Director shall have the authority to apply the provisions of this Act, within his sound discretion, to such issues as activation, access, and usage charges.

Approved July 01,1999

CHAPTER 102
FORMERLY
HOUSE BILL NO. 401

AN ACT MAKING APPROPRIATIONS FOR CERTAIN GRANTS-IN-AID FOR THE FISCAL YEAR ENDING JUNE 30, 2000; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AMENDING THE FISCAL YEAR 2000 APPROPRIATIONS ACT; AND AMENDING 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. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

Accounting

<u>Code</u>	<u>Organization/Description</u>	<u>Amount</u>
	<u>Dept. of Health & Social Services</u>	
(35-01-10)	Office of Secretary	
	Adolescent Program	\$ 623,520

(35-05-30)	Emergency Medical Services	
	Paramedic Program Operations	\$ 7,174,400

Accounting

<u>Code</u>	<u>Organization/Description</u>	<u>Amount</u>
(35-14-01)	<u>Services for Aging & Adults with Physical Disabilities</u>	
	<u>Senior Center</u>	
	Absolom Jones Senior Center	\$ 161,621
	Brandywine Senior Center	174,650
	Bridgeville Senior Center	98,179

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Cape Henlopen Senior Center	158,754
Chesapeake and Delaware Senior Center	104,220
Clarence Fraim Senior Center of Delaware, Inc.	146,745
Claymore Senior Center	
(formerly St. Hedwig's Senior Center, Inc.)	187,977
Cornerstone Senior & Elder Care Center, Inc.	78,391
DeLaWarr Senior Center	175,650
Frederica Adult Center, Inc.	140,773
Georgetown CHEER Center	57,864
Graham Senior Center, Inc.	
(formerly St. Ann's Neighborhood Services, Inc.)	99,093
Greenwood CHEER Senior Center	68,655
Harrington Senior Center, Inc.	81,615
Harvest Years Senior Center, Inc.	69,591
Howard J. Weston Community & Senior Center, Inc.	288,711
Huling Cove CHEER Center	130,828
Indian River Senior Center, Inc.	121,272
Jewish Community Center, Senior Center	86,784
Jimmy Jenkins Senior Center	79,266
Laurel Senior Center, Inc.	169,698
Lewes Senior Citizens Center, Inc.	59,447
Lillian Smith Senior Center	55,246
Los Abuelos Center	43,939
M.O.T. Senior Citizen Center, Inc.	172,280
Mamie A. Warren Maturity Center, Inc.	138,816
Mid-County Senior Center, Inc.	174,013
Milford Senior Center, Inc.	122,114
The Modern Maturity Center, Inc.	290,737
Nanticoke Indian Elder CHEER Center	66,713
Nanticoke Senior Center, Inc.	143,703
New Castle Senior Center	106,693
Newark Senior Center, Inc.	224,667
Northeast Senior Center, Inc.	75,983
Oak Grove Senior Center, Inc.	171,786
Oak Orchard CHEER Center	96,411
Ocean View Leisure Center	64,365
Peoples Settlement - Senior Citizens Program	66,910
Roxana CHEER Senior Center	68,655
St. Anthony's Senior Center	113,874

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St. Patrick's Center, Inc.	128,213
St. Peter's Adult Center, Inc.	99,433
St. Thomas Senior Center, Inc.	114,464
The Salvation Army Senior Center (formerly Julia Tallman Golden Age Center)	72,831
Sellers Senior Center, Inc.	116,653
Slaughter Neck CHEER Center	68,655
South Wilmington Senior Adult Center	37,246
<u>Senior Center (continued)</u>	
West Center City Adult Center, Inc.	\$ 85,031
Wilmington Senior Center, Inc.	161,659

Department of Public Safety

(45-01-01)	Office of Secretary - Administration	
	Local Police Coordination	\$ 62,000
	Aid to Local Law Enforcement	<u>625,000</u>
	TOTAL - Section 1	<u>\$ 14,305,794</u>

Section 2. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Category/Description</u>	<u>Amount</u>
<u>One-Time Items:</u>	

Delaware Humanities Council, Inc.	\$ 18,000
Delaware Volunteers for Adolescent Pregnancy	5,000
Department of Public Safety - Aid to Local Law Enforcement	1,400,000
Latin American Community Center - Jubilee Celebration	15,000
Millville Volunteer Fire Co., Inc.	4,290
Richardson Park Community Action Program, Inc. - Van	16,000
Slam Dunk To The Beach	45,000
State Fire Prevention Commission	82,500

Arts/Historical/Cultural/Tourism

Afro-American Historical Society of Delaware, Inc.	\$ 26,250
Associated Community Talents, Inc.	20,000
City of New Castle - Separation Day	18,900

Delaware Academy of Science, Inc. - Iron Hill Museum	16,800
Delaware Agricultural Museum Assoc., Inc.	45,000
Delaware Center for Horticulture, Inc.	32,000
Delaware Children's Museum	5,000
Delaware City Day Committee	26,775
Delaware Greenways, Inc.	
(formerly Northern Delaware Greenway Council, Inc.)	22,000
Delaware Humanities Council, Inc.	52,500
Delaware Museum of Natural History	10,000
Delaware Nature Society, Inc.	38,850
Delaware Sports Hall of Fame	5,000
Delaware State Fair, Inc.	150,000
Delaware State Police Museum, Inc.	21,000
Duck Creek Historical Society, Inc.	6,500
First Night Dover, Inc.	5,000
First Night Wilmington, Inc.	7,500
Fort Delaware Society	10,500
Friends of Wilmington Parks	
(formerly Friends Society of Brandywine Park)	11,500
Georgetown Historical Society	17,325
Greater Harrington Historical Society	20,720

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Arts/Historical/Cultural/Tourism (continued)

Historic Red Clay Valley, Inc.	
Wilmington & Western Railroad	\$ 18,900
The Historical Society of Delaware	82,000
Kalmar Nyckel Foundation	17,000
Milford Historical Society	2,500
Millsboro Historical Society	2,500
Milton Historical Society	1,000
Miss Delaware Scholarship Pageant, Inc.	7,900
Nanticoke Indian Association, Inc.	14,000
New Castle Historical Society	7,350
New Sweden Center	5,000
Preservation Delaware	25,000
Quaker Hill Historical Preservation Foundation	4,000
Seaford Historical Society, Inc./Seaford Museum	4,000
Sister Cities of Wilmington	6,000
Smyrna-Clayton Heritage Association	3,000
Sussex County Return Day, Inc.	9,000
WHYY, Inc.	550,148

Aging - Other

Boys & Girls Clubs of Delaware, Inc.	\$ 80,000
Catholic Charities, Inc./HERO	45,500
Creative Grandparenting, Inc.	27,500
Summer of Respect - Year Round,	
Creative Grandparenting, Inc.	100,000
Delaware Senior Olympics	30,000
Generations Home Care, Inc.	
(formerly Geriatric Services of Delaware, Inc.)	170,000
Georgetown CHEER Senior Services - Homebound Meals	7,000
Greenwood CHEER Senior Services - Homebound Meals	7,000
Harvest Years Senior Center	12,000
Meals on Wheels Delaware	5,000
Meals on Wheels of Lewes and Rehoboth, Inc.	55,000
Modern Maturity Center, Inc. - Meals on Wheels	26,000
Nanticoke Senior Center	7,000
Nanticoke Senior Center - Physical Fitness	5,250

Newark Senior Center	12,000
Northeast Community Creative Grandparenting, Inc.	21,000
Oak Orchard CHEER Senior Services - Homebound Meals	12,000
Roxana CHEER Senior Services - Homebound Meals	12,000
St. Anthony's Senior Center	25,000
St. Patrick's Center - Grocery Distribution	6,000
Slaughter Neck CHEER Senior Services - Homebound Meals	12,000
Sussex County Senior Services, Inc.	55,000
Sussex County Senior Services - Cheermobile Mini Market	13,150
William "Hicks" Anderson Community Center	
- Senior Physical Fitness Program	8,500

Handicapped/Health/Labor

Adult Special Education Program, Inc.	\$ 57,850
AHEDD, Inc. - Dover/Wilmington	59,220
AIDS Delaware	13,650

Handicapped/Health/Labor (continued)

Alliance for the Mentally Ill in Delaware	\$ 69,300
American Cancer Society, De. Division, Inc.	38,640
American Diabetes Assoc. - Delaware Affiliate, Inc.	11,650
American Heart Association, Delaware Affiliate, Inc.	2,205
Arthritis Foundation, Delaware Chapter	23,600
Association for the Rights of Citizens with Mental Retardation in Delaware	13,125
Brain Injury Association of Delaware, Inc.	8,490
Career Exploration Program, Inc.	46,200
Center for Community Education	6,300
Connections CSP, Inc.	5,250
Delaware Association for Blind Athletes	7,720
Delaware Association for the Blind	59,850
Delaware Association for Rehabilitation Facilities	2,760
Delaware Breast Cancer Coalition	13,125
Delaware Cancer Pain Initiative, Inc.	5,200
Delaware Center for Wellness, Inc.	62,510
Delaware Chapter Alzheimer's Association	15,750
Delaware Elwyn, Inc.	26,460
Epilepsy Foundation of Delaware	23,100

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Delaware Foundation for Retarded Children	5,250
Delaware HIV Consortium	4,000
Delaware Hospice, Inc.	215,000
Delaware/Maryland Paralyzed Veterans Assoc., Inc.	42,000
Delaware Mental Health Consumer Coalition, Inc.	6,065
Delaware Special Olympics	26,705
Easter Seals Delaware & Maryland's Eastern Shore	110,250
First State Project with Industry	2,750
Goodwill Industries of Delaware & Delaware Co., Inc.	9,000
Independent Resources, Inc.	2,625
Institute for Development of Human Resources	24,000
Jobs for Delaware Graduates, Inc.	242,250
Kent/Sussex Industries, Inc.	81,900
Mancus Foundation	44,765
Mary Campbell Center, Inc.	141,000
Mental Health Association in Delaware, Inc.	25,410
National Multiple Sclerosis Society	14,700
Opportunity Center, Inc.	17,325
Parent Information Center of Delaware, Inc.	8,505
Perinatal Association, Inc.	23,100
Ronald McDonald House of Delaware	37,000
Tressler Centers of Delaware	5,250
W. E. Tobin Foundation for the Visually Impaired	5,250
Westside Health, Inc.	
(formerly Delaware Nursing Centers, Inc.)	31,500
Westside Health, Inc.	4,000
Wellness Community - Delaware	12,600
Wilmington Employment Corps	5,250

Family and Youth Services

Residential Treatment

Aid-in-Dover, Inc.	\$ 62,475
Children's Home, Inc.	58,810

Residential Treatment (continued)

Diamond State Youth, Inc.	\$ 123,300
Home for Aged Women - Minquadales Home, Inc.	24,000
Independent Living, Inc.	115,000

Layton Home for Aged Persons	205,000
Milton & Hattie Kutz Home, Inc.	6,000
The Shepherd Place, Inc.	42,000

Other

Because We Care, Inc.	\$ 53,000
Big Brothers/Big Sisters of Delaware, Inc.	60,500
Boy Scouts of America, De-Mar-Va Council, Inc.	3,000
Boy Scouts of America, De-Mar-Va Council, Inc. - Sussex Co.	8,000
Boys & Girls Clubs of Delaware, Inc.	108,100
Boys & Girls Clubs of Delaware, Inc. - Building Safe Communities	250,000
Bridgeville Community Action, Inc.	3,150
Camp Barnes, Inc.	33,600
Central Delaware Branch of YMCA	33,075
Child, Inc.	103,855
Children & Families First	490,000
Community Outreach & Prevention Education	5,000
Dave Tiberi Youth Center	3,675
Delaware Children's Trust Fund	16,380
Delaware Ecumenical Council on Children & Families	2,100
Delaware Guidance Services for Children & Youth, Inc.	206,700
Delaware Parents Association, Inc.	20,900
Delaware Volunteer Legal Services, Inc.	25,000
Delawareans United To Prevent Child Abuse	48,900
Diamond State Classic	6,000
The Family & Workplace Connection	155,000
Harrison House Community Programs, Inc.	12,000
Interfaith Housing Delaware, Inc.	17,535
Jewish Family Service of Delaware, Inc.	51,365
LPGA Urban Youth Golf Program	65,000
Lutheran Community Services, Inc.	13,545
Lutheran Community Services, Inc. - Life Food Pantries	1,260
National Council on Agricultural Life and Labor Research Fund, Inc.	44,500
New Hope Recreation and Development Center	17,555
Northern Delaware Youth for Christ, Inc.	13,125
PAL of Delaware	23,640
People's Place II, Inc.	122,850
"Slam Dunk to the Beach" - National Holiday	

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Basketball Invitational	75,000
SOAR, Inc.	18,750
Stormin's Classic	100,000
Supporting K.I.D.D.S.	18,270
United Cerebral Palsy of Delaware, Inc.	84,240
Volunteers for Adolescent Pregnancy Prevention	12,600
Young Life Campaign	2,625
Youth Guidance Program	21,840

Alcohol/Drug Abuse

The 1212 Corporation	\$ 38,590
Addictions Coalition of Del., Inc.	30,870
ANKH, Inc.	34,650
Brandywine Counseling, Inc.	15,750
Center for Pastoral Care	48,825
City of Dover Police Department, Substance Abuse Prevention Program	27,300
Delaware Association for Children of Alcoholics	30,450
House of Pride	23,100
Kent/Sussex County Counseling Services	1,000
Limen House, Inc.	57,000
New Castle County Community Partnership, Inc.	1,000
Open Door, Inc.	174,300
Peoples Settlement Association	33,600
Resource Center of the YMCA of Delaware	69,300
Sojourners' Place, Inc.	36,750

Neighborhood/Community Services

A Door of Hope, Inc.	\$ 37,500
American Chemical Society - SEEDelaware	5,250
American Red Cross in De. - Emergency/Disaster Services	52,500
American Red Cross in De. - Emergency Response Training	11,550
American Red Cross in De. - Military/Social Services	12,500
American Red Cross in De. - Transportation	16,800
Better Homes of Seaford, Inc.	19,950
Brandywine Community Resource Council, Inc. (formerly Claymont Community Council, Inc.)	322,350

Cab Calloway Foundation	17,000
Casa San Francisco	71,400
Chesapeake Bay Girl Scout Council, Inc.	43,050
Civil Air Patrol, Delaware Wing	22,000
Claymont Community Center - Knollwood	31,150
Community Design Center	22,050
Community Legal Aid Society, Inc.	131,250
CONTACT Delaware, Inc.	93,450
Delaware Aerospace Education Foundation	11,550
Delaware Center for Justice (formerly Delaware Council on Crime and Justice)	12,600
Delaware Chapter - People to People International	4,200
Delaware Coalition for Literacy	1,000
Delaware Community Reinvestment Action Council, Inc.	5,565
Delaware Crime Stoppers, Inc.	19,400
Delaware Crop Improvement Association	2,000
Delaware Housing Coalition	32,550
Delaware Humane Association, Inc.	14,175
Delaware Mentor Program	18,900
Delaware Partners of the Alliance	6,825
Delaware Rural Water Association	13,650
Delaware Safe Kids Coalition	8,400
Delaware Safety Council, Inc.	48,300
Delaware Teachers Academy for Service Learning	21,000
Delaware Wrestling Alliance, Inc.	6,825
Delmarva Clergy United in Social Action, Inc.	\$ 7,875
Delmarva Rural Ministries, Inc.	33,075
Domestic Violence Project	11,000
Dover Housing Development Corp.	5,880
Eastlawn Area Human Services, Inc.	72,975
Eastside Citizens, Inc.	28,665
Edgemoor Community Center, Inc.	244,650
Elizabeth W. Murphy School, Inc.	15,750
Elsmere Recreation, Inc.	192,675
First State Community Action Agency, Inc.	52,500
First State Community Loan Fund	5,775
First State Resource Conservation & Dev. Council, Inc.	27,560
Food Bank of Delaware	182,175
Food Bank of Delaware - Kent & Sussex Counties	5,000

Girls Inc. of Delaware	50,400
Girl's Inc. - Adolescent Program	148,000
Hilltop Lutheran Neighborhood Center, Inc.	71,600
Hockessin Community Center, Inc.	105,000
Home of the Brave Foundation	1,000
Home of Divine Providence, Inc./Bayard House	57,750
Homeward Bound, Inc.	74,000
Housing Opportunities of Northern Delaware, Inc.	1,000
Ingleside Homes, Inc. - Care Center	17,325
Ingleside Homes, Inc. - KAMIN	52,500
Ingleside Homes, Inc. - Project C.A.R.E.	36,750
Interfaith Mission of Sussex County	15,000
Jewish Community Center	15,900
Junior Achievement of Delaware	12,180
Kingswood Community Center	6,250
Latin American Community Center, Inc.	60,000
Literacy Volunteers of America - Wilmington Library	6,000
Methodist Action Program	51,000
Milford Housing Development Corporation	20,000
Ministry of Caring, Inc. - Emmanuel Dining Room	81,000
Ministry of Caring, Inc. - House of Joseph	49,700
Ministry of Caring, Inc. -- House of Joseph II	22,700
Ministry of Caring, Inc. - Job Placement Center	31,300
Ministry of Caring, Inc. - Phase I	83,400
Ministry of Caring, Inc. - Phases II and III	82,100
Montessori Resource Center of Delaware, Inc.	6,500
Neighborhood House, Inc.	87,000
Neighborhood House, Inc./MOT Community Action	84,900
O. A. Herring Community Services	97,250
Project Assist	12,000
Project Reachout	7,500
Richardson Park Community Action Program, Inc.	31,000
Rose Hill Community Center, Inc.	216,000
The Salvation Army, Inc. - Emergency Housing	125,000
The Salvation Army, Inc. - Kent Co. Crisis Alleviation	41,340
The Salvation Army, Inc. - Sussex Co. Crisis Alleviation	7,600
Science Alliance, Inc.	26,250
Seamen's Center of Wilmington, Inc.	9,500
Slaughter Neck Community Action Agency, Inc.	50,000

Southbridge Medical Advisory Council, Inc. (HJCC)		126,750
Southern Delaware Horse Retirement Assoc., Inc.	\$	3,000
Southwest Wilmington Community Center, Inc.		118,500
STEHM, Inc.		20,000
Sussex Community Crisis Housing Services, Inc.		32,400
The Sussex Family YMCA		29,750
Tri-State Bird Rescue and Research, Inc.		36,000
Urban Environmental Center, Inc.		3,800
USO Delaware, Inc.		10,300
West End Neighborhood House, Inc.		53,750
Whatcoat Social Service Agency		80,000
Wildlife Habitat, Inc.		5,400
YWCA of New Castle County, Delaware		<u>285,000</u>

TOTAL - Section 2 \$ 13,778,808

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	\$ 22,059
Belvedere Volunteer Fire Company	Belvedere	22,059
Brandywine Hundred Fire Co. No. 1	Bellefonte	22,059
Christiana Fire Co.	Christiana	22,059
Claymont Fire Co.	Claymont	22,059
Cranston Heights Fire Co.	Cranston Heights	22,059
Delaware City Fire Co.	Delaware City	22,059
Elsmere Fire Co.	Elsmere	22,059
Five Points Fire Co. No. 1	Richardson Park	22,059
Goodwill Fire Co. No. 1	New Castle	22,059
Hockessin Fire Co.	Hockessin	22,059
Holloway Terrace Fire Co.	Holloway Terrace	22,059
Mill Creek Fire Co.	Marshallton	22,059
Minquedale Fire Co.	Minquedale	22,059
Minquas Fire Co. No. 1	Newport	22,059
Odessa Fire Co., Inc.	Odessa	22,059
Port Penn Volunteer Fire Co., Inc.	Port Penn	22,059
Talleyville Fire Co., Inc.	Talleyville	22,059
Townsend Fire Co., Inc.	Townsend	22,059

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Volunteer Hose Co., Inc.	Middletown	22,059
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	22,059

Kent County

Bowers Volunteer Fire Co., Inc.	Bowers	\$	22,059
Camden-Wyoming Fire Co.	Camden		22,059
Carlisle Fire Co.	Milford		22,059
Cheswold Volunteer Fire Co.	Cheswold		22,059
Citizens' Hose Co. No. 1, Inc.	Smyrna		22,059
Clayton Fire Co.	Clayton		22,059
Farmington Volunteer Fire Co.	Farmington		22,059
Felton Community Fire Co.	Felton		22,059
Frederica Volunteer Fire Co.	Frederica	\$	22,059
Harrington Fire Co.	Harrington		22,059
Hartly Volunteer Fire Co.	Hartly		22,059
Houston Volunteer Fire Co.	Houston		22,059
Leipsic Volunteer Fire Co.	Leipsic		22,059
Little Creek Volunteer Fire Co.	Little Creek		22,059
Magnolia Volunteer Fire Co.	Magnolia		22,059
Marydel Volunteer Fire Co., Inc.	Marydel		22,059
Robbins Hose Co. (Dover Fire Dept.)	Dover		22,059
South Bowers Fire Co.	South Bowers		22,059

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$	22,059
Blades Volunteer Fire Co., Inc.	Blades		22,059
Bridgeville Volunteer Fire Co.	Bridgeville		22,059
Dagsboro Volunteer Fire Co.	Dagsboro		22,059
Delmar Fire Department	Delmar		22,059
Ellendale Volunteer Fire Co.	Ellendale		22,059
Frankford Volunteer Fire Co.	Frankford		22,059
Georgetown Fire Co., Inc.	Georgetown		22,059
Greenwood Volunteer Fire Co.	Greenwood		22,059
Gumboro Volunteer Fire Co., Inc.	Gumboro		22,059
Indian River Volunteer Fire Co.	Indian River		22,059
Laurel Fire Department, Inc.	Laurel		22,059
Lewes Fire Department, Inc.	Lewes		22,059
Millsboro Fire Co.	Millsboro		22,059
Millville Volunteer Fire Co.	Millville		22,059
Milton Volunteer Fire Co.	Milton		22,059
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach		22,059
Roxana Volunteer Fire Co.	Roxana		22,059
Seaford Volunteer Fire Dept., Inc.	Seaford		22,059
Selbyville Volunteer Fire Co., Inc.	Selbyville		22,059
Slaughter Beach Memorial Fire Co.	Slaughter Beach		<u>22,059</u>
	TOTAL	\$	1,323,540

(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	\$	3,022
Blades Volunteer Fire Co., Inc.	Blades		3,022
Bridgeville Volunteer Fire Co.	Bridgeville		3,022
Bowers Volunteer Fire Co., Inc.	Bowers		3,022
Brandywine Hundred Fire Co., No. 1	Bellefonte		3,022
Camden-Wyoming Fire Co.	Camden		3,022
Carlisle Fire Co.	Milford		3,022
Cheswold Volunteer Fire Co.	Cheswold		3,022
Christiana Fire Co.	Christiana		3,022
Claymont Fire Co.	Claymont		3,022
Cranston Heights Fire Co.	Cranston Heights		3,022

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Dagsboro Volunteer Fire Co.	Dagsboro	3,022
Delaware City Fire Co.	Delaware City	3,022
Delmar Fire Department	Delmar	3,022
Ellendale Volunteer Fire Co.	Ellendale	\$ 3,022
Elsmere Fire Co.	Elsmere	3,022
Felton Community Fire Co.	Felton	3,022
Five Points Fire Co. No. 1	Richardson Park	3,022
Frankford Volunteer Fire Co. No. 1	Frankford	3,022
Frederica Volunteer Fire Co.	Frederica	3,022
Goodwill Fire Co. No. 1	New Castle	3,022
Greenwood Volunteer Fire Co.	Greenwood	3,022
Gumboro Volunteer Fire Co., Inc.	Gumboro	3,022
Harrington Fire Co.	Harrington	3,022
Hartly Volunteer Fire Co., Inc.	Hartly	3,022
Hockessin Fire Co.	Hockessin	3,022
Holloway Terrace Fire Co.	Holloway Terrace	3,022
Laurel Fire Department, Inc.	Laurel	3,022
Leipsic Volunteer Fire Co.	Leipsic	3,022
Lewes Fire Department, Inc.	Lewes	3,022
Magnolia Volunteer Fire Co.	Magnolia	3,022
Mill Creek Fire Co.	Marshallton	3,022
Millsboro Fire Co.	Millsboro	3,022
Millville Volunteer Fire Co., Inc.	Millville	3,022
Milton Volunteer Fire Co.	Milton	3,022
Minquadales Fire Co.	Minquadales	3,022
Minquas Fire Co. No. 1	Newport	3,022
Odessa Fire Co., Inc.	Odessa	3,022
Port Penn Volunteer Fire Co.	Port Penn	3,022
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	3,022
Roxana Volunteer Fire Co.	Roxana	3,022
Seaford Volunteer Fire Co., Inc.	Seaford	3,022
Selbyville Volunteer Fire Co., Inc.	Selbyville	3,022
Slaughter Beach Memorial Fire Co.	Slaughter Beach	3,022
Talleyville Fire Co., Inc.	Talleyville	3,022
Townsend Fire Company, Inc.	Townsend	3,022
Volunteer Hose Co., Inc.	Middletown	3,022
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	<u>3,022</u>
	TOTAL	\$ 145,056

(c) There is appropriated to the listed fire companies the following sums to be used for the maintenance and operation of rescue trucks in the public service:

Aetna Hose, Hook and Ladder Co.	Newark	\$	3,022
Bethany Beach Volunteer Fire Co.	Bethany Beach		3,022
Blades Volunteer Fire Co.	Blades		3,022
Bowers Volunteer Fire Co., Inc.	Bowers		3,022
Brandywine Hundred Fire Co. No. 1	Bellefonte		3,022
Bridgeville Volunteer Fire Co.	Bridgeville		3,022
Camden-Wyoming Fire Co.	Camden		3,022
Carlisle Fire Co.	Milford		3,022
Cheswold Volunteer Fire Co.	Cheswold		3,022
Christiana Fire Co.	Christiana		3,022
Citizens' Hose Co. No. 1, Inc.	Smyrna		3,022
Claymont Fire Co.	Claymont		3,022
Clayton Fire Co.	Clayton		3,022
Cranston Heights Fire Co.	Cranston Heights		3,022
Dagsboro Volunteer Fire Co.	Dagsboro		3,022
Delaware City Fire Co.	Delaware City	\$	3,022
Delmar Fire Department	Delmar		3,022
Robbins Hose Co. (Dover Fire Dept.)	Dover		3,022
Ellendale Volunteer Fire Co.	Ellendale		3,022
Elsmere Fire Co.	Elsmere		3,022
Farmington Volunteer Fire Co.	Farmington		3,022
Felton Community Fire Co.	Felton		3,022
Five Points Fire Co. No. 1	Richardson Park		3,022
Frederica Volunteer Fire Co.	Frederica		3,022
Georgetown Fire Co.	Georgetown		3,022
Goodwill Fire Co. No. 1	New Castle		3,022
Greenwood Fire Co. No. 1	Greenwood		3,022
Gumboro Volunteer Fire Co., Inc.	Gumboro		3,022
Harrington Fire Co.	Harrington		3,022
Hartly Volunteer Fire Co., Inc.	Hartly		3,022
Hockessin Fire Co.	Hockessin		3,022
Holloway Terrace Fire Co.	Holloway Terrace		3,022
Houston Volunteer Fire Co.	Houston		3,022
Indian River Volunteer Fire Co.	Indian River		3,022
Laurel Fire Dept., Inc.	Laurel		3,022
Leipsic Volunteer Fire Co.	Leipsic		3,022

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Lewes Fire Department, Inc.	Lewes	3,022
Little Creek Volunteer Fire Co.	Little Creek	3,022
Magnolia Volunteer Fire Co.	Magnolia	3,022
Marydel Volunteer Fire Co.	Marydel	3,022
Mill Creek Fire Co.	Marshallton	3,022
Millsboro Fire Co.	Millsboro	3,022
Millville Volunteer Fire Co., Inc.	Millville	3,022
Milton Volunteer Fire Co.	Milton	3,022
Minquadales Fire Co.	Minquadales	3,022
Minquas Fire Co. No. 1	Newport	3,022
Odessa Fire Co., Inc.	Odessa	3,022
Port Penn Volunteer Fire Co., Inc.	Port Penn	3,022
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	3,022
Roxana Volunteer Fire Co.	Roxana	3,022
Seaford Volunteer Fire Department, Inc.	Seaford	3,022
Selbyville Fire Co., Inc.	Selbyville	3,022
Slaughter Beach Memorial Fire Co.	Slaughter Beach	3,022
South Bowers Fire Co.	South Bowers	3,022
Talleyville Fire Co., Inc.	Talleyville	3,022
Townsend Fire Co., Inc.	Townsend	3,022
Volunteer Hose Co., Inc.	Middletown	3,022
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	<u>3,022</u>

TOTAL \$ 175,276

(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	\$ 4,505
Brandywine Hundred Fire Co., No. 1	Bellefonte	4,505
Christiana Fire Co.	Christiana	4,505
Claymont Fire Co.	Claymont	\$ 4,505
Delaware City Fire Co.	Delaware City	4,505
Elsmere Fire Co.	Elsmere	4,505
Five Points Fire Co. No. 1	Richardson Park	4,505
Goodwill Fire Co. No. 1	New Castle	4,505
Hockessin Fire Co.	Hockessin	4,505
Mill Creek Fire Co.	Marshallton	4,505
Talleyville Fire Co., Inc.	Talleyville	4,505

Volunteer Hose Co., Inc.	Middletown	4,505
Wilmington Manor Volunteer Fire Co.	Wilmington Manor	4,505

Kent County

Carlisle Fire Co.	Milford	\$ 4,505
Citizens' Hose Co., No. 1, Inc.	Smyrna	4,505
Hartly Volunteer Fire Co., Inc.	Hartly	4,505
Robbins Hose Co., (Dover Fire Dept.)	Dover	4,505

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$ 4,505
Delmar Fire Department, Inc.	Delmar	4,505
Georgetown Fire Co., Inc.	Georgetown	4,505
Lewes Fire Department, Inc.	Lewes	4,505
Millsboro Fire Co.	Millsboro	4,505
Millville Volunteer Fire Co.	Millville	4,505
Milton Volunteer Fire Co., Inc.	Milton	4,505
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	4,505
Seaford Volunteer Fire Co., Inc.	Seaford	4,505
Selbyville Volunteer Fire Co., Inc.	Selbyville	<u>4,505</u>

TOTAL \$ 121,635

(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:

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$ 2,730
Blades Volunteer Fire Co., Inc.	Blades	2,730
Delaware City Fire Co.	Delaware City	2,730
Goodwill Fire Co. No. 1	New Castle	2,730
Holloway Terrace Fire Co.	Holloway Terrace	2,730
Indian River Volunteer Fire Co.	Indian River	2,730
Leipsic Volunteer Fire Co.	Leipsic	2,730
Lewes Fire Department, Inc.	Lewes	2,730
Little Creek Volunteer Fire Co.	Little Creek	2,730
Millville Volunteer Fire Co.	Millville	2,730
Milton Volunteer Fire Co.	Milton	2,730
Port Penn Volunteer Fire Co., Inc.	Port Penn	2,730

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Roxana Volunteer Fire Co.	Roxana	2,730
Seaford Volunteer Fire Co., Inc.	Seaford	2,730
South Bowers Fire Co.	South Bowers	<u>2,730</u>

TOTAL \$ 40,950

(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.	\$154,413
(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.	\$ 9,010
(iii) The maintenance and operation of rescue boats in the public service.	<u>\$ 2,730</u>
TOTAL	\$166,153

(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	\$ 28,930
Blades Volunteer Fire Co., Inc.	Blades	28,930
Bowers Volunteer Fire Co., Inc.	Bowers	28,930
Bridgeville Volunteer Fire Co.	Bridgeville	28,930
Camden-Wyoming Fire Co.	Camden	28,930
Carlisle Fire Co.	Milford	28,930
Cheswold Volunteer Fire Co.	Cheswold	28,930
Citizens' Hose Co. No. 1, Inc.	Smyrna	28,930
Clayton Fire Co.	Clayton	28,930
Dagsboro Volunteer Fire Co.	Dagsboro	28,930
Delmar Fire Department	Delmar	28,930
Ellendale Volunteer Fire Co.	Ellendale	28,930
Farmington Volunteer Fire Co.	Farmington	28,930
Felton Community Fire Co.	Felton	28,930
Frankford Volunteer Fire Co.	Frankford	28,930
Frederica Volunteer Fire Co.	Frederica	28,930
Georgetown Fire Co., Inc.	Georgetown	28,930
Greenwood Volunteer Fire Co.	Greenwood	28,930
Gumboro Volunteer Fire Co., Inc.	Gumboro	28,930
Harrington Fire Co.	Harrington	28,930

Hartly Volunteer Fire Co.	Hartly	28,930
Houston Volunteer Fire Co.	Houston	28,930
Indian River Volunteer Fire Co.	Indian River	28,930
Laurel Fire Department, Inc.	Laurel	28,930
Leipsic Volunteer Fire Co.	Leipsic	28,930
Lewes Fire Department, Inc.	Lewes	28,930
Little Creek Volunteer Fire Co.	Little Creek	28,930
Magnolia Volunteer Fire Co.	Magnolia	28,930
Marydel Volunteer Fire Co., Inc.	Marydel	\$ 28,930
Millsboro Fire Co.	Millsboro	28,930
Millville Volunteer Fire Co.	Millville	28,930
Milton Volunteer Fire Co.	Milton	28,930
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	28,930
Robbins Hose Co., (Dover Fire Dept.)	Dover	28,930
Roxana Volunteer Fire Co.	Roxana	28,930
Seaford Volunteer Fire Dept., Inc.	Seaford	28,930
Selbyville Volunteer Fire Co., Inc.	Selbyville	28,930
Slaughter Beach Memorial Fire Co.	Slaughter Beach	28,930
South Bowers Fire Co.	South Bowers	<u>28,930</u>
	TOTAL	\$ 1,128,270

(h) (1) There is appropriated to the listed fire companies the following sums to provide Insurance Rebate Equalization for operations of volunteer fire companies:

Kent County

Bowers Volunteer Fire Co., Inc.	Bowers	\$ 36,923
Camden-Wyoming Fire Co.	Camden	36,923
Carlisle Fire Co.	Milford	36,923
Cheswold Volunteer Fire Co.	Cheswold	36,923
Citizens' Hose Co. No. 1, Inc.	Smyrna	36,923
Clayton Fire Co.	Clayton	36,923
Farmington Volunteer Fire Co.	Farmington	36,923
Felton Community Fire Co.	Felton	36,923
Frederica Volunteer Fire Co.	Frederica	36,923
Harrington Fire Co.	Harrington	36,923
Hartly Volunteer Fire Co.	Hartly	36,923
Houston Volunteer Fire Co.	Houston	36,923

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Leipsic Volunteer Fire Co.	Leipsic	36,923
Little Creek Volunteer Fire Co.	Little Creek	36,923
Magnolia Volunteer Fire Co.	Magnolia	36,923
Marydel Volunteer Fire Co., Inc.	Marydel	36,923
Robbins Hose Co. (Dover Fire Dept.)	Dover	36,923
South Bowers Fire Co.	South Bowers	36,923

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$ 36,923
Blades Volunteer Fire Co., Inc.	Blades	36,923
Bridgeville Volunteer Fire Co.	Bridgeville	36,923
Dagsboro Volunteer Fire Co.	Dagsboro	36,923
Delmar Fire Department	Delmar	36,923
Ellendale Volunteer Fire Co.	Ellendale	36,923
Frankford Volunteer Fire Co.	Frankford	36,923
Georgetown Fire Co., Inc.	Georgetown	36,923
Greenwood Volunteer Fire Co.	Greenwood	36,923
Gumboro Volunteer Fire Co., Inc.	Gumboro	36,923
Indian River Volunteer Fire Co.	Indian River	36,923
Laurel Fire Department, Inc.	Laurel	36,923
Lewes Fire Department, Inc.	Lewes	36,923
Millsboro Fire Co.	Millsboro	36,923
Millville Volunteer Fire Co.	Millville	\$ 36,923
Milton Volunteer Fire Co.	Milton	36,923
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	36,923
Roxana Volunteer Fire Co.	Roxana	36,923
Seaford Volunteer Fire Dept., Inc.	Seaford	36,923
Selbyville Volunteer Fire Co., Inc.	Selbyville	36,923
Slaughter Beach Memorial Fire Co.	Slaughter Beach	<u>36,923</u>
TOTAL		\$ 1,439,997

(2) For Fiscal Year 2000 a calculation was made to determine the increase that the New Castle County Volunteer Fire Companies received for the insurance premium tax in FY 1998 vs FY 1997. That amount was added to the base allocation to each Volunteer Fire Company in Kent and Sussex Counties. (The base represents \$22,401 included in the Fiscal Year 1999 Grant-in-Aid Appropriation Bill.) For each subsequent fiscal year, a similar calculation will be made and if there is an increase from one fiscal year to the next fiscal year, that amount will be added to the \$22,401 base to become the amount to be paid for that fiscal year. At no time will the amount for Kent and Sussex Volunteer Fire Companies be less than the base amount of \$22,401.

(i) There is hereby appropriated to the listed fire companies the following sums for operation of substations:

New Castle County

Aetna Hose, Hook and Ladder Co.	Newark	\$	21,000
Christiana Fire Co.	Christiana		21,000
Claymont Fire Co.	Claymont		10,500
Mill Creek Fire Department	Marshallton		10,500
Odessa Fire Co., Inc.	Odessa		10,500
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor		10,500

Kent County

Robbins Hose Co. (Dover Fire Dept.)	Dover	\$	10,500
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Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$	10,500
Indian River Fire Co.	Indian River		10,500
Lewes Fire Department, Inc.	Lewes		10,500
Rehoboth Fire Volunteer Fire Co.	Rehoboth Beach		10,500
Roxana Volunteer Fire Co.	Roxana		<u>10,500</u>
	TOTAL	\$	147,000

(j) 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	\$	3,022
American Legion, Sussex Post #8	Georgetown		3,022
Mid-Sussex Rescue Squad, Inc.	Millsboro		<u>3,022</u>
TOTAL		\$	<u>9,066</u>

TOTAL - Section 3	\$	<u>4,696,943</u>
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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	\$37,815
American Veterans of WW II, Korea and Vietnam	15,000
Veterans of Foreign Wars, Department of Delaware	37,815

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Disabled American Veterans, Department of Delaware	31,507
Paralyzed Veterans of America, Department of Delaware	31,507
Vietnam Veterans of America, Department of Delaware	31,507

(b) Funds are hereby appropriated to the following grants-in-aid in the amounts listed for operations expenses:

American Legion, Department of Delaware	\$ 9,195
Disabled American Veterans, Department of Delaware	9,195
Veterans of Foreign Wars, Department of Delaware	9,195
Vietnam Veterans of America	9,195
American Veterans of World War II, Korea & Vietnam	8,104
Paralyzed Veterans of America, Department of Delaware	7,884
Jewish War Veterans of the U.S., Department of Delaware	5,265
Delaware Veterans of World War I	3,931

(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 \$7,432 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 \$7,432 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 \$2,969 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

\$ 264,948

Section 5. Section 2 of this Act appropriates \$150,000 to the Delaware State Fair. Of that amount, \$100,000 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 2000. Of the remaining \$50,000, \$5,000 shall be used for purses on Governor's Day and the remaining \$45,000 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 2000 and 2001 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 2000 shall be paid in quarterly installments. For Fiscal Year 2000, such payments will be made on July 25, 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;

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- (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 2001:

- (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 2000.

(f) For Fiscal Year 2000, 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, 1999. 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, 2000, 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 2000 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.
Latin American Community Center - Jubilee Celebration
Miss Delaware Scholarship Pageant, Inc.

National Multiple Sclerosis Society
New Castle Historical Society
Sojourner's Place, Inc.
William "Hicks" Anderson Community Center -
Senior Physical Fitness Program

(b) The State Treasurer is authorized to take the necessary steps to make a total payment of the appropriation in Section 1 of this Act at the beginning of the first quarter of Fiscal Year 2000 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 2000.

(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 2000.

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, 2000, 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, 2000, as to the agencies that were awarded grants from these funds, the amount of the grant, and the purpose of the grant.

(g) Copies of the minutes of all regular meetings and any special meetings of the SALLE Committee shall be forwarded in a timely manner to the Office of the Controller General.

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 2000, the remaining balance in the Fiscal Year 1999 account (35-05-30-09-77) shall remain as a continuing appropriation and shall not be subject to reversion until June 30, 2000.

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 Fiscal Year 2000, direct paramedic initial training, recertification training and testing for the Statewide paramedic program shall be offered at a single site.

Section 21. Section 1 of this Act appropriates funds to Aid to Local Law Enforcement. These funds shall be distributed based on (a) \$3,000 to each police agency; (b) any funds in excess of "(a)" based on the ratio of the number of police officers each police agency has to the total number of police in all agencies.

Section 22. Section 2 of this Act appropriates funds to Eastlawn Area Human Services, Inc. None of these funds, nor any Federal, State or Local Government funds, shall be expended for the purchase of television, cable T.V. and/or radio broadcasting services.

Section 23. Section 2 of this Act appropriates funds to the Delaware State Police Museum, Inc. These funds may not be used for capital/construction costs.

Section 24. Section 2 includes a one-time appropriation to the Latin American Community Center, Inc. - Jubilee Celebration, in the amount of \$15.0. These funds shall be used for the 125th anniversary jubilee celebration in Wilmington.

Section 25. Section 2 of this Act appropriates one-time funding of \$82,500 to the State Fire Prevention Commission for the reimbursement of EMT B training for new members of the volunteer EMS service. Any person receiving reimbursement and who does not remain active in the volunteer EMS service for at least one year will be required to return the cost of the tuition to the Fire Prevention Commission. The Fire Prevention Commission will provide a report on the number of providers, trained at the EMT B level, both the bridge level and the full EMT B, to the Controller General and the Budget Director no later than May 15, 2000.

Section 26. The Delaware Health Care Commission is authorized to spend returned DIMER loan funds to assure that DIMER is in compliance with Section 108 (f) of the federal Internal Revenue code.

Section 27. Section 2 of this Act contains an appropriation of \$62,510 for the Delaware Center for Wellness, its successor, or assigned agency as approved by the co-chairs of the Joint Finance Committee. This funding is to be used for a workplace wellness program comparable to that which has been operated by the Delaware Center for Wellness.

Section 28. For Fiscal Year 2000, the Bridgeville Senior Center shall submit to the Joint Finance Committee on September 15, 1999, December 15, 1999, and March 15, 2000, a report reflecting income and expenditures for the Fiscal Year 2000, and average daily attendance at the senior center or senior center activities.

Section 29. Section 1 of the Fiscal Year 2000 Appropriations Act (House Bill No. 400 of the 140th General Assembly) appropriates \$50.0 to the Department of Education Block Grants and Pass Through Programs (95-03-10) for summer school tuition reimbursement. Districts shall report to the Department of Education by November 1, 1999, the amount of eligible reimbursement associated with summer courses. The Department of Education shall transfer an amount not to exceed the district allocations. If a district does not request its entire allocation, any remaining funds shall be distributed among the remaining districts based upon Division I units. Nothing contained in this section shall affect determining the entitlement to or level of reimbursement.

Section 30. Amend Section 82 of the Fiscal Year 2000 Appropriations Act (House Bill No. 400 of the 140th General Assembly) by deleting the last sentence therein and inserting in lieu thereof the following sentence:

"If any legislation is enacted during the first session of the 140th General Assembly that would require the adjustment of the above stipulated rates, the appropriate adjustments shall be made upon the authorization of the Controller General and the Budget Director."

Section 31. Amend Section 83 of the Fiscal Year Appropriations Act (House Bill No. 400 of the 140th General Assembly) by deleting the words "and the pension rates contained in Section 82 shall remain unchanged" as they appear in the last sentence.

Approved July 01, 1999

CHAPTER 103

FORMERLY

HOUSE BILL NO. 328

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION.

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

Section 1. Amend Section 3313, Title 19 of the Delaware Code by re-designating the subsections "(i), (j), (k), (l), (m), (n), and (o)", as they appear therein as subsections "(j), (k), (l), (m), (n), (o), and (p)" respectively.

Section 2. Amend Section 3313, Title 19 of the Delaware Code by inserting a new subsection (i) to read as follows:

"(i) For claims establishing a benefit year beginning July 1, 1999, and thereafter, an individual's weekly benefit amount shall be determined in accordance with subsection (c) or subsection (d) of this section as determined by the balance in the Unemployment Insurance Trust Fund. However, for such claims, the minimum and maximum weekly benefit amount shall not be less than \$20 nor more than \$315 unless the Unemployment Insurance Trust Fund balance, as certified by the Director of Unemployment Insurance to the Secretary of Labor, as of the preceding September 30, is less than \$250 million. When the Unemployment Insurance Trust Fund balance is less than \$250 million, but equal to or greater than \$200 million, the maximum weekly benefit amount shall be no more than \$300. When the Unemployment Insurance Trust Fund balance is less than \$200 million, but equal to or greater than \$165 million, the maximum weekly benefit amount shall be no more than \$265. When the Unemployment Insurance Trust Fund balance is less than \$165 million, but equal to or greater than \$150 million, the maximum weekly benefit amount shall be no more than \$245. When the Unemployment Insurance Trust Fund balance is less than \$150 million, but equal to or greater than \$90 million, the maximum weekly benefit amount shall be no more than \$225. When the Unemployment Insurance Trust Fund balance is less than \$90 million, the maximum weekly benefit amount shall be no more than \$205. Computation for any change in the maximum weekly benefit amount shall commence with new claims filed to establish a benefit year on or

Approved July 01,1999

CHAPTER 104

FORMERLY

HOUSE BILL NO. 216

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES.

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

Section 1. Amend § 2301(o), Title 30 of the Delaware Code, by striking the phrase "or Chapter 15 of Title 2 of this Code" as it appears in said subsection and substituting in lieu thereof the following phrase: "(but only with respect to gross receipts or the sale price of services and commodities taxable under, or with respect to which taxes are imposed by, chapter 55 of this title)".

Section 2. Amend § 2901(7)b., Title 30 of the Delaware Code, by striking said paragraph in its entirety and substituting in lieu a new paragraph b. to read as follows:

"b. For purposes of this chapter, the word 'wholesaler' shall not apply to a person who is licensed to catch, take, and sell eels, food fish, or shellfish by the Delaware Department of Natural Resources and Environmental Control pursuant to Chapters 9 and 18 and Part II of Title 7 of the Delaware Code."

Section 3. Amend § 2906, Title 30 of the Delaware Code, by adding thereto a new subsection "(d)" as follows:

"(d) Persons licensed as a retailer or grocery supermarket retailer pursuant to § 2905 or § 2908 of this title and who derive at least 90 percent of their sales of food suitable for human consumption from food that is not 'immediately consumable,' as that term is defined by § 2908(a), shall be exempt from this section, provided that the retailer or grocery supermarket retailer reports the gross receipts derived from activities otherwise subject to this chapter as retail or grocery supermarket retail sales, as the case may be."

Section 4. Amend § 2901(2)b., Title 30 of the Delaware Code, by deleting the punctuation and phrase " provided however, that, for purposes of this chapter, 'physically delivered within this State' includes delivery to the United States mail or to a common or contract carrier for shipment to a place within this State irrespective of F.O.B. or other terms of payment for delivery;" as it appears at the end of subparagraph (iv) of said subparagraph.

Section 5. Amend § 2901, Title 30 of the Delaware Code, by adding thereto a new subsection (4) to read as follows:

"For purposes of this chapter, the term 'physically delivered within this State' includes delivery to the United States mail or to a common or contract carrier for shipment to a place within this State irrespective of F.O.B. or other terms of payment for delivery."

Section 6. Amend § 1503(b)(1), Title 30 of the Delaware Code, by inserting the phrase "plus all intangible personal property" immediately following the word "State" as it appears in said paragraph.

Section 7. Amend § 2120(b), Title 30 of the Delaware Code, by striking the phrase "specified in § 1322(1)-(3) of Title 30 or such successor section as Class A, B or C beneficiaries of a decedent" as it appears therein and substituting in lieu thereof the following: "standing in a close family relationship to each other. For purposes of this subsection, a 'close family relationship' shall mean the following relationships: a husband or wife; 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; or any person whose relationship 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."

Section 8. Sections 2 and 3 of this Act shall be effective for tax periods commencing after December 31, 1999. Sections 1, 4, 5, and 7 of this Act are intended to clarify and not change existing law. Section 6 of this Act shall be effective for the estates of decedents dying after December 31, 1998.

Section 9. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate, or affect the remainder of this Act, which shall remain in full force and effect.

Approved July 01, 1999

CHAPTER 105

FORMERLY

HOUSE BILL NO. 174
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 1 OF THE DELAWARE CODE RELATING TO LEGAL HOLIDAYS.

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

Section 1. Amend § 501, Title 1, Delaware Code, by creating a new subsection as follows:

"(c) Veterans' Day shall be a legal holiday for all public schools in the state when it falls on a day on which classes would normally occur."

Section 2. This Act shall apply to the 2000-2001 school year and thereafter.

Approved July 01, 1999

CHAPTER 106

FORMERLY

SENATE BILL NO. 78

AN ACT TO AMEND TITLE 20 OF THE DELAWARE CODE RELATING TO THE DELAWARE NATIONAL GUARD.

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

Section 1. Amend §102, Title 20, Delaware Code by deleting subsections (2) and (3) and adding a new subsection (2) thereto that shall read as follows:

"(2) 'Unit' shall mean any part of the Delaware National Guard designated a 'unit' by order of the Adjutant General."

Section 2. Amend §104, Title 20, Delaware Code by deleting said section in its entirety and substituting in lieu thereof new §104 that shall read as follows:

"§104. Rules and Regulations.

(a) In order to fulfill the purposes of this chapter, the Adjutant General may make and publish rules and regulations for the government, discipline and exercise of the Delaware National Guard.

(b) Such rules and regulations shall, so far as practicable, conform to the rules, regulations and statutes, of the Department of Defense, the Army, the Air Force, and the National Guard Bureau of the United States.

(c) When such rules and regulations have been promulgated and published by the Adjutant General, they shall have the force and effect of law."

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Section 3. Amend §108, Title 20, Delaware Code by designating the first paragraph of said section as subsection (a) and by designating the second paragraph of said section as subsection (c) and by adding new subsection (b) thereto that shall read as follows:

"(b) The Delaware National Guard may accept donations of money or property from any lawful source to improve its capabilities."

Section 4. Amend §123, Title 20, Delaware Code by adding a new subsection (10) thereto that shall read as follows:

"(10) Promulgate rules and regulations for the governance and discipline of the Delaware National Guard."

Section 5. Amend §132, Title 20, Delaware Code by deleting such section in its entirety.

Section 6. Amend §133, Title 20, Delaware Code by deleting subsection (a) and substituting a new subsection (a) that shall read as follows:

"(a) The mandatory retirement age for officers and enlisted members of the Delaware National Guard shall conform to the requirements of the active federal military."

Section 7. Amend §133, Title 20, Delaware Code by deleting subsections (b) and (c) and relettering the present "(d)" as "(b)".

Section 8. Amend §141, Title 20, Delaware Code by deleting said section in its entirety and substituting in lieu thereof a new §141 that shall read as follows:

"§141. Property Accountability.

(a) Any officer, enlisted member, employee or agent of the Delaware National Guard who receives state or federal property or funds for military use shall be liable under the appropriate state and federal regulations for the proper safeguarding of said property or funds.

(b) No such person shall be discharged from responsibility for such property or funds until a proper accounting shall be made under appropriate regulations.

(c) The Adjutant General shall be empowered to enter suit against any person in the name of the state for the value of any such property as may have been damaged, lost destroyed, or not properly accounted for."

Section 9. Amend §142(b), Title 20, Delaware Code by deleting the phrase "double the value" and substituting in lieu thereof the phrase "the current value".

Section 10. Amend §151, Title 20, Delaware Code by deleting said section in its entirety and substituting in lieu thereof a new §151 that shall read as follows:

"§151. Kinds of Courts-Martial; Procedures; Military Judges.

(a) Courts-Martial shall be of 3 kinds: general, special and summary. These courts shall be constituted like similar courts-martial of the Army and Air Force of the United States to the extent practicable.

(b) These courts-martial shall have the jurisdiction and powers as specified in regulations adopted and promulgated by the Adjutant General that shall conform as far as practicable to the Uniform Code of Military Justice (10 USC §801, et sequi) and the Manual for Courts-Martial of the United States.

(c) These courts shall use the forms and procedures as established for similar courts of the Army and Air Force of the United States, as adopted by regulation by the Adjutant General.

(d) Any charge shall be prosecuted under one or more articles of the Uniform Code of Military Justice, except as specifically excluded by regulation of the Adjutant General. These articles, and the adopting regulations of the Adjutant General shall be of the same force and effect in any proceeding before any court-martial of this state as if the same had been enacted at length in this section.

(e) The Adjutant General may designate one or more officers of the Delaware National Guard who is/are qualified members of the Judge Advocate General Corps as 'Military Judge' for state military justice purposes.

(f) The Adjutant General may appoint one or more officers of the Delaware National Guard who is/are qualified members of the Judge Advocate General Corps as 'Military Judge for Court of Military Review' for the purpose of reviewing the legal sufficiency of any court-martial and making a recommendation to the Adjutant General as to final action on the court-martial proceedings".

Section 11. Amend §152, Title 20, Delaware Code by deleting such section in its entirety and substituting in lieu thereof a new Section 152 that shall read as follows:

"§152. General courts-martial.

(a) The Adjutant General may convene a general court-martial by appropriate order.

(b) A general court-martial may impose a sentence of:

- (1) A fine of not more than the member's pay and allowances for 24 unit training assemblies;
- (2) Forfeiture of the member's pay and allowances for up to 24 unit training assemblies;
- (3) A reprimand;
- (4) Dismissal, dishonorable discharge, or a bad conduct discharge;
- (5) Reduction of any noncommissioned officer or enlisted person to any rank; or
- (6) Any combination of these punishments.

(c) Any sentence imposed by a general court-martial shall not become effective until approved by the Adjutant General."

Section 12. Amend §153, Title 20, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new §153 that shall read as follows:

"§153. Special Courts-Martial.

(a) A commander of the rank of O-6 (Colonel), the commander of any other unit specifically designated by the Adjutant General, the Assistant Adjutant General for the Army National Guard, the Assistant Adjutant General for the Air National Guard and the Adjutant General may convene a special court-martial by appropriate order.

(b) A special court-martial may impose any sentence authorized for a general court-martial, including a bad-conduct discharge, except that fines and forfeiture are limited to 12 unit training assemblies.

(c) Any sentence imposed by a special court-martial shall not become effective until acted upon by the convening authority.

(d) A special court-martial shall have jurisdiction to try any member of the Delaware National Guard."

Section 13. Amend §154, Title 20, Delaware Code by deleting said section in its entirety and substituting in lieu thereof a new §154 that shall read as follows:

"§154. Summary Courts-Martial.

(a) A commander of any unit of the Delaware National Guard may by appropriate order convene a summary court-martial consisting of one officer.

(b) A summary court-martial may impose a sentence of:

- (1) A fine of not more than the member's pay and allowances for 4 unit training assemblies.
- (2) Forfeiture of the member's pay and allowances for up to 4 unit training assemblies.
- (3) Reduction of any noncommissioned officer or enlisted person to any rank within the promotional authority of the appointing authority; or
- (4) Any combination of these punishments.

(c) Any sentence imposed by a summary court-martial shall not become effective until acted upon by the convening authority."

Section 14. Amend §155, Title 20, Delaware Code by deleting said section in its entirety and substituting in lieu thereof a new §155 that shall read as follows:

"§155. Confinement.

(a) When not in federal service, a general or special court-martial may, instead of imposing a fine or forfeiture, sentence to confinement for one day for each unit training assembly.

(b) Any sentence to incarceration by a general or special court-martial shall not be executed until approved by the Adjutant General.

(c) Any sentence to incarceration by a general or special court-martial shall be required to be served only when the service member is on regular duty on annual training or has already been activated for state service under Subchapter V of this chapter.

(d) The Department of Correction shall receive and confine all military offenders committed to its custody by order of court-martial approved by the Adjutant General".

Section 15. Amend Title 20, §157, Delaware Code by deleting it in its entirety and substituting in lieu thereof a new §157 that shall read as follows:

"§157. Process

The President, Military Judge, or Summary Court Officer of any court-martial convened under this Title may:

(a) issue warrants, subpoenas or subpoenas duces tecum to compel appearance at a court-martial or to enforce the Court's judgments.

(b) issue such other process as is necessary to exercise the Court's jurisdiction.

(c) punish persons subject to the Delaware Code of Military Justice for contempt of court under the procedures of the Uniform Code of Military Justice; provided, however, that no punishment imposed may exceed that authorized for violation of 11 Del. C. §1271.

Any warrant or subpoena under this Section may be served or executed by the Sheriff, any constable, law enforcement officer, military policeman or provost marshal designated for this purpose".

Section 16. Amend §158, Title 20, Delaware Code by deleting such section in its entirety and substituting in lieu thereof a new section 158 that shall read as follows:

"§158. Disobedience of Subpoenas.

(a) Any member of the Delaware National Guard who fails to obey a subpoena issued by a court-martial shall be punished by the court-martial under the terms of the Uniform Code of Military Justice as adopted by regulation of the Delaware National Guard.

(b) Any person not a member of the Delaware National Guard who willfully fails to obey a subpoena issued by a court-martial shall be guilty of criminal contempt of court under the provisions of Title 11, Section 1271(3)."

Section 17. Amend §159, Title 20, Delaware Code by deleting said section in its entirety and by substituting in lieu thereof a new §159 that shall read as follows:

"§159. Payment of Fines.

(a) Upon approval of the sentence of any court-martial to pay a fine by the court-martial convening authority, the fine so imposed shall be immediately due and payable to the Delaware National Guard Courts-Martial Fund, through the commander of the member's unit to be forwarded to the Adjutant General.

(b) Any fine or forfeiture imposed by sentence of court-martial or non-judicial punishment collected by the Adjutant General shall be paid over to the Delaware National Guard Courts-Martial Fund."

Section 18. Amend §160, Title 20 Delaware Code by deleting said section in its entirety.

Section 19. Amend §161, Title 20, Delaware code by striking such section in its entirety.

Section 20. Amend §171 Title 20 Delaware Code by striking said sections in their entirety and substituting in lieu thereof a new §171 that shall read as follows:

"§171. Governor as Commander in Chief; Call Out of National Guard for State Duty.

(a) When the Governor has determined that it is in the best interest of the state, the Governor by order may:

(1) Call out any unit or units, member or members of the Delaware National Guard to serve in a state duty status to respond to any emergency situation.

(2) Call out any member or members of the Delaware National Guard to serve on state duty status to plan for any emergency.

(3) Call out any unit or units, member or members of the Delaware National Guard to serve on state duty to fulfill obligations under any interstate emergency agreements or compacts; and such troops may be employed within or outside of Delaware as required by the agreement or compact.

(4) Call out units or members of the Delaware National Guard for training or review as deemed appropriate subject to funding availability.

(b) The Governor shall serve as commander-in-chief of the Delaware National Guard when it is not in federal service."

Section 21. Amend §174, Title 20, Delaware Code by deleting said section in its entirety.

Approved July 01,1999

CHAPTER 107

FORMERLY

SENATE BILL NO. 199

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION.

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

Section 1. Amend Section 3350(9), Title 19 of the Delaware Code by redesignating subsections "f.", "g." and "h." as they appear therein as subsection "g.", "h." and "i." respectively.

Section 2. Amend Section 3350(9), Title 19 of the Delaware Code by inserting a new subsection "f." to read as follows:

"f. For any calendar year beginning January 1, 2000, 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 \$250 million as of the preceding September 30, each employer's new employer rate or basic assessment rate, whichever shall be applicable to such employer, shall be increased by a 'supplemental assessment rate' in accordance with the following table:

New Employer/ Basic Assessment Rate	=	Supplemental Assessment Rate
.1 -- 3.9%	=	.3%
4.0 -- 5.9%	=	.3%
6.0 -- 7.9%	=	.3%
8.0%	=	.3%"

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

"j. For any calendar year beginning January 1, 2000, 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 \$250 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

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paragraph a., paragraph b., paragraph c., paragraph d., or paragraph e. of this subdivision as determined by the balance in the Unemployment Insurance Trust Fund."

Approved July 01,1999

CHAPTER 108

FORMERLY

SENATE BILL NO. 121

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE REGARDING PROBATION AND PAROLE OFFICERS.

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

Section 1. Amend Title 11, Section 4321 of the Delaware Code by creating a subsection "e" which shall provide:

"(e) Probation and parole officers may be tasked to participate in joint operations with federal authorities while in the performance of the lawful duties of their employment. Any contraband, property, and/or money seized in the course of such joint operations shall be apportioned in accordance with federal distribution guidelines. Any distribution to Probation and Parole shall become the property of the Department of Correction, Bureau of Community Corrections. Any proceeds from the disposal of such property shall be used for the purchase of security equipment and technology necessary for the support of the employees of the Bureau."

Approved July 01,1999

CHAPTER 109

FORMERLY

SENATE BILL NO. 86

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SEXUAL OFFENSES.

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

Section 1. Amend Section 761(f) of Title 11 of the Delaware Code by striking said subsection in its entirety, and by substituting in lieu thereof the following:

"(f) 'sexual contact' means:

- (1) any intentional touching by the defendant of the anus, breast, buttocks or genitalia of another person; or
- (2) any intentional touching of another person with the defendant's anus, breast, buttocks or genitalia

which touching, under the circumstances as viewed by a reasonable person, is intended to be sexual in nature. Sexual contact shall also include touching when covered by clothing."

Approved July 01,1999

CHAPTER 110

FORMERLY

SENATE BILL NO. 168

AN ACT TO AMEND AN ACT BEING CHAPTER 504, VOLUME 57, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF HENLOPEN ACRES" TO CORRECT CERTAIN TYPOGRAPHICAL AND NUMBERING 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. Subsection (c), Section 8, of Chapter 504, Volume 57, Laws of Delaware, as amended, entitled "An Act to Incorporate the Town of Henlopen Acres" be and the same is hereby amended by striking in the second to the last line thereof the phrase "in and form" and substituting in lieu thereof the phrase "in any form".

Section 2. Subsection (a), Section 19, of Chapter 504, Volume 57, Laws of Delaware, as amended, entitled "An Act to Incorporate the Town of Henlopen Acres" be and the same is hereby amended by striking the reference to Town Clerk and substituting in lieu thereof the phrase "Town Manager".

Section 3. Subsection (a)3., Section 26, of Chapter 504, Volume 57, Laws of Delaware, as amended, entitled "An Act to Incorporate the Town of Henlopen Acres" be and the same is hereby amended by striking in the last line thereof the word "land" and substituting in lieu thereof the word "lane".

Section 4. Subsection (a)11., Section 26, of Chapter 504, Volume 57, Laws of Delaware, as amended, entitled "An Act to Incorporate the Town of Henlopen Acres" be and the same is hereby amended by striking the word "authorizes" and substituting in lieu thereof the phrase "authorities".

Section 5. Subsection (a), Section 26, of Chapter 504, Volume 57, Laws of Delaware, as amended, entitled "An Act to Incorporate the Town of Henlopen Acres" be and the same is hereby amended in order to correct an error in enumeration by redesignating Subsections 25., 26., 27. and 28. as 24., 25., 26. and 27.

Section 6. Subsection 24., formerly Subsection 25., Section 26, of Chapter 504, Volume 57, Laws of Delaware, as amended, entitled "An Act to Incorporate the Town of Henlopen Acres" be and the same is hereby amended by striking the word "applicances" and substituting in lieu thereof the word "appliances".

Section 7. Subsection (b), Section 27, of Chapter 504, Volume 57, Laws of Delaware, as amended, entitled "An Act to Incorporate the Town of Henlopen Acres" be and the same is hereby amended by striking the word "compiled" and substituting in lieu thereof the word "complied".

Section 8. Subsection (a), Section 28, of Chapter 504, Volume 57, Laws of Delaware, as amended, entitled "An Act to Incorporate the Town of Henlopen Acres" be and the same is hereby amended by striking the word "nuisnaces" and substituting in lieu thereof the word "nuisances".

Section 9. Subsection (n), Section 32, of Chapter 504, Volume 57, Laws of Delaware, as amended, entitled "An Act to Incorporate the Town of Henlopen Acres" be and the same is hereby amended by striking the word "passes" and substituting in lieu thereof the word "passed".

Section 10. Section 33, of Chapter 504, Volume 57, Laws of Delaware, as amended, entitled "An Act to Incorporate the Town of Henlopen Acres" was incorrectly designated Section 13 relating to exemption of property from taxation; said Section is hereby amended by striking the designation "13" and substituting in lieu thereof the designation "33".

Approved July 01, 1999

CHAPTER 111

FORMERLY

SENATE BILL NO. 147

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES.

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

Section 1. Amend § 1133, Title 30 of the Delaware Code, by striking subsection (b) of said section in its entirety and substituting in lieu thereof a new subsection (b) to read as follows:

"(b) Exempt associations, trusts and organizations. --

(1) An association, trust, or other unincorporated organization which by reason of its purposes or activities is exempt from federal income tax, shall be exempt from the tax imposed by this chapter, except with respect to its unrelated business taxable income.

(2) Notwithstanding paragraph (1) of this subsection, a trust shall be exempt from the tax imposed by this chapter to the extent a corporation is exempt from income tax pursuant to the provisions of paragraphs (1) through (5) of §1902(b) of this title."

Section 2. This Act shall be effective for tax periods commencing after December 31, 1998.

Approved July 01,1999

CHAPTER 112

FORMERLY

SENATE BILL NO. 148

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO DELAWARE TAXES.

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

Section 1. Amend § 539, Title 30 of the Delaware Code, by adding to said section a new subsection (g) to read as follows:

"(g) In the case of an individual,

(1) the running of the periods specified in this section with respect to individuals shall be suspended during any period of such individual's life that such individual is financially disabled.

(2) For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial affairs by reason of a medically determinable physical or mental impairment (excluding impairment caused by voluntary use of alcohol or unlawful use of a controlled substance defined in Chapter 47, Title 16 of this Code) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

(3) An individual shall not be treated as financially disabled during any period that such individual's spouse, guardian, or any other person is authorized to act on behalf of such individual in financial matters."

Section 2. Amend § 533, Title 30 of the Delaware Code, by enacting a new subsection "(i)" as follows:

"(i) If the Secretary of the Treasury of the United States extends the time for filing income tax returns under §6081 of the Internal Revenue Code (26 U.S.C. § 6081) and the time for paying income tax with respect to such returns under section 6161 of the Internal Revenue Code (26 U.S.C. §6161) for any taxpayer located in a Presidentially declared disaster area, the Director shall abate for such period the assessment of any interest

prescribed under §533 and penalties for failure to file a return under §534(a) or to pay the tax under §534(b) on such taxpayer's income and business license tax. For purposes of this paragraph, the term 'Presidentially declared disaster area' means, with respect to any taxpayer, any area which the President of the United States has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act."

Section 3. Amend § 531, Title 30 of the Delaware Code by adding to said section a new subsection (i) to read as follows:

"(i) If a taxpayer omits from a return any amount of income, gross receipts, gross gifts, or gross estate properly includible therein which exceeds 25 percent of the amount stated on the return, the tax may be assessed at any time within 6 years after the return was filed."

Approved July 01,1999

CHAPTER 113

FORMERLY

SENATE BILL NO. 149

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO MAILING OF PERSONAL INCOME TAX RETURNS.

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

Section 1. Amend § 356, Title 30 of the Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new section § 356 to read as follows:

"§ 356. Mailing tax return forms. (a) Except as provided in subsection (b) of this section, the Director of Revenue shall, on or before January 15 of each year, mail to the last recorded address of each person, fiduciary, partnership, or other entity that has made a return under Chapter 11 of this title during the preceding year a blank return for the purpose of filing a return for the preceding tax year.

(b) The Director of Revenue may, in his discretion and in lieu of the requirements of subsection (a) of this section, mail to any taxpayer who filed a tax return in the preceding year which was prepared by a paid tax preparer or filed in a manner other than by submission of a paper return, a notification setting forth: (1) the requirement of filing a tax return; and (2) methods by which the taxpayer may obtain a blank return, including the telephone numbers of the Division of Revenue and, if applicable, an internet site containing downloadable returns."

Section 2. This Act shall be effective for mailing of returns and notifications with regard to tax years beginning after December 31, 1998.

Approved July 01,1999

CHAPTER 114

FORMERLY

SENATE BILL NO. 118

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE DELAWARE QUALIFIED TUITION SAVINGS PROGRAM.

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

Section 1. Amend §3484 of Title 14 by deleting part (1) of subsection (b) in its entirety and by substituting in lieu thereof the following:

"(1) A Board Chairperson, selected by the Governor;"

Approved July 01,1999

CHAPTER 115

FORMERLY

SENATE BILL NO. 88

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

AN ACT TO AMEND CHAPTER 216, VOLUME 27 LAWS OF DELAWARE ENTITLED "AN ACT AMENDING, REVISITING AND CONSOLIDATING THE CHARTER OF THE CITY OF NEW CASTLE," BY AMENDING ITS CHARTER TO PROVIDE AUTHORITY TO PROVIDE ADDITIONAL SERVICES (AS DEFINED) AND SPECIFYING ITS POWERS CONSISTENT WITH THOSE AUTHORIZED BY TITLE 22, SECTION 802 OF THE DELAWARE CODE.

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

Section 1. Amend Chapter 216, Volume 27, Laws of Delaware, entitled "An Act Amending, Revisiting and Consolidating the Charter of the City of New Castle" by striking the first paragraph of Section 16 and inserting a new paragraph as follows:

"The Council is invested with all the power and authority formerly invested by the law in the Town Commissioners of New Castle, not inconsistent with the provision of this charter, and especially with power to make and enforce sanitary regulations and to prevent the introduction of infectious or contagious diseases, for which purposes its jurisdiction shall extend to a distance of one mile beyond the limits of the City; to define, abate and remove nuisances; to lay out, open, regulate the use of, fix the grade of, alter, extend, pave, improve or vacate roads, streets, squares, parks, lanes and alleys; to grant franchises and privileges within the City and over the roads and streets thereof upon such terms and conditions as it may prescribe; to construct, regulate and maintain sewers, drains, gutters and other works for the drainage of said City and the disposition of sewage; to direct, and regulate the paving of footways and sidewalks and prescribe the width of the same and to direct and regulate the fixing or maintenance of curbs; to prescribe the extend of steps, porches, cellar doors and other inlets to buildings; to provide police protection and to make such regulations as may be necessary to protect persons and property and to maintain the public peace and prevent crime; to provide for the extinguishment of fires and to purchase, own or control all necessary apparatus thereof; to provide for supplying the City and its inhabitants water and to provide for the acquisition or erection of such works and apparatus as may be necessary or convenient for the same; to provide for lighting the streets and public places and supplying the inhabitants with light, and to provide for the acquisition or erection of such works and

apparatus as may be necessary or convenient for the same; to provide for supplying the city and its inhabitants with steam, manufactured gas, natural gas, heat, power, electric power and, on a non-exclusive basis, with heating oil and wired and wireless telecommunications (telecommunications to include, but not be limited to, internal communication; communication services to the City of New Castle, schools, and non-profit institutions; and commercial and residential voice, data, and video services) and to provide for the acquisition or erection of such works and apparatus as may be necessary or convenient for the same; to regulate public amusements; to regulate party walls and the erection of buildings within the City and to require licenses to be taken out for the erection or repair of the same; to regulate the markets; to regulate the storage of gunpowder or other dangerous combustible matter; to prevent the running at large of any hog, dog, or other animals; and in general to exercise all municipal powers necessary to the proper administration of the municipal government and for the well being of the said City and the inhabitants thereof, whether expressly enumerated herein or not, not inconsistent with the Constitution or laws of the State. Provided, however, that this Act shall not adversely affect the existing facilities or other property rights of public utilities providing service within the City on the date of enactment of this Act. If the City shall elect to acquire any such facilities or property it may do so by agreement or pursuant to applicable legislation."

Section 2. Amend Chapter 216, Volume 27, Laws of Delaware, entitled "An Act Amending, Revisiting and Consolidating the Charter of the City of New Castle" by adding a new paragraph at the end of Section 16 with the following:

"The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive; but, in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, it is intended that the City of New Castle shall have, and may exercise all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter specifically to enumerate."

Approved July 01, 1999

CHAPTER 116

FORMERLY

SENATE BILL NO. 92 AS AMENDED BY HOUSE AMENDMENT NO. 2 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 121, VOLUME 32, LAWS OF DELAWARE, AS AMENDED, ENTITLED, "AN ACT TO ESTABLISH A BOARD OF WATER AND LIGHT COMMISSIONERS FOR THE CITY OF NEW CASTLE" RELATING TO THE DESIGNATION OF THE BOARD OF WATER AND LIGHT COMMISSIONERS AS THE MUNICIPAL SERVICES COMMISSIONS, AND THE AUTHORITY OF THE MUNICIPAL SERVICE COMMISSION.

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

WHEREAS, the City of New Castle, as an incorporated municipality, seeks authority to manage and operate systems for the furnishing of steam, manufactured gas, natural gas, heat, power, and wired and wireless telecommunications or other communication services within the City of New Castle's corporate limits;

NOW THEREFORE:

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

Section 1. Amend Chapter 121, Volume 32, Laws of Delaware, as amended, by striking said Chapter in its entirety and substituting in lieu thereof the following:

"Section 1. Municipal Services Commission; Appointments; Vacancies; Definitions

(a) A Municipal Services Commission for the City of New Castle is hereby created, the business and affairs of which shall be managed by or under the direction of a Board composed of three Commissioners who shall be residents of and qualified voters of the City of New Castle and who shall have resided in said City for at least three years prior to their appointment.

(b) The Commissioners shall serve until their successors shall have been appointed and qualified. One of said Commissioners shall be appointed by the Mayor of the City, one by the Council of the City, and one by the Trustees of the New Castle Common of said City. In the month of March in each year a successor to the Commissioner whose term expires on April 1 in that year shall be appointed for the term of three years by the power who appointed the member whose term is to expire.

(c) Any vacancy during a term shall be filled for the remainder of the term by appointment of the power who made the original appointment. In exercising the above appointing power, the Mayor shall not appoint himself, the Council shall not appoint one of its own members, and the Trustees of the Common shall not appoint one of its own members.

(d) Definitions. The following words, terms and phrases, when used in this Chapter, shall have meanings ascribed to them in this section:

(i) 'Additional Systems' shall include, but is not limited to, systems for the purpose of furnishing steam, manufactured gas, natural gas, heat, power, and wired and wireless telecommunications or other communication services.

(ii) 'Board' shall mean the Board of the Municipal Services Commission of the City of New Castle;

(iii) 'City' shall refer to the City of New Castle;

'Commission' shall refer to the Municipal Services Commission of the City of New Castle;

(iv) 'Commissioner' shall refer to a member of the Municipal Services Commission of the City of New Castle;

(v) 'Municipal Corporation' shall refer to the City of New Castle as an incorporated municipality;

(vi) 'Telecommunications' shall include, but is not limited to, internal communications; communication services to the City of New Castle, schools, and non-profit institutions; and commercial and residential voice, data, and video services.

Section 2. Board Elections and Appointments; Secretary and Treasurer

(a) The Board, in April of each year, shall elect one of their number as President, and shall appoint a Secretary and a Treasurer, neither of whom need be a Commissioner.

(b) The Treasurer of the Commission shall hold the funds of the Commission in one or more separate accounts at such banks and trust companies and upon such terms and conditions as the Board may by resolution from time to time prescribe, and shall pay the same out on orders signed by the President and Secretary. The Treasurer shall give such additional bond as the Board may require.

(c) No Commissioner shall hold any office of profit under the Commission, except as otherwise provided in Section 11, or contract with it for work or supplies.

Section 3. Commission Authority; Water, Light and Additional Systems; Board Authority

(a) The Commission shall have control of the water and electric light supply in the City of New Castle, and the management and operation of the City water system and the City light system shall be entirely under its control, direction and supervision.

(i) The Commission, in addition to the power and authority which it now has to supply and distribute water within the corporate limits of the City of New Castle, may, in its discretion, supply and

distribute water throughout all of that territory included within three miles of the corporate limits of said City.

(ii) The Commission shall determine the person or persons, firm or firms, corporation or corporations, to which it shall supply and distribute water throughout said territory included within three miles of the boundary of said corporate limits; shall fix the rates therefor; shall regulate the use of said water; and shall supply the same upon such terms and conditions as may be agreed upon by such person or persons, firm or firms, corporation or corporations, and the Commission.

(iii) The Commission shall have and exercise all the power and authority necessary to the accomplishment of said supplying and distributing of water throughout the territory included within three miles of the boundary of said corporate limits as it now has and exercises in the installation, operation and maintenance of its systems for supplying and distributing water in the City of New Castle.

(iv) Whenever the Commission shall deem it necessary or expedient to obtain private property either within the limits of the City of New Castle or without such limits to a distance not exceeding three miles for the purpose of constructing facilities for the supplying and distributing of water and shall advise the Council of the Mayor and Council of New Castle, in writing, of the location, description and estimated fair value for which such property is deemed necessary or expedient, the said Council shall be empowered to acquire such property by agreement with the owner thereof or if such agreement cannot be reached, the said property or land may be acquired by condemnation proceedings as prescribed and fully set forth in Section 25 of an Act entitled "An Act Amending, Revising and Consolidating the Charter of the City of New Castle" being Chapter 216 of Volume 27, Laws of Delaware, and all Acts amendatory thereof and supplemental thereto for condemning and taking land for the purpose of laying out, opening, extending or widening of any street, road, lane or alley in the City of New Castle.

(b) The Commission may, in its discretion, manage and operate, as the sole provider or in conjunction with any person, firm, association, corporation, or entity, one or more Additional Systems within the corporate limits of the City of New Castle.

(c) For the purposes set forth in Section 3(a) and Section 3(b) of this Chapter, the Commission shall have the power to enter into contracts on behalf of the City and in the name of the Municipal Corporation. The Commission shall have charge of the collection of and shall receive revenue due for water and light and any other Additional System managed and operated by it, and shall fix the rates for water and light and for goods and/or services furnished by any such Additional System from time to time.

(d) The Board shall appoint a superintendent and regulate his duties, and shall provide for such other employees as may from time to time be necessary, and shall fix the salary or pay of all employees.

(e) The Board shall provide for all supplies and work that may from time to time be necessary, and in general shall have full charge of the maintenance and operation of the City water and light system and the Additional System managed and operated by it.

(f) The Commission shall have the power to borrow temporarily from time to time on the faith and credit of the City in order to provide for the expenses of maintenance, replacement and operation of the water and light system, as well as any Additional System that the Commission, in its discretion, chooses to manage and operate; but the Commission shall have no power to enlarge or extend the water and light system, plant, mains, lines, or apparatus, or Additional System, except out of surplus earnings, without the authority and approval of the Council of the City first had and obtained.

Section 4. Board Meetings; Promulgation of Rules and Regulations; Collection of Sums Due

(a) The Board shall meet at least once every month, and shall have power to make all needful rules and regulations for their meetings and for the regulation of the employees.

(b) The Board shall have the power to make rules regulating the use and supply of water and light by and to consumers, and the goods and/or services furnished by any Additional System(s).

(c) The Board shall establish regulations for the payment of bills for water and light, and any Additional System(s), and may cause suit to be brought in the name of the Municipal Corporation for all bills overdue. All sums due for water shall be a lien upon the property to which such water was furnished in the same ways as the taxes due the City of New Castle.

(d) The Board shall arrange for the prompt collection of all sums due for water and light, and for services and/or goods furnished by any Additional System(s), and shall have power to make rules for cutting off the service when bills are overdue.

Section 5. Quarterly Statement; Annual Statement and Report

(a) The Commission shall furnish to the Mayor, the Council of the City and the Trustees of the Common, quarterly, a full statement of their receipts and expenses.

(b) The Commission, in July of each year, shall publish an annual statement and report for the benefit of the Citizens of the City of New Castle.

Section 6. Superintendent

(a) The Board shall appoint a superintendent. The superintendent shall perform such services and duties upon such terms and conditions as the Board shall deem appropriate.

Section 7. Sufficiency of Revenue; Fixed Rental to City; Payment of Expenses Relating to Water and Light Systems

(a) In lieu of water and light rental for the water and light supply to the City itself, the Council of the City shall turn over from time to time to the credit of the Commission such sums as may be necessary to meet any deficiency for current bills of the Commission. In July of each year, or oftener in their discretion if the revenue warrants, the Commission shall turn over to the Council of the City such sum in their hands as may not be required

to provide for current expenses and operation, which sums shall be used by the Council of the City for the payment of interest on the water and light bonds and for a sinking fund for the payment of said bonds.

(b) The Council of the City and the Commission may, by mutual agreement if deemed desirable, arrange that the City shall pay a fixed rental to the Commission for the water and light supplied to the City in lieu of the above payments to meet a deficiency.

(c) The Commission shall aim, in the operation of the water and light systems and in fixing the rates therefor, to produce revenue at least sufficient, when supplemented by fair allowances by the City for the water and light furnished for public purposes, to pay the operating expenses of the system and the interest on the water and light bonds as well as provide for ordinary maintenance.

Section 8. Municipal Services Commission as Agency of the City of New Castle

(a) The Commission is intended to be merely a separate agency of the City for the operation of the water and light systems and Additional Systems, and all contracts and bills shall be in the name of and on behalf of the Municipal Corporation, through the agency of the Commission.

Section 9. Removal of Commissioners

(a) The Council of the City shall have the power to remove any Commissioner upon proper cause shown, but such removal shall be only after charges made and hearing thereon and by vote of two-thirds of all the members of the Council of the City.

Section 10. Expenditures for Alteration or Improvement of Water and Light Systems; Control

(a) The Commission shall have full control and direction of all money borrowed by the City, by bond issue or otherwise, for the improvement or alteration of the City's water and light systems.

(b) All money borrowed by the City, by bond issue or otherwise, for the alteration or improvement of the City's water and light systems, shall be held by the City Treasurer subject to the direction of the Board.

Section 11. Rates; Compensation of Commissioners

(a) The Commission annually, when making its estimates and budget and fixing the rates for water and electric current, shall fix such rates for water and electric current as will produce an annual sum of at least Three Thousand Dollars to provide a sinking fund for the payment of all the water and light bonds of the City when the same shall become due, such fund so raised to be turned over to the Treasurer of the City and held as a sinking fund for the payment of said bonds and used for no other purpose, and such sum shall be annually raised until adequate provision has been made for the payment of all of the water and light bonds at maturity.

(b) The President of the Commission shall receive an annual salary of Two Thousand Five Hundred Dollars (\$2,500.00) and each other Commissioner, shall receive an annual salary of Two Thousand Four Hundred Dollars (\$2,400.00) for their services, payable monthly out of the funds of the Commission, and in addition to their necessary expenses in the performance of their duties.

Section 12. Discretionary Payments to the Mayor and Council of New Castle

(a) Anything in this Act to the contrary notwithstanding, the Commission is hereby authorized, from time to time and in the Commissioners' sole discretion, to make payments out of surplus earnings to the Mayor and Council of New Castle."

Section 2. As of the enactment of this Act into law, the current members of the Board of Water and Light Commissioners of the City of New Castle shall constitute the Board of the Municipal Services Commission and shall continue in that capacity for the remainder of their current terms of appointment.

Approved July 01,1999

CHAPTER 117

FORMERLY

SENATE BILL NO. 37

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO THE COURT APPROVAL OF TORT SETTLEMENTS FOR MINORS OR INCOMPETENTS.

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

Section 1. Amend Section 3901(k) of Title 12 of the Delaware Code by adding after the words "the Superior Court" the following:

"or the Court of Common Pleas".

Approved July 02,1999

CHAPTER 118

FORMERLY

SENATE BILL NO. 100

AN ACT TO AMEND TITLE 14 RELATING TO CHARTER SCHOOLS REGARDING SPECIAL EDUCATION REQUIREMENTS, STUDENT ADMISSIONS, NUMBER OF DAYS ALLOWABLE TO REVIEW AND APPROVE A NEW CHARTER SCHOOL, FINANCIAL AND ADMINISTRATIVE REQUIREMENTS FOR FUTURE CHARTER SCHOOLS AND MEMBERSHIP OF A CHARTER SCHOOL BOARD.

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

Section 1. Amend §505, Chapter 5, Title 14, Delaware Code, by inserting the following phrase after the word "title" in the first sentence thereof:

", except the provisions of Chapter 31,".

Section 2. Amend §506(3), Chapter 5, Title 14, Delaware Code, by striking subsection in its entirety and substituting in lieu thereof a new subsection to read as follows:

"(3) Restrict student admissions except:

(i) By age and grade.

- (ii) By lottery in the case of over-enrollment.

Preferences in student admissions may be given to:

- (i) Siblings of students enrolled at the school.
- (ii) Students attending an existing public school converted to charter status. Parents of students at a school converted to charter status shall be provided with a plan the district will use to address the educational needs of students who will not be attending the charter school.
- (iii) Students enrolling in a new (non-converted) charter school may be given preference under the following circumstances as long as the school has described its preferences in the school's charter:
 - (A) Students residing within a five mile radius of the school
 - (B) Students residing within the regular school district in which the school is located.
 - (C) Students who have a specific interest in the school's teaching methods, philosophy, or educational focus.
 - (D) Students who are at risk of academic failure."

Section 3. Amend §511(g), Chapter 5, Title 14, Delaware Code, by inserting after the number "90" and before the word "days" the following:

"working".

Section 4. Amend §504(b), Chapter 5, Title 14, Delaware Code, by adding to the end thereof a new sentence to read as follows:

"No person shall serve as a member of a charter school board of directors who is an elected member of a local school board of education."

Approved July 02, 1999

CHAPTER 119

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 101

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE CREATING THE DELAWARE WELFARE REFORM EDUCATION AND TRAINING ASSISTANCE ACT.

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

Section 1. Amend Chapter 5, Title 31 of the Delaware Code by adding a new §523, to read as follows:

"§523. Education and training for recipients of aid under §505(1) of this chapter.

- (a) Persons who qualify for assistance under §505(1) of this chapter shall be eligible to participate in secondary education, post-secondary education up to the baccalaureate level, adult basic education, or vocational training as an approved work activity provided each of the following requirements are met:
 - (1) The person does not hold a baccalaureate degree.
 - (2) The secondary, post-secondary education up to the baccalaureate level, or vocational education is pursued through an accredited or approved school program.
 - (3) The person is enrolled with enough credit hours to have full-time student status and is in good standing as it relates to attendance and achievement as defined by the program the person is attending.
 - (4) If the person attending school would otherwise be subject to a work requirement in order to receive assistance under §505(1) of this chapter, the combination of credit hours and work hours shall equal at least 20 hours per week while the program is in session. This work requirement may be met through work-study, internships, externships, or through work as a research assistant. If possible, during scheduled breaks, the work requirement will be the same as for other program participants, with work experience related to the field of study. However, if the student is enrolled full-time for the next semester and work activity placement cannot be arranged for the duration of the break in classes, it may be excused.
- (b) Loans, scholarships, grants, and work-study received by the recipient to pay for tuition and materials are excluded in the determination of eligibility for assistance under §505(1) of this Title or the amount of assistance received by the recipient.
- (c) The Department of Health and Social Services shall advise all persons of this section at application interviews and, at a minimum, at each recertification appointment.
- (d) Persons attending education and training programs under this section shall receive support services, such as assistance with transportation and child care, while they attend the educational or vocational training program on the same basis as support services are provided other persons who are receiving assistance under §505(1) of this Title.
- (e) If program completion will occur within one semester or quarter after the time limit expires, an extension may be granted for that semester or quarter.
- (f) Persons sanctioned while attending educational or vocational programs shall be afforded the same due process as provided other persons under §518 and §520 of this Title."

Approved July 02, 1999 .

CHAPTER 120

FORMERLY

SENATE BILL NO. 112

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO ABUSE, NEGLECT OR
MISTREATMENT OF PATIENTS AND RESIDENTS OF 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):

AMEND §1131(1)a of Title 16 of the Delaware Code by deleting the phrase "intentionally and" as it
appears between the words "by" and "unnecessarily" in said paragraph and adding a new sentence to read as
follows: "When any act constituting physical abuse has been proven, the infliction of pain shall be presumed."

Section 2. Amend §1131(2) of Title 16 of the Delaware Code by deleting the word "intentional" therefrom.

Section 3. Amend §1131(3) of Title 16 by deleting the word "Intentional" wherever it appears therein.

Section 4. Amend §1131(3) of Title 16 of the Delaware Code by adding a new paragraph "d" to read as
follows:

"d. A knowing failure to provide adequate staffing which results in a medical emergency to any
patient or resident where there has been documented history of at least two (2) prior cited instances of such
inadequate staffing within the past two (2) years in violation of minimum maintenance of staffing levels as required
by statute or regulations promulgated by the Department, all so as to evidence a willful pattern of such neglect."

Section 5. Amend §1136(a) of Title 16 of the Delaware Code by inserting the words "knowingly or
recklessly" between the words "or" and "neglects" as they appear in said subsection.

Section 6. Amend §1136(b) of Title 16 of the Delaware Code by redesignating said subsection as §1136(c)
and by adding a new §1136(b) to read as follows:

"(b) Any person who knowingly exploits a patient's or resident's resources shall be guilty of a
Class A misdemeanor where the value of the resources is less than \$1,000 and shall be guilty of a Class G felony
where the value of the resources is \$1,000 or more."

Approved July 02, 1999

CHAPTER 121
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 117

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE DELAWARE BOARD OF NURSING.

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

Section 1. Amend §1903(a), Title 24, of the Delaware Code by striking the number "14", and substituting in lieu thereof, the number "15", and further amend §1903(a) by adding after the phrase "practical nurses", the phrase ", and advanced practice nurse,".

Approved July 02, 1999

CHAPTER 122
FORMERLY
SENATE BILL NO. 124

AN ACT TO AMEND TITLE 9 AND 22 OF THE DELAWARE CODE RELATING TO COUNTY AND MUNICIPAL PLANNING AND ZONING PROVISIONS REGARDING TRANSFER OF DEVELOPMENT RIGHTS.

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

Section 1. Amend §2653(a)(3), Title 9, Delaware Code, by deleting, in the second sentence thereof, the phrase "development rights from identified low density residential districts, zones, or parcels of land to residential districts, zones or areas" and substituting in lieu thereof the phrase "development rights from identified residential and non-residential districts, zones or parcels of land to residential and non-residential districts, zones, parcels or areas".

Section 2. Amend §2653(a)(3), Title 9, Delaware Code, by adding a new §2653(a)(3)e. to read as follows:

"e. Consider appropriate incentives for the transfer of development rights, including bonuses for the use of transferred development rights and intergovernmental agreements with other counties or municipalities which would permit the transfer and use of development rights between counties and municipalities."

Section 3. Amend § 4953(a)(3), Title 9, Delaware Code, by adding a new § 4953(a)(3)e. to read as follows:

"e. Consider appropriate incentives for the transfer of development rights, including bonuses for the use of transferred development rights and intergovernmental agreements with other counties or municipalities which would permit the transfer and use of development rights between counties and municipalities."

Section 4. Amend § 6953(a)(3), Title 9, Delaware Code, by adding a new § 6953(a)(3)e. to read as follows:

"e. Consider appropriate incentives for the transfer of development rights, including bonuses for the use of transferred development rights and intergovernmental agreements with other counties or municipalities which would permit the transfer and use of development rights between counties and municipalities."

Section 5. Amend Chapter 3, Title 22, Delaware Code, by adding a new § 310 to read as follows:

"§ 310. Transfer of Development Rights; Receiving Zones.

For any or all the purposes provided in § 301 of this title, the legislative body of the municipality is expressly granted the authority to develop and adopt regulations governing the transfer of development rights from identified districts, zones, or parcels from any unincorporated area in any county to districts, zones, or parcels designated to receive such development rights, and to enter into agreements with counties for such purposes. Whenever a municipality exercises its authority to provide for the receipt of development rights it shall:

- (a) Have adopted a comprehensive plan as required by this chapter and conform thereto;
- (b) Provide for the transfer of development rights as an option to the use and development of the subject property according to the otherwise applicable zoning requirements;
- (c) Limit designation of receiving areas to locations where the municipality has determined that growth should be encouraged and where a transfer of development rights would not result in the inability of either existing or planned public facilities which serve the area to accommodate such growth;
- (d) Demonstrate that the creation and regulation of receiving districts are otherwise consistent with promotion of the policies expressed by the comprehensive plans of the municipality and the statewide planning goals and objectives established pursuant to Chapter 91 of Title 29; and
- (e) Provide for appropriate incentives for the transfer of development rights, including bonuses for the use of transferred development rights and intergovernmental agreements with counties which would permit the transfer and use of development rights between counties and municipalities."

Approved July 02, 1999

CHAPTER 123

FORMERLY

SENATE BILL NO. 137

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 phrase ", or 1 of the abbreviations ['co.', 'corp.', 'inc.', 'ltd.'], or words or abbreviations of like import in other languages" appearing in clause (i) thereof and substituting in lieu of said phrase the following: "(or abbreviations thereof, with or without punctuation), or words (or abbreviations thereof, with or without punctuation) of like import of foreign countries or jurisdictions".

Section 2. Amend Title 8, Delaware Code, by adding a new section 111, which shall read as follows:

"§111. Interpretation and enforcement of the certificate of incorporation and bylaws.

Any action to interpret, apply or enforce the provisions of the certificate of incorporation or the bylaws of a corporation may be brought in the Court of Chancery."

Section 3. Amend Section 170(a), Title 8, Delaware Code, by deleting from the first sentence the words "organized for profit".

Section 4. Amend Section 202, Title 8, Delaware Code, by deleting Section 202 (including the heading thereto) in its entirety and inserting in lieu thereof the following:

"§202. Restrictions on transfer and ownership of securities.

(a) A written restriction or restrictions on the transfer or registration of transfer of a security of a corporation, or on the amount of the corporation's securities that may be owned by any person or group of persons, if permitted by this section and noted conspicuously on the certificate or certificates representing the security or securities so restricted or, in the case of uncertificated shares, contained in the notice or notices sent pursuant to subsection (f) of §151 of this title, may be enforced against the holder of the restricted security or securities or any successor or transferee of the holder including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder. Unless noted conspicuously on the certificate or certificates representing the security or securities so restricted or, in the case of uncertificated shares, contained in the notice or notices sent pursuant to subsection (f) of §151 of this title, a restriction, even though permitted by this section, is ineffective except against a person with actual knowledge of the restriction.

(b) A restriction on the transfer or registration of transfer of securities of a corporation, or on the amount of a corporation's securities that may be owned by any person or group of persons, may be imposed by the certificate of incorporation or by the bylaws or by an agreement among any number of security holders or among such holders and the corporation. No restrictions so imposed shall be binding with respect to securities issued prior to the adoption of the restriction unless the holders of the securities are parties to an agreement or voted in favor of the restriction.

(c) A restriction on the transfer or registration of transfer of securities of a corporation or on the amount of such securities that may be owned by any person or group of persons is permitted by this section if it:

(1) Obligates the holder of the restricted securities to offer to the corporation or to any other holders of securities of the corporation or to any other person or to any combination of the foregoing, a prior opportunity, to be exercised within a reasonable time, to acquire the restricted securities; or

(2) Obligates the corporation or any holder of securities of the corporation or any other person or any combination of the foregoing, to purchase the securities which are the subject of an agreement respecting the purchase and sale of the restricted securities; or

(3) Requires the corporation or the holders of any class or series of securities of the corporation to consent to any proposed transfer of the restricted securities or to approve the proposed transferee of the restricted securities, or to approve the amount of securities of the corporation that may be owned by an person or group of persons; or

(4) Obligates the holder of the restricted securities to sell or transfer an amount of restricted securities to the corporation or to any other holders of securities of the corporation or to any other person or to any combination of the foregoing, or causes or results in the automatic sale or transfer of an amount of restricted securities to the corporation or to any other holders of securities of the corporation or to any other person or to any combination of the foregoing; or

(5) Prohibits or restricts the transfer of the restricted securities to, or the ownership of restricted securities by, designated persons or classes of persons or groups of persons, and such designation is not manifestly unreasonable.

(d) Any restriction on the transfer or the registration of transfer of the securities of a corporation, or on the amount of securities of a corporation that may be owned by a person or group of persons, for any of the following purposes shall be conclusively presumed to be for a reasonable purpose:

(1) maintaining any local, state, federal, or foreign tax advantage to the corporation or its stockholders, including without limitation (i) maintaining the corporation's status as an electing small business corporation under subchapter S of the United States Internal Revenue Code [26 U.S.C.A. §1371 et seq.], or (ii) maintaining or preserving any tax attribute (including without limitation net operating losses), or (iii) qualifying or maintaining the qualification of the corporation as a real estate investment trust pursuant to the United States Internal Revenue Code or regulations adopted pursuant to the United States Internal Revenue Code, or

(2) maintaining any statutory or regulatory advantage or complying with any statutory or regulatory requirements under applicable local, state, federal, or foreign law.

(e) Any other lawful restriction on transfer or registration of transfer of securities, or on the amount of securities that may be owned by any person or group of persons, is permitted by this section."

Section 5. Amend Section 242(b)(3), Title 8, Delaware Code, by deleting from the second sentence the words "at a subsequent meeting, held, on notice stating the purpose thereof, not earlier than 15 days and not later than 60 days from the meeting at which such resolution has been passed, "; by deleting from the first clause of the third sentence the words "only 1 meeting of the governing body thereof shall be necessary, and"; by adding in the second clause of the third sentence after the words "in the event of the adoption thereof" the words "by such members"; by adding in the second clause of the third sentence after the words "shall be executed," the words "acknowledged and"; and by deleting from the second clause of the third sentence after the word "filed" the words "and acknowledged".

Section 6. Amend Title 8, Delaware Code, by changing the heading for Subchapter IX so that it reads as follows:

"MERGER, CONSOLIDATION OR CONVERSION".

Section 7. Amend Section 251(g), Title 8, Delaware Code, by adding the phrase "other than the election or removal of directors of the surviving corporation" after the words "surviving corporation" in subsection (7)(i) of the first paragraph thereof and adding the following sentence to the end of the first paragraph of subsection (g): "Neither subsection (g)(7)(i) hereof nor any provision of a surviving corporation's certificate of incorporation required by subsection (g)(7)(i) shall be deemed or construed to require approval of the stockholders of the holding company to elect or remove directors of the surviving corporation."

Section 8. Amend Section 253(a), Title 8, Delaware Code, by adding the phrase ", of which class there are outstanding shares that, absent this subsection, would be entitled to vote on such merger," immediately following the parenthetical clause appearing in the first sentence thereof.

Section 9. Amend Section 255(c), Title 8, Delaware Code, by deleting from the end of the fourth sentence the words ", each member who has the right to vote for the election of the members of the governing body of the corporation being entitled to 1 vote" and by deleting after the word "If" at the beginning of the fifth sentence the words "the votes of two thirds of the total number" and substituting therefor the words "a majority of the voting power".

Section 10. Amend Title 8, Delaware Code, by adding a new section 265, which shall read as follows:

"§265. Conversion of other entities to a domestic corporation.

(a) As used in this section, the term 'other entity' means a limited liability company, limited partnership or business trust of this State.

(b) Any other entity may convert to a corporation incorporated under the laws of this State by complying with subsection (g) of this section and filing in the office of the Secretary of State:

(1) A certificate of conversion that has been executed in accordance with subsection (h) of this section and filed in accordance with § 103 of this title; and

(2) A certificate of incorporation that has been executed, acknowledged and filed in accordance with § 103 of this title.

(c) The certificate of conversion shall state:

(1) The date on which the other entity was first formed;

(2) The name of the other entity immediately prior to the filing of the certificate of conversion;

(3) The name of the corporation as set forth in its certificate of incorporation filed in accordance with subsection (b) of this section; and

(4) The fact that the other entity is a limited liability company, limited partnership or business trust of this State.

(d) Upon the effective time of the certificate of conversion and the certificate of incorporation, the other entity shall be converted into a corporation of this State and the corporation shall thereafter be subject to all of the provisions of this title, except that notwithstanding § 106 of this title, the existence of the corporation shall be deemed to have commenced on the date the other entity commenced its existence.

(e) The conversion of any other entity into a corporation of this State shall not be deemed to affect any obligations or liabilities of the other entity incurred prior to its conversion to a corporation of this State or the personal liability of any person incurred prior to such conversion.

(f) Unless otherwise agreed or otherwise provided by any laws of this State applicable to the converting limited liability company, limited partnership or business trust, the converting other entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not be deemed to constitute a dissolution of such other entity and shall constitute a continuation of the existence of the converting other entity in the form of a corporation of this State.

(g) Prior to filing a certificate of conversion with the office of the Secretary of State, the conversion shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the other entity and the conduct of its business or by applicable law, as appropriate, and a certificate of incorporation shall be approved by the same authorization required to approve the conversion.

(h) The certificate of conversion shall be signed by any officer, director, trustee, manager, partner or other person performing functions equivalent to those of an officer or director of a corporation of this State, however named or described, and who is authorized to sign the certificate of conversion on behalf of the other entity."

Section 11. Amend Title 8, Delaware Code, by adding a new section 226, which shall read as follows:

"§266. Conversion of a domestic corporation to other entities.

(a) A corporation of this State may, upon the authorization of such conversion in accordance with this section, convert to a limited liability company, limited partnership or business trust of this State.

(b) The board of directors of the corporation which desires to convert under this section shall adopt a resolution approving such conversion, specifying the type of entity into which the corporation shall be converted and recommending the approval of such conversion by the stockholders of the corporation. Such resolution shall be submitted to the stockholders of the corporation at an annual or special meeting. Due notice of the time, and purpose of the meeting shall be mailed to each holder of stock, whether voting or nonvoting, of the corporation at the address of the stockholder as it appears on the records of the corporation, at least 20 days prior to the date of the meeting. At the meeting, the resolution shall be considered and a vote taken for its adoption or rejection. If all outstanding shares of stock of the corporation, whether voting or nonvoting, shall be voted for the adoption of the resolution, the corporation shall file with the Secretary of State a certificate of conversion executed in accordance with § 103 of this title, which certifies:

(1) The name of the corporation, and if it has been changed, the name under which it was originally incorporated;

(2) The date of filing of its original certificate of incorporation with the Secretary of State;

(3) The name of the limited liability company, limited partnership or business trust into which the corporation shall be converted; and

(4) That the conversion has been approved in accordance with the provisions of this section.

(c) Upon the filing of a certificate of conversion in accordance with subsection (b) of this section and payment to the Secretary of State of all fees prescribed under this title, the Secretary of State shall certify that the corporation has filed all documents and paid all fees required by this title, and thereupon the corporation shall cease to exist as a corporation of this State at the time the certificate of conversion becomes effective in accordance with § 103 of this title. Such certificate of the Secretary of State shall be prima facie evidence of the conversion by such corporation.

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(d) The conversion of a corporation pursuant to a certificate of conversion under this section shall not be deemed to affect any obligations or liabilities of the corporation incurred prior to such conversion or the personal liability of any person incurred prior to such conversion.

(e) After the time the certificate of conversion becomes effective the corporation shall continue to exist as a limited liability company, limited partnership or business trust of this State, and the laws of this State shall apply to the entity to the same extent as prior to such time.

(f) Unless otherwise provided in a resolution of conversion adopted in accordance with this section, the converting corporation shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not constitute a dissolution of such corporation and shall constitute a continuation of the existence of the converting corporation in the form of the applicable other entity of this State."

Section 12. Amend Section 391(a), Title 8, Delaware Code, by adding new paragraphs (25) and (26), which paragraphs shall read as follows:

"(25) For receiving and filing and/or indexing by the Secretary of State of a certificate of conversion and certificate of incorporation prescribed in § 265 of this title, a fee of \$50, plus the tax and fee payable upon the receipt for filing of an original certificate of incorporation, shall be paid.

(26) For receiving and filing and/or indexing by the Secretary of State of a certificate of conversion prescribed in § 266 of this title, a fee of \$50 shall be paid."

Section 13. This Act shall become effective July 1, 1999.

Approved July 02, 1999

CHAPTER 124

FORMERLY

SENATE BILL NO. 153

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE REGULATION OF
TATTOO PARLORS AND BODY PIERCING ESTABLISHMENTS.

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

Section 1. Amend §122(3), Title 16 of the Delaware Code by inserting a new paragraph to read as follows:

"w. Establish standards for the sanitary operation of tattoo parlors and body piercing establishments. For purposes of this paragraph, 'tattoo parlor' means a person or business that makes permanent marks on human skin by puncturing the skin and inserting an indelible color or by producing scarring. For purposes of this paragraph, 'body piercing establishment' means a person or business that perforates any human body part or human tissue and places a foreign object in the perforation for nonmedical purposes except for a person or business that perforates only ears. Upon receipt of an application for a permit and a permit fee of \$100, the Department of Health and Social Services shall issue a permit to a tattoo parlor or body piercing establishment if it meets the requirements established under Department regulations. The Secretary shall be authorized to issue restricted, provisional and other types of permits and to revoke or suspend any permit in accordance with Department regulations. A permit, unless sooner suspended or revoked, shall be renewed annually upon filing by the permittee and payment of an annual permit fee of \$100, provided that an applicant meets the requirements set forth in Department regulations."

Approved July 02, 1999

CHAPTER 125

FORMERLY

SENATE BILL NO. 161

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

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

Section 1. Amend paragraph (3), subsection (a), §706, Title 24 of the Delaware Code by striking said paragraph in its entirety and substituting the following in lieu thereof:

"(3) Grant licenses to, and renew licenses of, all persons who meet the qualifications for licensure;"

Section 2. Amend paragraph (5), subsection (a), §706, Title 24 of the Delaware Code by striking said paragraph in its entirety and by renumbering each succeeding paragraph accordingly.

Section 3. Amend §707, Title 24 of the Delaware Code by striking said section in its entirety and by substituting the following in lieu thereof:

"§707. Qualifications of applicant; report to Attorney General; judicial review.

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

(1) Has received a degree of 'Doctor of Chiropractic' from a school or college fully accredited by an accrediting agency recognized by the U.S. Department of Education;

(2) Shall provide proof satisfactory to the Board that he or she has successfully passed Parts I, II, III, IV and the physiotherapy section of the National Board of Chiropractic Examiners' examination;

(3) Shall not have been the recipient of any administrative penalties regarding his or her practice of chiropractic, 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. The Board may determine, after a hearing, whether such administrative penalty is grounds to deny licensure.

(4) Shall not have any impairment related to drugs, alcohol, or a finding or mental incompetence by a physician that would limit the applicant's ability to undertake the practice of chiropractic in a manner consistent with the safety of the public;

(5) Shall not have been convicted of a felony;

(6) 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 chiropractic. 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 chiropractic.

(b) An applicant, who has received a degree of 'Doctor of Chiropractic' or its equivalent from a foreign school, college, or university, shall submit a certified copy of his or her school, college or university record for evaluation by the Board.

(b) 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.

(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."

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Section 4. Amend subsection (a), §710, Title 24 of the Delaware Code by striking the words "who has passed the clinical examination" as the same appear in said subsection.

Section 5. Amend §711, Title 24 of the Delaware Code by striking said section in its entirety and by substituting the following in lieu thereof:

"§711. 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, whose standards for licensure are substantially similar to those of this State.

(b) An applicant, who is currently licensed in another state, the District of Columbia, or territory of the United States, whose standards for licensure are not substantially similar to those of this State, shall present proof of current licensure in good standing in another state, the District of Columbia, or territory of the United States, and in addition the applicant shall meet one of the following criteria:

(1) Shall have graduated from an accredited, or Board-approved school of chiropractic after July 1, 1997, and shall provide documentation of successful completion of Parts I, II, IV and the physiotherapy section of the National Board of Chiropractic Examiners' examination; or,

(2) Shall have graduated from an accredited, or Board-approved school of chiropractic, prior to July 1, 1997, but after January 31, 1991, and shall provide documentation of successful completion of Parts I, II, III of the National Board of Chiropractic Examiners' examination; or,

(3) Shall have graduated from an accredited, or Board-approved school of chiropractic, prior to January 31, 1991, and shall provide documentation of successful completion of Parts, I, II, III of the National Board of Chiropractic Examiners' examination; or Parts I and II of the National Board of Chiropractic Examiners' examination and the Special Purpose Examination for Chiropractic (SPEC) approved by the National Board of Chiropractic Examiners.

(c) Notwithstanding the provisions of paragraphs (1), (2), or (3) of subsection (b) of this section, if the applicant has successfully passed those examinations that were available at the time of the applicant's graduation from a Board-approved school of chiropractic and application for original licensure, the Board shall accept proof of successful completion of those examinations in lieu of the provisions of paragraphs (1), (2), or (3) of subsection (b) of this section.

(d) For all applicants licensure in good standing is defined in §707(a)(3), (4), (5), and (6) of this Chapter. The applicant is responsible for providing proof of licensure in good standing in all states in which he or she is or has been licensed."

Section 6. Amend §708, Title 24 of the Delaware Code by striking said §708 in its entirety and by renumbering each succeeding section accordingly.

Approved July 02, 1999

CHAPTER 126

FORMERLY

SENATE BILL NO. 167

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO PROBATION BEFORE JUDGMENT.

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

Section 1. Amend Title 11 of the Delaware Code by adding a new section 4218 to read as follows:

"§ 4218. Probation Before Judgment.

(a) For a violation or misdemeanor offense under Titles 4, 7, 11 or 21 of the Delaware Code, when such offense is the first such offense on the individual's record, a court exercising criminal jurisdiction after accepting a guilty plea or nolo contendere plea may, with the consent of the defendant and the prosecuting agency, stay the entry of judgment, defer further proceedings, and place the defendant on "Probation Before Judgment" subject to such reasonable terms and conditions as may be appropriate. The terms and conditions may include any or all of the following: 1) ordering the defendant to pay a pecuniary penalty, 2) ordering the defendant to pay court costs to the State, 3) ordering the defendant to pay restitution, 4) ordering the defendant to perform community service, 5) ordering the defendant to refrain from contact with certain persons, and 6) ordering the defendant to conduct themselves in a specified manner.

(b) This section may not be substituted for:

- 1) Title 10 of the Delaware § 1024. First offenders domestic violence diversion program;
- 2) Title 11 of the Delaware Code § 900A. Conditional discharge for issuing a bad check as first offense;
- 3) Title 16 of the Delaware Code § 4764. First Offenders Controlled Substances Diversion Program; or
- 4) Title 21 of the Delaware Code § 4177B. First offenders; election in lieu of trial.

(c) This section may not be used by any defendant who is currently serving a sentence, or is currently on probation, parole or early release for any violent felony as set forth in §4201(c) of this Title.

(d) This section shall not be available to any person who has previously been admitted to Probation Before Judgment for any offense within 5 years of the current offense.

(e) Upon a violation of a term or condition of the Court's order of Probation Before Judgment, the Court may enter judgment and proceed with disposition of the person as if the person had not been placed on Probation Before Judgment.

(f) Upon fulfillment of the terms and conditions of Probation Before Judgment, the Court shall discharge the person from probation. The discharge is the final disposition of the matter. Discharge of a person under this section shall be without judgment of conviction and is not a conviction for purposes of any disqualification or disability imposed by law because of conviction of a crime."

Approved July 02,1999

CHAPTER 127

FORMERLY

SENATE BILL NO. 169

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO THE MOTOR VEHICLE SALES FINANCE ACT.

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

Section 1. Amend Section 2907(e)(4) of Title 5 of the Delaware Code by adding the following before the semicolon: "including any amounts actually paid or to be paid by the seller pursuant to an agreement with the buyer to discharge a security interest, lien or lease interest on property traded in".

Approved July 02,1999

CHAPTER 128

FORMERLY

SENATE BILL NO. 177

AN ACT TO AMEND 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 § 17-106(b), Chapter 17, Title 6 of the Delaware Code by deleting the words "so far as" and by substituting in lieu thereof the word "including", and by adding the word "as" following the words "such powers and privileges".

Section 2. Amend § 17-109(a), Chapter 17, Title 6 of the Delaware Code by adding the following after the phrase "liquidating trustee of a limited partnership" in the second sentence thereof:

" , or the acceptance by a general partner or a liquidating trustee after August 1, 1999, of election or appointment as a general partner or a liquidating trustee of a limited partnership, or a general partner or a liquidating trustee of a limited partnership serving in such capacity after August 1, 1999, "

Section 3. Amend § 17-109(a), Chapter 17, Title 6 of the Delaware Code by adding " , or such acceptance or service, " after the words "Such execution and filing" in the last sentence thereof.

Section 4. Amend § 17-215, Chapter 17, Title 6 of the Delaware Code by adding at the end thereof a new subsection (i) reading as follows:

"(i) When a non-United States entity has become domesticated as a limited partnership pursuant to this section, the limited partnership shall, for all purposes of the laws of the State of Delaware, be deemed to be the same entity as the domesticating non-United States entity. Unless otherwise agreed, or as required under applicable non-Delaware law, the domesticating non-United States entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the domestication shall not be deemed to constitute a dissolution of such non-United States entity and shall constitute a continuation of the existence of the domesticating non-United States entity in the form of a domestic limited partnership. If, following domestication, a non-United States entity that has become domesticated as a limited partnership continues its existence in the foreign country or other foreign jurisdiction in which it was existing immediately prior to domestication, the limited partnership and such non-United States entity shall, for all purposes of the laws of the State of Delaware, constitute a single entity formed, incorporated, created or otherwise having come into being, as applicable, and existing under the laws of the State of Delaware and the laws of such foreign country or other foreign jurisdiction."

Section 5. Amend § 17-216, Chapter 17, Title 6 of the Delaware Code by adding at the end of subsection (e) thereof a new sentence reading as follows:

"So long as a limited partnership continues to exist as a limited partnership of the State of Delaware following the filing of a certificate of transfer and continuance, the continuing domestic limited partnership and the entity formed, incorporated, created or that otherwise came into being as a consequence of the transfer of the limited partnership to, or its domestication in, a foreign country or other foreign jurisdiction shall, for all purposes of the laws of the State of Delaware, constitute a single entity formed, incorporated, created or otherwise having come into being, as applicable, and existing under the laws of the State of Delaware and the laws of such foreign country or other foreign jurisdiction."

Section 6. Amend § 17-217(a), Chapter 17, Title 6 of the Delaware Code by adding the word "corporation," after the words "means a".

Section 7. Amend § 17-217(c)(1), Chapter 17, Title 6 of the Delaware Code by adding the word "incorporated," after the words "first created,".

Section 8. Amend § 17-217, Chapter 17, Title 6 of the Delaware Code by adding at the end of subsection (g) thereof a new sentence reading as follows:

"When an other entity has been converted to a limited partnership pursuant to this section, the limited partnership shall, for all purposes of the laws of the State of Delaware, be deemed to be the same entity as the converting other entity."

Section 9. Amend § 17-219, Chapter 17, Title 6 of the Delaware Code by adding the word "corporation," after the words "may convert to a".

Section 10. Amend § 17-302(e), Chapter 17, Title 6 of the Delaware Code by adding the following words immediately preceding the period at the end of the first sentence thereof: "at which all interests in the limited partnership entitled to vote thereon were present and voted".

Section 11. Amend § 17-402(a), Chapter 17, Title 6 of the Delaware Code by deleting the word "or" after the ";," at the end of subsection (10), by inserting a new subsection (11) reading as follows: "(11) In the case of a general partner that is a limited liability company, the dissolution and commencement of winding up of the limited liability company; or", by renumbering existing subsection (11) as subsection (12) and by inserting in renumbered subsection (12) after the word "partnership," the words "limited liability company,".

Section 12. Amend § 17-604, Chapter 17, Title 6 of the Delaware Code by deleting said section in its entirety and by substituting in lieu thereof the following:

"Except as provided in this subchapter, upon withdrawal any withdrawing partner is entitled to receive any distribution to which such partner is entitled under a partnership agreement and, if not otherwise provided in a partnership agreement, such partner is entitled to receive, within a reasonable time after withdrawal, the fair value of such partner's partnership interest in the limited partnership as of the date of withdrawal based upon such partner's right to share in distributions from the limited partnership."

Section 13. Amend § 17-801(1), Chapter 17, Title 6 of the Delaware Code by adding following the words "partnership agreement" the words ", but if no such time or event is specified in the partnership agreement, then the limited partnership shall have a perpetual existence".

Section 14. Amend § 17-801(2), Chapter 17, Title 6 of the Delaware Code by adding the words "affirmative vote or" after the words "upon the".

Section 15. Amend § 17-801, Chapter 17, Title 6 of the Delaware Code by deleting subsection (4) thereof in its entirety and inserting in lieu thereof the following new subsection (4):

"(4) At the time there are no limited partners; provided that the limited partnership is not dissolved and is not required to be wound up if, (i) unless otherwise provided in a partnership agreement, 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 remaining limited partner to cease to be a limited partner, the personal representative of the last remaining limited partner and all of the general partners agree, in writing or by 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 remaining limited partner to cease to be a limited partner; provided that a partnership agreement may provide that the general partners or the personal representative of the last remaining limited partner shall be obligated to agree in writing 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 (ii) a limited partner is admitted to the limited partnership in the manner provided for in the partnership agreement, effective as of the occurrence of the event that caused the last remaining limited partner to cease to be a limited partner, 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 remaining limited partner to cease to be a limited partner, pursuant to a provision of the partnership agreement that specifically provides for the admission of a limited partner to the limited partnership after there is no longer a remaining limited partner of the limited partnership."

Section 16. Amend § 17-1107(a)(3), Chapter 17, Title 6 of the Delaware Code by deleting the reference to "§ 17-212", and substituting in lieu thereof "§ 17-213".

Section 17. Amend § 17-1107(a)(3), Chapter 17, Title 6 of the Delaware Code by deleting the words "a certificate of restoration under § 17-1109(h) of this title," and by adding immediately preceding the words "a fee in the amount of \$200", the words "and upon the restoration of a domestic limited partnership or a foreign limited partnership under § 17-1109(h)."

Section 18. Amend § 17-1108, Chapter 17, Title 6 of the Delaware Code by adding the following new sentence at the end of said section:

"Unless expressly stated to the contrary in this chapter, all amendments of this chapter shall apply to limited partnerships and partners whether or not existing as such at the time of the enactment of any such amendment."

Section 19. Amend § 17-1109(h), Chapter 17, Title 6 of the Delaware Code by deleting the words ", accompanied by a certificate of the limited partnership executed by a general partner or a liquidating trustee stating that it is paying all sums due hereunder", and by deleting from the last sentence of said section the words "the filing of any such certificate", and by substituting in lieu thereof the word "restoration".

Section 20. This Act shall become effective August 1, 1999.

Approved July 02, 1999

CHAPTER 129

FORMERLY

SENATE BILL NO. 178

AN ACT TO AMEND 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 after the first sentence thereof the following new sentence:

"A limited liability company agreement of a limited liability company having only one member shall not be unenforceable by reason of there being only one person who is a party to the limited liability company agreement."

Section 2. Amend § 18-106(b), Chapter 18, Title 6 of the Delaware Code by deleting the words "so far as" and by substituting in lieu thereof the word "including", and by adding the word "as" following the words "such powers and privileges".

Section 3. Amend § 18-109(a), Chapter 18, Title 6 of the Delaware Code by adding at the end of § 18-109(a) the following:

"As used in this subsection (a) and in subsections (b) and (c) of this § 18-109, the term 'manager' refers (i) to a person who is a manager as defined in § 18-101(10) of this chapter and (ii) to a person who is a member of a limited liability company and who, although not a manager as defined in § 18-101(10) of this chapter, participates materially in the management of the limited liability company, *provided, however*, that the power to elect or otherwise select or to participate in the election or selection of a person to be a manager as defined in § 18-101(10) of this chapter shall not, by itself, constitute participation in the management of the limited liability company."

Section 4. Amend § 18-212, Chapter 18, Title 6 of the Delaware Code by adding at the end thereof a new subsection (i) reading as follows:

"(i) When a non-United States entity has become domesticated as a limited liability company pursuant to this section, the limited liability company shall, for all purposes of the laws of the State of Delaware, be deemed to be the same entity as the domesticating non-United States entity. Unless otherwise agreed, or as required under applicable non-Delaware law, the domesticating non-United States entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the domestication shall not be deemed to constitute a dissolution of such non-United States entity and shall constitute a continuation of the existence of the domesticating non-United States entity in the form of a domestic limited liability company. If, following domestication, a non-United States entity that has become domesticated as a limited liability company continues its existence in the foreign country or other foreign jurisdiction in which it was existing immediately prior to domestication, the limited liability company and such non-United States entity shall, for all purposes of the laws of the State of Delaware, constitute a single entity formed, incorporated, created or otherwise having come into being, as applicable, and existing under the laws of the State of Delaware and the laws of such foreign country or other foreign jurisdiction."

Section 5. Amend § 18-213, Chapter 18, Title 6 of the Delaware Code by adding at the end of subsection (e) a new sentence reading as follows:

"So long as a limited liability company continues to exist as a limited liability company of the State of Delaware following the filing of a certificate of transfer and continuance, the continuing domestic limited liability company and the entity formed, incorporated, created or that otherwise came into being as a consequence of the transfer of the limited liability company to, or its domestication in, a foreign country or other foreign jurisdiction shall, for all purposes of the laws of the State of Delaware, constitute a single entity formed, incorporated, created or otherwise having come into being, as applicable, and existing under the laws of the State of Delaware and the laws of such foreign country or other foreign jurisdiction."

Section 6. Amend § 18-214(a), Chapter 18, Title 6 of the Delaware Code by adding the word "corporation," after the words "means a".

Section 7. Amend § 18-214(c)(1), Chapter 18, Title 6 of the Delaware Code by adding the word "incorporated," after the words "first created,".

Section 8. Amend § 18-214, Chapter 18, Title 6 of the Delaware Code by adding at the end of subsection (g) thereof a new sentence reading as follows:

"When an other entity has been converted to a limited liability company pursuant to this section, the limited liability company shall, for all purposes of the laws of the State of Delaware, be deemed to be the same entity as the converting other entity."

Section 9. Amend § 18-216, Chapter 18, Title 6 of the Delaware Code by adding the word "corporation," after the words "may convert to a".

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Section 10. Amend § 18-302(d), Chapter 18, Title 6 of the Delaware Code by adding the following words immediately preceding the period at the end of the first sentence thereof: "at which all interests in the limited liability company entitled to vote thereon were present and voted".

Section 11. Amend § 18-402, Chapter 18, Title 6 of the Delaware Code by deleting the second sentence of the said section and by substituting in lieu thereof the following new sentence:

"The manager shall also hold the offices and have the responsibilities accorded to the manager by or in the manner provided in a limited liability company agreement."

Section 12. Amend § 18-604, Chapter 18, Title 6 of the Delaware Code by deleting said section in its entirety and by substituting in lieu thereof the following:

"Except as provided in this subchapter, upon resignation any resigning member is entitled to receive any distribution to which such member is entitled under a limited liability company agreement and, if not otherwise provided in a limited liability company agreement, such member is entitled to receive, within a reasonable time after resignation, the fair value of such member's limited liability company interest as of the date of resignation based upon such member's right to share in distributions from the limited liability company."

Section 13. Amend § 18-801(a)(3), Chapter 18, Title 6 of the Delaware Code by adding the words "affirmative vote or" after the words "upon the".

Section 14. Amend § 18-801(a), Chapter 18, Title 6 of the Delaware Code by deleting subsection (4) thereof in its entirety and inserting in lieu thereof the following new subsection (4):

"(4) At any time there are no members; provided that the limited liability company is not dissolved and is not required to be wound up if, (i) unless otherwise provided in a limited liability company agreement, 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; provided that a limited liability company agreement may provide that the personal representative of the last remaining member shall be obligated to agree 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, (ii) a member is admitted to the limited liability company in the manner provided for in the limited liability company agreement, effective as of the occurrence of the event that terminated the continued membership of the last remaining member, 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, pursuant to a provision of the limited liability company agreement that specifically provides for the admission of a member to the limited liability company after there is no longer a remaining member of the limited liability company."

Section 15. Amend § 18-801(b), Chapter 18, Title 6 of the Delaware Code by adding a "." after the words "shall be continued without dissolution", and by deleting the remainder of the sentence beginning with the words "unless within 90 days".

Section 16. Amend § 18-1105(a)(3), Chapter 18, Title 6 of the Delaware Code by deleting the words "a certificate of restoration under § 18-1107(i) of this chapter.", and by adding immediately preceding the words "a fee in the amount of \$50", the words "and upon the restoration of a domestic limited liability company or a foreign limited liability company under § 18-1107(i).".

Section 17. Amend § 18-1106, Chapter 18, Title 6 of the Delaware Code by adding the following new sentence at the end of said section:

"Unless expressly stated to the contrary in this chapter, all amendments of this chapter shall apply to limited liability companies and members and managers whether or not existing as such at the time of the enactment of any such amendment."

Section 18. Amend § 18-1107(i), Chapter 18, Title 6 of the Delaware Code by deleting the words "accompanied by a certificate of the limited liability company executed by an authorized person stating that it is paying all sums due hereunder", and by deleting from the last sentence of said section the words "the filing of any such certificate", and by substituting in lieu thereof the word "restoration".

Section 19. This Act shall become effective August 1, 1999, except for Section 3 of this Act which shall become effective January 1, 2000.

Approved July 02, 1999

CHAPTER 130

FORMERLY

SENATE BILL NO. 179

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE REGARDING INDEMNIFICATION OF PARTIES PURSUANT TO A POLICE MUTUAL AID AGREEMENT.

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

Section 1. Amend Delaware Code, Title 11, Section 1944(b)(2) by adding the following phrase to the end of the existing subsection:

"unless agreed upon otherwise as a condition of the agreement."

Approved July 02, 1999

CHAPTER 131

FORMERLY

SENATE BILL NO. 180

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE REGARDING STATE POLICE REQUEST FOR ASSISTANCE FROM OTHER DELAWARE POLICE AGENCIES.

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

Section 1. Amend §8302 Title 11, Delaware Code by deleting Section 8302(b) in its entirety and inserting in lieu thereof the following:

"When police officers, who are certified by the Delaware Council on Police Training, are acting outside their respective jurisdiction as conservators of the peace in response to a request for assistance from the State Police, those officers shall be considered to be acting as State Police officers and shall have the powers of arrest thereof."

Approved July 02, 1999

CHAPTER 132

FORMERLY

SENATE BILL NO. 183

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO VIATICAL SETTLEMENTS.

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

Section 1. Amend Title 18 of the Delaware Code by adding thereto a new chapter, designated as Chapter 75, which shall read as follows:

"Chapter 75. Delaware Viatical Settlements Act

§ 7501. Short Title

This Act may be cited as the Delaware Viatical Settlements Act.

§ 7502. Definitions

As used in this Chapter:

- (a) 'Financing entity' means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a viatical settlement provider, credit enhancer, or any person that may be a party to a viatical settlement contract and that has a direct ownership in a policy or certificate that is the subject of a viatical settlement contract but whose sole activity related to the transaction is providing funds to effect the viatical settlement and who has an agreement in writing with a licensed viatical settlement provider to act as a participant in a financing transaction.
- (b) 'Financing transaction' means a transaction in which a licensed viatical settlement provider or a financing entity obtains financing for viatical settlement contracts, viaticated policies or interests therein including, without limitation, any secured or unsecured financing, any securitization transaction or any securities offering either registered or exempt from registration under federal and state securities law, or any direct purchase of interests in a policy or certificate, if the financing transaction complies with federal and state securities law.
- (c) 'Person' means a legal entity, including but not limited to, an individual, partnership, limited liability company, association, trust, corporation or other legal entity.
- (d) (1) 'Viatical settlement agent' means a person who is an authorized agent of a licensed viatical settlement provider who acts or aids in any manner in the solicitation of a viatical settlement. Viatical settlement agent shall not include:
 - a. An attorney, an licensed CPA, certified financial planner or any person exercising a power of attorney granted by a viator; or
 - b. Any person who is retained to represent a viator and whose compensation is paid by or at the direction of the viator regardless of whether the viatical settlement is consummated.
- (2) A viatical settlement agent is deemed to represent only the viatical settlement provider.
- (e) 'Viatical settlement broker' means a person that on behalf of a viator and for a fee, commission or other valuable consideration offers or attempts to negotiate viatical settlements between a viator and one or more viatical settlement providers. Irrespective of the manner in which the viatical settlement broker is compensated, a viatical settlement broker is deemed to represent only the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator. The term does not include an attorney, licensed CPA, or certified financial planner retained to represent the viator whose compensation is paid directly by or at the direction of the viator.
- (f) 'Viatical settlement contract' means a written agreement entered into between a viatical settlement provider and a viator. The agreement shall establish the terms under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of all or a portion of the insurance policy or certificate of insurance to the viatical settlement

provider. A viatical settlement contract also includes a contract for a loan or other financial transaction secured primarily by an individual or group life insurance policy, other than a loan by a life insurance company pursuant to the terms of the life insurance contract, or a loan secured by the cash value of a policy.

(g) 'Viatical settlement provider' means a person, other than a viator, that enters into a viatical settlement contract. Viatical settlement provider also means a person that obtains financing from a financing entity for the purchase, acquisition, transfer or other assignment of one or more viatical settlement contracts, viaticated policies or interests therein, or otherwise sells, assigns, transfers, pledges, hypothecates or otherwise disposes of one or more viatical settlement contracts, viaticated policies or interests therein. Viatical settlement provider does not include:

(1) A bank, savings bank, savings and loan association, credit union or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan;

(2) The issuer of a life insurance policy providing accelerated benefits and pursuant to the contract; or

(3) A natural person who enters into no more than one agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit.

(h) 'Viator' means the owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a catastrophic, life-threatening or chronic illness or condition who enters or seeks to enter into a viatical settlement contract.

(i) 'Viaticated policy' means a life insurance policy or certificate that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.

§ 7503. License Requirements

(a) A person shall not operate as a viatical settlement provider without first having obtained an agency license in accordance with Chapter 17 of this title.

(b) A person shall not operate as a viatical settlement agent without first having obtained a license as a life agent in accordance with Chapter 17 of this Title. Notwithstanding the above, Chapter 17 appointment requirements shall not apply to viatical settlement agents performing viatical settlement functions.

(c) A person shall not operate as a viatical settlement broker without first having obtained a license as a life broker in accordance with Chapter 17 of this Title.

(d) Applications for viatical settlement provider, agent and broker's licenses shall be made in accordance with Chapter 17 of this Title.

(e) The Commissioner is authorized, at all times, to require the applicant to disclose the identity of all stockholders, partners, officers, members and employees. The Commissioner may, in the exercise of his or her discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner or member thereof who may materially influence the applicant's conduct meets the standards of this Chapter.

(f) A license issued to a legal entity authorizes the viatical settlement provider to act within the state of Delaware for transacting viatical settlements as applicable under this Act.

(g) All viatical settlement transactions made on behalf of the viatical settlement provider shall be accomplished by a viatical settlement agent registered with this Department under the viatical settlement provider agency license.

(h) Upon the filing of an application for a viatical settlement providers license, the Commissioner may require a detailed plan of operation and information relating to the applicant's business reputation.

§ 7505. Approval of Viatical Settlements Contracts and Disclosure Statements

A person shall not use a viatical settlement contract or provide to a viator a disclosure statement form in this state unless filed with and approved by the Commissioner. The Commissioner shall disapprove a viatical settlement contract or disclosure statement form if, in the Commissioner's opinion, the contract or provisions contained therein are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the viator.

§ 7506. Reporting Requirements and Confidentiality

(a) Each viatical settlement provider shall file with the Commissioner on or before April 1 of each year an annual statement containing such information as the Commissioner by rule may prescribe.

(b) Except as otherwise allowed or required by law, a viatical settlement provider, viatical settlement agent, viatical settlement broker, insurance company, insurance agent, insurance broker, information bureau, rating agency or company, or any other person with actual knowledge of a viator's identity, shall not disclose that identity as a viator to any other person unless the disclosure:

(1) Is necessary to effect a viatical settlement between the viator and a viatical settlement provider and the viator has provided prior written consent to the disclosure;

(2) Is provided in response to an investigation by the Commissioner or any other governmental officer or agency; or

(3) Is a term of or condition to the transfer of a viaticated policy by one viatical settlement provider to another viatical settlement provider or disclosures to reinsurers and in similar situations.

§ 7507. Examination

(a) The Commissioner may, when the Commissioner deems it reasonably necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license. The Commissioner shall have the authority to order any licensee or applicant to produce any records, books, files or other information reasonably necessary to ascertain whether or not the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interests of the public. The expenses incurred in conducting any examination shall be paid by the licensee or applicant.

(b) Names and individual identification data for all viators shall be considered private and confidential information and shall not be disclosed by the Commissioner, unless required by law.

(c) Records of all transactions of viatical settlement contracts shall be maintained by the viatical settlement provider and shall be available to the Commissioner for inspection during reasonable business hours. A viatical settlement provider shall maintain records of each viatical settlement until five (5) years after the death of the insured.

§ 7508. Disclosure

(a) A viatical settlement provider, viatical settlement agent or viatical settlement broker shall disclose the following information to the viator no later than the time of application:

(1) Possible alternatives to viatical settlement contracts for individuals with catastrophic, life threatening or chronic illnesses, including, any accelerated death benefits offered under the viator's life insurance policy;

(2) Some or all of the proceeds of the viatical settlement may be free from federal income tax and from state franchise and income taxes, and that assistance should be sought from a professional tax advisor;

(3) Proceeds of the viatical settlement may be subject to the claims of creditors;

(4) Receipt of the proceeds of a viatical settlement may adversely effect the viator's eligibility for Medicaid or other government benefits or entitlements, and that advice should be obtained from the appropriate government agencies;

(5) The viator's right to rescind a viatical settlement contract fifteen (15) calendar days after the receipt of the viatical settlement proceeds by the viator, as provided in §7509(c);

(6) Funds will be sent to the viator within two (2) business days after the viatical settlement provider has received the insurer or group administrator's acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated pursuant to the viatical settlement contract; and

(7) Entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate, to be forfeited by the viator and that assistance should be sought from a financial adviser.

(b) A viatical settlement provider shall disclose the following information to the viator prior to the date the viatical settlement contract is signed by all parties:

(1) The affiliation, if any, between the viatical settlement provider and the issuer of an insurance policy to be viaticated;

(2) If an insurance policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the viator shall be informed of the possible loss of coverage on the other lives and be advised to consult with his or her insurance producer or the company issuing the policy for advice on the proposed viatication; and

(3) The dollar amount of the current death benefit payable to the viatical settlement provider under the policy or certificate. The viatical settlement provider shall also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate and the viatical settlement provider's interest in those benefits.

§ 7509. General Rules

(a) A viatical settlement provider entering into a viatical settlement contract shall first obtain:

(1) If the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a viatical settlement contract;

(2) A witnessed document in which the viator consents to the viatical settlement contract, acknowledges that the insured has a catastrophic, life threatening or chronic illness or condition, represents that the viator has a full and complete understanding of the viatical settlement contract, that he or she has a full and complete understanding of the benefits of the life insurance policy and acknowledges that he or she has entered into the viatical settlement contract freely and voluntarily; and

(3) A document in which the insured consents to the release of his or her medical records to a viatical settlement provider or viatical settlement broker.

(b) All medical information solicited or obtained by any licensee shall be subject to the applicable provision of state law relating to confidentiality of medical information.

(c) All viatical settlement contracts entered into in this state shall provide the viator with an unconditional right to rescind the contract for at least fifteen (15) calendar days from the receipt of the viatical settlement proceeds. If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment to the viatical settlement provider of all viatical settlement proceeds.

(d) Immediately upon the viatical settlement provider's receipt of documents to effect the transfer of the insurance policy, the viatical settlement provider shall pay the proceeds of the viatical settlement to an escrow or trust account in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). The account shall be managed by a trustee or escrow agent independent of the parties to the contract. The trustee or escrow agent shall transfer the proceeds to the viator immediately upon the viatical settlement provider's receipt of acknowledgment of the transfer of the insurance policy.

(e) Failure to tender consideration to the viator for the viatical settlement contract within the time disclosed pursuant to §7508(a)(6) renders the viatical settlement contract voidable by the viator for lack of consideration until the time consideration is tendered to and accepted by the viator.

(f) Contacts with the insured for the purpose of determining the health status of the insured by the viatical settlement provider, viatical settlement broker or viatical settlement agent after the viatical settlement has occurred shall only be made by the viatical settlement provider or broker licensed in this state and shall be limited to once every three (3) months for insureds with a life expectancy of more than one year, and to no more than one per month for insureds with a life expectancy of one year or less. The provider or broker shall explain the procedure for these contacts at the time the viatical settlement contract is entered into. The limitations set forth in this subsection shall not apply to any contacts with an insured under a viaticated policy for reasons other than determining the insured's health status.

§ 7510. Authority to Promulgate Regulations

The Commissioner shall have the authority to:

(1) Promulgate regulations implementing this Act;

(2) Establish standards for evaluating reasonableness of payments under viatical settlement contracts. This authority includes, but is not limited to, regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise or bequest of a benefit under a life insurance policy;

(3) Require a bond or other mechanism for financial accountability for viatical settlement providers;

and

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(4) Adopt rules governing the relationship and responsibilities of insurers and viatical settlement providers, brokers and agents during the viatication of a life insurance policy or certificate.

§ 7511. Unfair Trade Practices

A violation of this Act shall be considered an unfair trade practice under Chapter 23 of this Title and subject to the penalties contained in such Chapter."

Section 2. Severability

If any provision of this Chapter, or the application of the provision to any person or circumstances, shall be held invalid, the remainder of the Chapter, and the application of the provision to person or circumstances other than those as to which it is held invalid, shall not be affected.

Section 3. Effective Date

This Act shall take effect on November 1, 1999. A viatical settlement provider, viatical settlement agent or viatical settlement broker transacting business in this state may continue to do so pending approval or disapproval of the provider, agent or broker's application for a license so long as the application is filed with the Commissioner on or before November 30, 1999.

Approved July 02, 1999

CHAPTER 133

FORMERLY

SENATE BILL NO. 204
AS AMENDED BY SENATE AMENDMENT NO. 5

AN ACT TO AMEND CHAPTER 69, TITLE 29 OF THE DELAWARE CODE RELATING TO STATE
PROCUREMENT.

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

Section 1. This legislation shall be known as "The Quality Construction Improvement Act of 1999."

Section 2. Amend § 6902, Title 29, Delaware Code by renumbering current § 6902(10) through (18) as § 6902(11) through (19) and insert the following as new § 6902(10):

"(10) 'Labor supply ratio' means the number of skilled crafts persons per unskilled workers employed on a public works project. Any person who has completed a federal apprenticeship program, an apprenticeship program approved by the Delaware Department of Labor pursuant to Chapter 2 of Title 19 of the Delaware Code or has otherwise documented 8 years of experience in a particular craft, shall be deemed a skilled crafts person for the purposes of this definition."

Section 3. Amend § 6962(c), Title 29, Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(c) Bidder prequalification requirements. - (1) An agency may require any potential contractor proposing to bid on a public works contract to complete a questionnaire containing any or all of the following information for the purposes of pre-qualification:

a. The most recent audited financial statement and/or financial statement review, as provided by a Certified Public Accountant, containing a complete statement of that proposing contractor's financial ability and standing to complete the work specified in the invitation to bid;

b. The proposing contractor's experience on other public works or private projects, including but not limited to, the size, complexity and scope of the firm's prior projects;

c. The supply of labor available to the proposing contractor to complete the project, including but not limited to, the labor supply ratio as defined by § 6902(10);

d. Performance reviews of the proposing contractor on previously awarded public works or private construction projects within the last 10 years;

e. Civil judgments and/or criminal history of the proposing contractor's principals;

f. Any debarment or suspension by any government agency;

g. Any revocation or suspension of a license; or

h. Any bankruptcy filings or proceedings.

(2) Based upon the proposing contractor's answers to the pre-qualification questionnaire, the agency may deny pre-qualification for any one of the following specified reasons:

a. Insufficient financial ability to perform the contract;

b. Inadequate experience to undertake the project;

c. Documented failure to perform on prior public or private construction contracts, including but not limited to, final adjudication or admission of violations of prevailing wage laws in Delaware or any other state;

d. Prior judgments for breach of contract that indicate the proposing contractor may not be capable of performing the work or completing the project;

e. Criminal convictions for fraud, misrepresentation or theft relating to contract procurement;

f. Inadequate labor supply available to complete the project in a timely manner;

g. Previous debarment or suspension of the contractor by any government agency that indicate the proposing contractor may not be capable of performing the work or completing the project;

h. Previous revocation or suspension of a license that indicate the proposing contractor may not be capable of performing the work or completing the project;

i. Previous bankruptcy proceedings that indicate the proposing contractor may not be capable of performing the work or completing the project; or

j. Failure to provide pre-qualification information.

(3) Denial of pre-qualification shall be in writing and shall be sent to the contractor within five (5) working days of such decision. The agency may refuse to provide any contractor disqualified under this section the plans and specifications for the project. An agency receiving a bid from a contractor disqualified under this section shall not consider such bid.

(4) Any contractor disqualified pursuant to subsections (c)(1)(2) and (3) of this section may review such decision with the Agency Head. No action in law or equity shall lie against any agency or its employees if the contractor does not first review the decision with the Agency Head. To the extent the contractor brings an action challenging a decision pursuant to subsections (c)(1)(2) and (3) after such review by the Agency Head, the Court shall afford great weight to the decision of the Agency Head and shall not overturn such decision unless the contractor proves by clear and convincing evidence that such decision was arbitrary and capricious."

Section 4. Amend § 6962(d)(5) a., Title 29, Delaware Code by inserting an additional paragraph at the conclusion thereof after the words "under the contract except for amount retained." as follows:

"The agency may at the beginning of each public works contract establish a time schedule for the completion of the project. If the project is delayed beyond the completion date due to the contractor's failure to meet his or her responsibilities, the agency may forfeit all or part of retainage at its discretion."

Section 5. Amend § 6962(d)(13), Title 29, Delaware Code by deleting § 6962(13)a. in its entirety and substituting in lieu thereof the following:

"a. The contracting agency shall award any public works contract within thirty (30) days of the bid opening to the lowest responsive and responsible bidder, unless the agency elects to award on the basis of best value, in which case the election to award on the basis

of best value shall be stated in the invitation to bid. Any public school district and its board shall award public works contracts in accordance with this section's requirements except it shall award the contract within sixty (60) days of the bid opening.

Each bid on any public works contract must be deemed responsive by the agency to be considered for award. A responsive bid shall conform in all material respects to the requirements and criteria set forth in the contract plans and specifications.

An agency shall determine that each bidder on any public works contract is responsible before awarding the contract. Factors to be considered in determining the responsibility of a bidder include:

1. The bidder's financial, physical, personnel or other resources including subcontracts;
2. The bidder's record of performance on past public or private construction projects, including, but not limited to, defaults and/or final adjudication or admission of violations of prevailing wage laws in Delaware or any other state;
3. The bidder's written safety plan;
4. Whether the bidder is qualified legally to contract with the State;
5. Whether the bidder supplied all necessary information concerning its responsibility; and,
6. Any other specific criteria for a particular procurement, which an agency may establish; provided however, that, the criteria shall be set forth in the invitation to bid and is otherwise in conformity with State and/or federal law.

If an agency determines that a bidder is nonresponsive and/or nonresponsible, the determination shall be in writing and set forth the basis for the determination. A copy of the determination shall be sent to the affected bidder within five (5) working days of said determination. The final determination shall be made part of the procurement file.

If the agency elects to award on the basis of best value, the agency must determine that the successful bidder is responsive and responsible, as defined in this subsection. The determination of best value shall be based upon objective criteria that have been communicated to the bidders in the invitation to bid. The following objective criteria shall be assigned a weight consistent with the following

- 1) Price - must be at least seventy percent (70%) but no more than ninety percent (90%); and
- 2) Schedule - must be at least ten percent (10%) but no more than thirty percent (30%); and

A weighted average stated in the invitation to bid shall be applied to each criterion according to its importance to each project. The agency shall rank the bidder according to the established criteria and award to the highest ranked bidder."

Section 6. Amend § 6962, Title 29, Delaware Code by inserting as new § 6962(14) the following:

"(14) Suspension and Debarment. -- Any contractor who fails to perform a public works contract or complete a public works project within the time schedule established by the agency in the invitation to bid, may be subject to suspension or debarment for one or more of the following reasons: 1) failure to supply the adequate labor supply ratio for the project; 2) inadequate financial resources; or, 3) poor performance on the project.

Upon such failure for any of the above stated reasons, the agency that contracted for the public works project may petition the Secretary of the Department of Administrative Services for suspension or debarment of the contractor. The agency shall send a copy of the petition to the contractor within three (3) working days of filing with the Secretary. If the Secretary concludes that the petition has merit, the Secretary shall schedule and hold a hearing to determine whether to suspend the contractor, debar the contractor or deny the petition. The agency shall have the burden of proving, by a preponderance of the evidence, that the contractor failed to perform or complete the public works project within the time schedule established by the agency and failed to do so for one or more of the following reasons: 1) failure to supply the adequate labor supply ratio for the project; 2) inadequate financial resources; or, 3) poor performance on the project. Upon a finding in favor of the agency, the Secretary may suspend a contractor from bidding on any project funded, in whole or in part, with public funds for up to 1 year for a first offense, up to 3 years for a second offense and permanently debar the contractor for a third offense. The

Secretary shall issue a written decision and shall send a copy to the contractor and the agency. Such decision may be appealed to the Superior Court within thirty (30) days for a review on the record."

Approved July 02,1999

CHAPTER 134

FORMERLY

HOUSE BILL NO. 82

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO AUTHORIZED EMPLOYEES IN
RETAIL LIQUOR ESTABLISHMENTS.

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

Section 1. Amend § 904(m), Chapter 9, Title 4 of the Delaware Code, by striking it in its entirety and substituting in lieu thereof the following:

"(m) Nothing in this section shall prevent the employment in a store by a retailer of anyone who has reached the age of 18 years, under such conditions as the Commission may by rule prescribe; provided, however, that no such minor shall sell or serve alcoholic liquors."

Approved July 02,1999

CHAPTER 135

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 242

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO COMPUTER RELATED
OFFENSES.

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

Section 1. Amend Title 11 of the Delaware Code by renumbering the existing Sections 937 through 939 as Sections 939 through 941, and inserting as new: "§ 937 Un-requested or unauthorized Electronic Mail or use of network or software to cause same." and "§ 938 Failure to promptly cease electronic communication upon request" as follows:

"§ 937. Un-requested or Unauthorized Electronic Mail or use of network or software to cause same.

A person is guilty of the computer crime of un-requested or unauthorized electronic mail:

(a) when that person, without authorization, intentionally or recklessly distributes any unsolicited bulk commercial electronic mail (commercial E-mail) to any receiving address or account under the control of any authorized user of a computer system. This section shall not apply to electronic mail that is sent between human beings, or when the individual has requested said information. This section shall not apply to the transmission of electronic mail from an organization to its members or where there is a pre-existing business relationship. No Internet/interactive service provider shall be liable for merely transmitting an unsolicited, bulk

commercial electronic mail message in its network. No Internet/interactive service provider shall be held liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any unsolicited, bulk electronic mail which it believes is, or will be, sent in violation to disconnect or terminate the service of any person that is in violation of this article; or

(b) When a person uses a computer or computer network without authority with the intent to: falsify or forge electronic mail transmission information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers; or

(c) When a person sells, gives or otherwise distributes or possesses with the intent to sell, give or distribute software which:

(i) is primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information;

(ii) has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information; or

(iii) is marketed by that person or another acting in concert with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(d) For the purposes of this section, conduct occurring outside of the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or if the receiving address or account was under the control of any authorized user of a computer system who was located in Delaware at the time he or she received the electronic mail or communication and the defendant was aware of circumstances which rendered the presence of such authorized user in Delaware a reasonable possibility."

§ 938. Failure to promptly cease electronic communication upon request.

(a) A person is guilty of the computer crime of failure to promptly cease electronic communication upon request when that person intentionally, recklessly or negligently, fails to stop sending commercial electronic mail to any receiving address or account under the control of any authorized user of a computer system after being requested to do so. All commercial electronic mail sent to any receiving address within the State shall have information to the recipient on how to unsubscribe or stop further receipt of commercial electronic mail from the sender.

(b) For the purposes of this section, conduct occurring outside of the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or if the receiving address or account was under the control of any authorized user of a computer system who was located in Delaware at the time he or she received the electronic mail or communication and the defendant was aware of circumstances which rendered the presence of such authorized user in Delaware a reasonable possibility."

Section 2. Amend the renumbered Sections 939, 940 and 941 of Title 11 of the Delaware Code by deleting the numbers "932-936" where they appear in the sections and replacing thereto with "932-938".

Section 3. Amend § 931 of Title 11 of the Delaware Code by inserting after the word "data" in subsection 11 the following:

(12) 'Electronic mail' or 'e-mail' means any message that is automatically passed from an originating address or account to a receiving address or account;

(13) 'Originating address' or 'originating account' means the string used to specify the source of any electronic mail message (e.g. company@sender.com);

(14) "Receiving address" or "receiving account" means the string used to specify the destination of any electronic mail message (e.g. person@receiver.com);

(15) 'Electronic Mail service provider' means any person who:

(i) is an intermediary in sending and receiving electronic mail; and

(ii) provides to end-users of electronic mail services the ability to send or receive electronic mail.

(16) The 'Internet' is a hierarchy of computer networks and systems that includes, but is not limited to, commercial (.com or .co), university (.ac or .edu) and other research networks (.org, .net) and military (.mil) networks and spans many different physical networks and systems around the world.

(17) 'Commercial Electronic Mail' or 'Commercial E-mail' means any electronic mail message that is sent to a receiving address or account for the purposes of advertising, promoting, marketing or otherwise attempting to solicit interest in any good service or enterprise."

Approved July 02,1999

CHAPTER 136

FORMERLY

SENATE BILL NO. 69

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO THE DELAWARE
CONSTITUTION OF 1897, AS AMENDED, RELATING TO MAKING THE
CONSTITUTION GENDER NEUTRAL.

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

Section 1. Amend the Preamble of the Delaware Constitution of 1897, as amended, by striking the word "men" as found therein and replacing said word with the word "people".

Section 2. Amend Article I, §1 of the Delaware Constitution of 1897, as amended, by striking the word "men", and replacing said word with the word "persons".

Section 3. Amend Article I, §1, of the Delaware Constitution of 1897, as amended, by striking the word "man" as found therein and replacing said word with the word "person" and further by striking the word "his" as found therein and replacing said word with the phrase "his or her".

Section 4. Amend Article I, §5 of the Delaware Constitution of 1897, as amended, by striking the word "men" as found therein and replacing said word with the word "persons".

Section 5. Amend Article I, §7 of the Delaware Constitution of 1897, as amended, by striking the word "himself" as it appears three times therein and by replacing said word in each instance with the phrase "himself or herself", further by striking the word "his" as it appears four times therein and by replacing said word in each instance with the phrase "his or her", and by striking the word "him" as found therein and replacing said word with the phrase "him or her".

Section 6. Amend Article I, §7 of the Delaware Constitution of 1897, as amended by striking the word "he" as it appears twice therein and by replacing said word in each instance with the phrase "he or she".

Section 7. Amend Article I, §8 of the Delaware Constitution of 1897, as amended, by striking the word "man's" as found therein and replacing said word with the word "person's" and further by striking the word "his" as found therein and replacing said word with the phrase "his or her".

Section 8. Amend Article I, §9 of the Delaware Constitution of 1897, as amended, by striking the word "man" as found therein and replacing said word with the word "person", and further by deleting the word "him" as found therein and replacing said word with the phrase "him or her", and further by deleting the word "his" as found therein and replacing said word with the phrase "his or her".

Section 9. Amend Article II, §3 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found twice therein and replacing such word in each instance with the phrase "his or her", and further by deleting the word "he" as found four times therein and replacing said word in each instance with the phrase "he or she".

Section 10. Amend Article II, §7 of the Delaware Constitution of 1897, as amended, by striking the word "he" as found therein and replacing said word with the phrase "he or she".

Section 11. Amend Article II, §14 of the Delaware Constitution of 1897, as amended, by striking the word "he" as found therein and replacing said word with the phrase "he or she", and further by deleting the word "his" as found therein and replacing said word with the phrase "his or her".

Section 12. Amend Article II, §20 of the Delaware Constitution of 1897, as amended, by striking the word "he" as found therein and replacing said word with the phrase "he or she".

Section 13. Amend Article II, §22 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her", and further by striking the word "him" as found therein and replacing said word with the phrase "him or her".

Section 14. Amend Article II, §24 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found twice therein and replacing said word in each instance with the phrase "his or her", and further by striking the word "he" as found therein and replacing said word with the phrase "he or she".

Section 15. Amend Article III, §3 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found twice therein and replacing said word in each instance with the phrase "his or her".

Section 16. Amend Article III, §4 of the Delaware Constitution of 1897, as amended, by striking the word "he" as found in paragraph 1 therein and replacing said word with the phrase "he or she", further by striking the word "him" as found in paragraph 1 therein and replacing said word with the phrase "him or her", and further by striking the word "his" as found twice in paragraph 2 therein and replacing said word in each instance with the phrase "his or her."

Section 17. Amend Article III, §5 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found twice therein and replacing said word in each instance with the phrase "his or her".

Section 18. Amend Article III, §6 of The Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her", and further by striking the word "he" as found therein and replacing said word with the phrase "he or she".

Section 19. Amend Article III, §7 of The Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her", and further by striking the word "he" as found therein and replacing said word with the phrase "he or she".

Section 20. Amend Article III, §8 of the Delaware Constitution of 1897, as amended, by striking the word "He" as found therein and replacing said word with the phrase "He or she".

Section 21. Amend Article III, §9 of the Delaware Constitution of 1897, as amended, by striking the word "He" as found twice in paragraph 1 therein and replacing said word in each instance with the phrase "He or she", further amend by striking "he" as found twice in paragraph 1 therein and replacing said word in each instance with the phrase "he or she", and further by striking the word "He" as found in paragraph 2 therein and replacing said word with the phrase "He or she".

Section 22. Amend Article III, §10 of the Delaware Constitution of 1897, as amended, by striking the word "He" as found twice therein and replacing said word in each instance with the phrase "He or she", further by striking "him" as found therein and replacing said word with the phrase "him or her", and further by striking the word "his" as found therein and replacing said word with the phrase "his or her".

Section 23. Amend Article III, §11 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found in paragraph 1 therein and replacing said word with the phrase "his or her", and further by striking the word "he" as found in paragraph 1 therein and replacing said word with the phrase "he or she".

Section 24. Amend Article III, §13 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her".

Section 25. Amend Article III, §15 of the Delaware Constitution of 1897, as amended, by striking the word "He" as found therein and replacing said word with the phrase "He or she", and further by striking "he" as found therein and replacing said word with the phrase "he or she".

Section 26. Amend Article III, §16 of the Delaware Constitution of 1897, as amended, by striking the word "He" as it is found twice therein and replacing said word in each instance with the phrase "He or she", and further by striking "he" as found therein and replacing said word with the phrase "he or she".

Section 27. Amend Article III, §17 of the Delaware Constitution of 1897, as amended, by striking the word "He" as found therein and replacing said word with the phrase "He or she".

Section 28. Amend Article III, §18 of the Delaware Constitution of 1897, as amended, by striking the word "he" as found five times in paragraph 1 therein and replacing said word in each instance with the phrase "he or she", further by striking "his" as found in paragraph 1 therein and replacing said word with the phrase "his or her", further by striking the word "him" as found in paragraph 1 therein and replacing said word with the phrase "him or her", and further by striking "him" as found four times in paragraph 3 therein and replacing said word in each instance with the phrase "him or her."

Section 29. Amend Article III, §19 of the Delaware Constitution of 1897, as amended, by striking "he" as found twice in paragraph 1 therein and replacing said word with the phrase "he or she", and further by striking the word "his" as found twice in paragraph 2 therein and replacing said word in each instance with the phrase "his or her".

Section 30. Amend Article III, §20 of the Delaware Constitution of 1897, as amended, by striking "his" as found five times in paragraph 1 therein, as found twice in paragraph 3 therein, as found twice in paragraph 4 therein, as found once in paragraph 5 therein, and as found five times in paragraph 6 therein, and replacing said word in each instance with the phrase "his or her", further by striking the word "he" as found twice in paragraph 4 therein and replacing said word in each instance with the phrase "he or she", and further by striking "he" as found in paragraph 6 therein and replacing said word with the phrase "he or she".

Section 31. Amend Article IV, §2 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found paragraph 1 therein and replacing said word with the phrase "his or her".

Section 32. Amend Article IV, §3 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found twice in paragraph 1 therein and replacing said word in each instance with the phrase "his or her", further by striking the word "him" as found in paragraph 5 therein and replacing said word with the phrase "him or her", and further by striking the word "he" as found twice in paragraph 5 therein and replacing said word in each instance with the phrase "he or she".

Section 33. Amend Article IV, §5 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found in paragraph 1 therein and replacing said word with the phrase "his or her".

Section 34. Amend Article IV, §12 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her", and further by striking the word "he" as found therein and replacing said word with the phrase "he or she".

Section 35. Amend Article IV, §13 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found in paragraph (1) therein and as found twice in paragraph (2) therein and replacing said word in each instance with the phrase "his or her".

Section 36. Amend Article IV, §14 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her".

Section 37. Amend Article IV, §22 of the Delaware Constitution of 1897, as amended, by striking the word "he" as found twice therein and replacing said word in each instance with the phrase "he or she," and further by striking the word "him" as found therein and replacing said word with the phrase "him or her".

Section 38. Amend Article IV, §23 of the Delaware Constitution of 1897, as amended, by striking the word "he" as found therein and replacing said word with the phrase "he or she" and further by striking the word "himself" and replacing said word with the phrase "himself or herself".

Section 39. Amend Article IV, §24 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found twice therein and replacing said word in each instance with the phrase "his or her", and further by striking the word "he" as found therein and replacing said word with the phrase "he or she".

Section 40. Amend Article IV, §26 of the Delaware Constitution of 1897, as amended, by striking the word "he" as found therein and replacing said word with the phrase "he or she", and further by striking the word "He" as found therein and replacing said word with the phrase "He or she".

Section 41. Amend Article IV, §27 of the Delaware Constitution of 1897, as amended, by striking the word "He" as found therein and replacing said word with the phrase "He or she", and further by striking the word "his" as found therein and replacing said word with the phrase "his or her".

Section 42. Amend Article IV, §32 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found in paragraph 1 therein and replacing said word with the phrase "his or her", and further by striking the word "him" as found in paragraph 2 therein and replacing said word with the phrase "him or her".

Section 43. Amend Article IV, §34 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found in paragraph 5 therein and replacing said word with the phrase "his or her", further by striking the word "him" as found in paragraph 5 therein and replacing said word with the phrase "him or her", and further by striking the word "He" as found in paragraph 5 therein and replacing said word with the phrase "He or she".

Section 44. Amend Article IV, §37 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found in paragraph 3 therein, paragraph 4 therein, paragraph 5 therein, paragraph 6 therein and paragraph 7 therein and replacing said word in each instance with the phrase "his or her", further by striking the word "he" as found in paragraph 5 therein and replacing said word with the phrase "he or she", and further by striking the word "him" as found in paragraph 5 and replacing said word with the phrase "him or her".

Section 45. Amend Article IV, §38 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with "his or her" and further by striking the word "he" as found four times therein and replacing said word in each instance with the phrase "he or she".

Section 46. Amend Article V, §2 of the Delaware Constitution of 1897, as amended, by striking the word "he" as it is found five times therein and replacing said word in each instance with the phrase "he or she", and further by striking the word "his" as found therein and replacing said word with the phrase "his or her".

Section 47. Amend Article V, §2A of the Delaware Constitution of 1897, as amended, by striking the word "his" as found twice therein and replacing said word in each instance with the phrase "his or her", and further by striking the word "he" as found four times therein and replacing said word in each instance with the phrase "he or she".

Section 48. Amend Article V, §2B of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her", and further by striking the word "he" as found three times therein and replacing said word in each instance with the phrase "he or she".

Section 49. Amend Article V, §3 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found in paragraph 1 therein and replacing said word with the phrase "his or her", and further by striking the word "he" as found in paragraph 1 therein and replacing said word with the phrase "he or she".

Section 50. Amend Article V, §4 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found in paragraph 3 therein and replacing said word with the phrase "his or her", and further by striking the word "he" as found in paragraph 3 therein and replacing said word with the phrase "he or she".

Section 51. Amend Article V, §6 of the Delaware Constitution of 1897, as amended, by striking the word "him" as found in paragraph 4 therein and replacing said word with the phrase "him or her".

Section 52. Amend Article V, §8 of the Delaware Constitution of 1897, as amended, by striking the word "him" as found five times therein and replacing said word in each instance with the phrase "him or her", further by striking the word "his" as found three times therein and replacing said word in each instance with the phrase "his or her", and further by striking the word "he" as found therein and replacing said word with the phrase "he or she".

Section 53. Amend Article VI, §1 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found in paragraph 2 therein and replacing said word with the phrase "his or her".

Section 54. Amend Article VII, §1 of the Delaware Constitution of 1897, as amended, by striking the word "He" as found in paragraph 2 therein and replacing said word with the phrase "He or she" and further by deleting the word "his" as found therein and replacing said word with the phrase "his or her".

Section 55. Amend Article XV, §4 of the Delaware Constitution of 1897, as amended, by striking the word "his" as it is found twice therein and replacing said word in each instance with the phrase "his or her".

Section 56. Amend Article XVI, §2 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her".

Section 57. Amend the "Schedule" §1 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her".

Section 58. Amend the "Schedule" §11 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her" and further by striking the word "he" as found twice therein and replacing said word with the phrase "he or she".

Approved July 02, 1999

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Section 53. Amend Article VI, §1 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found in paragraph 2 therein and replacing said word with the phrase "his or her".

Section 54. Amend Article VII, §1 of the Delaware Constitution of 1897, as amended, by striking the word "He" as found in paragraph 2 therein and replacing said word with the phrase "He or she" and further by deleting the word "his" as found therein and replacing said word with the phrase "his or her".

Section 55. Amend Article XV, §4 of the Delaware Constitution of 1897, as amended, by striking the word "his" as it is found twice therein and replacing said word in each instance with the phrase "his or her".

Section 56. Amend Article XVI, §2 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her".

Section 57. Amend the "Schedule" §1 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her".

Section 58. Amend the "Schedule" §11 of the Delaware Constitution of 1897, as amended, by striking the word "his" as found therein and replacing said word with the phrase "his or her" and further by striking the word "he" as found twice therein and replacing said word with the phrase "he or she".

Approved July 02, 1999

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CHAPTER 137

FORMERLY

HOUSE BILL NO. 332

AS AMENDED BY HOUSE AMENDMENT NOS. 2,4,5, 6, 7 AND 8

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO PARAMEDIC AND OTHER EMERGENCY MEDICAL SERVICE SYSTEMS.

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

WHEREAS, the Delaware Emergency Medical Services (EMS) system is made up of over 1700 emergency care providers including paramedics, emergency medical technicians, volunteers, dispatchers and first responders;

WHEREAS, the dedication of the emergency care providers has helped thousands of Delawareans in times of need and crisis;

WHEREAS, these individuals have a long history of dedication and commitment to improving and protecting the health and safety of all Delawareans;

WHEREAS, notwithstanding the dedication and commitment of these emergency care providers, the current EMS system has several weaknesses that must be addressed in order for the system to achieve optimal performance for the citizens of our State;

WHEREAS, Delaware's EMS system must focus on achieving specific goals for an optimal system that, if attained, will result in an improved system for the people of Delaware;

WHEREAS, specific goals for response times and other performance measures do not currently exist;

WHEREAS, the General Assembly hereby establishes a goal that the Delaware EMS system provide cardio-pulmonary resuscitation (CPR) within 4 minutes of the receipt of Delta calls on at least 90 % of the times in urban areas and 70 % of the times in rural areas.

WHEREAS, the General Assembly hereby establishes a goal that the Delaware EMS system provide Automatic External Defibrillation (AED) within 6 minutes of Delta calls on at least 90 % of the times in urban areas and 70 % of the times in rural areas.

WHEREAS, the General Assembly hereby establishes a goal that each Advanced Life Support (ALS) paramedic agency within the Delaware EMS system provide an ALS paramedic unit, as defined by recognized state standard, on the scene within 8 minutes of the receipt of Delta calls on at least 90 % of the times.

WHEREAS, the General Assembly hereby establishes a goal that each Basic Life Support (BLS) ambulance agency within the Delaware EMS system provide a BLS ambulance unit on the scene within 10 minutes of the receipt of Delta calls on at least 90 % of the times in urban areas and 70 % of the times in rural areas.

WHEREAS, the General Assembly hereby establishes a goal that each ALS paramedic agency within the Delaware EMS system provide an ALS paramedic unit, as defined by recognized state standard, on the scene within 8 minutes of the receipt of Charlie calls on at least 90 % of the times.

WHEREAS, the General Assembly hereby establishes a goal that each BLS ambulance agency within the Delaware EMS system provide a BLS ambulance unit on the scene within 12 minutes of the receipt of Charlie calls on at least 90 % of the times in urban areas and 70 % of the times in rural areas.

WHEREAS, the General Assembly hereby establishes a goal that each BLS ambulance agency within the Delaware EMS system provide a BLS ambulance unit on the scene within 12 minutes of the receipt of all Bravo calls on at least 90 % of the times in urban areas and 70 % of the times in rural areas.

WHEREAS, the General Assembly hereby establishes a goal that each BLS ambulance agency within the Delaware EMS system provide a BLS ambulance unit on the scene within 18 minutes of the receipt of all Alpha calls on at least 90 % of the times in urban areas and 70 % of the times in rural areas.

WHEREAS, the General Assembly hereby establishes a goal that in cases involving cardiac arrest, each EMD center within the Delaware EMS system process all calls for assistance within 45 seconds in at least 90 % of such cases.

WHEREAS, timely pre-hospital and inter-facility air medical transport should be available in 95% of cases where helicopter transport is appropriate;

WHEREAS, the General Assembly hereby establishes a goal that in all other cases, each EMD center within the Delaware EMS system process all calls for assistance within 72 seconds in at least 90 % of such cases.

WHEREAS, all components of the system should uniformly and electronically collect the data necessary to measure performance against the previously stated goals;

WHEREAS, the performance of each component of the system against the above stated goals should be routinely made available to the public;

WHEREAS, attainment of these goals will require changes to the current EMS system;

WHEREAS, the availability of CPR and AED within medically required time frames will require utilization of BLS as first responders, law enforcement officers on patrol and increased public awareness and access to AED;

WHEREAS, for the Delaware EMS system to meet its response time goals, the public must be active participants especially in providing CPR and the use of AEDs;

WHEREAS, current law overly restricts the ability of ALS managers to deploy their resources effectively and efficiently thus hampering performance;

WHEREAS, ALS managers need flexibility to deploy ALS resources, subject to appropriate medical oversight;

WHEREAS, the State Fire Commission lacks the statutory authority to manage BLS in terms of response times and performance;

WHEREAS, the regulatory authority of the State Fire Prevention Commission over BLS services should be significantly broadened and strengthened;

WHEREAS, the Delaware EMS system is a medical system that requires comprehensive medical involvement and oversight;

WHEREAS, medical oversight should be increased and restructured to ensure that all components of the system are performing according to generally accepted medical protocols;

WHEREAS, members of the General Assembly, the Governor, the public and other policy makers should know the costs of Delaware's EMS system in order to measure its effectiveness;

WHEREAS, all components of the EMS system should report revenues and expenses so that the system can be continually evaluated for its cost effectiveness;

WHEREAS, emergency medical services is a system with several providers and proper oversight of that system is necessary to ensure effectiveness and to reduce fragmentation;

WHEREAS, an EMS Oversight Council charged with the on-going responsibility of monitoring the system and making recommendations for system is necessary; and

WHEREAS, the General Assembly, the Governor and the public and other policy makers should recognize that in order to meet the goals of this legislation a commitment of money and other resources may have to be provided by the State of Delaware or other sources.

NOW, THEREFORE:

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

Section 1. This Act shall be known as the Delaware Emergency Medical Services System Improvement Act of 1999.

Section 2. Amend § 9703, Title 16, Delaware Code by deleting said section in its entirety and inserting in lieu thereof the following:

"§ 9703. Delaware Emergency Medical Services Oversight Council.

(a) There is established the Delaware Emergency Medical Services Oversight Council (DEMSOC). The Council shall consist of the following members:

- (1) A representative of the Office of the Governor appointed by the Governor;
 - (2) The Secretary of the Department of Public Safety;
 - (3) The Secretary of the Department of Health and Social Services;
 - (4) The Chair of the Delaware State Fire Prevention Commission or another Commissioner selected by the Chair;
 - (5) The President of the Delaware Volunteer Fireman's Association;
 - (6) The New Castle County Executive or, at the Executive's discretion, the Colonel of the New Castle County Police Department;
 - (7) The Kent County Administrator or, at the Administrator's discretion, the Kent County EMS Chief;
 - (8) The Sussex County Administrator, or at the Administrator's discretion, the Sussex County EMS Director;
 - (9) The President of the Delaware Chapter of the American College of Emergency Physicians;
 - (10) The State EMS Medical Director;
 - (11) The Chair of the Trauma Systems Committee;
 - (12) A practicing paramedic, certified and employed in the State of Delaware, appointed by the Governor;
 - (13) The Chair of the DVFA Ambulance Advisory Committee;
 - (14) Two (2) additional at-large members appointed by the Governor; and
 - (15) The President of the Delaware Healthcare Association or, at the President's discretion, a representative of the Delaware Healthcare Association.
 - (16) The Executive Director of the Medical Society of Delaware or, at the Executive Director's discretion, a representative of the Medical Society of Delaware; and
 - (17) The Chair of the Delaware Police Chiefs' Council or, at the Chair's discretion, a representative of the Delaware Police Chiefs' Council.
- (b) The members of the Council may not designate a voting alternate representative more than two (2) times per year.
- (c) The Council shall meet at a minimum of one (1) time per year.
- (d) The Chairperson of the Council shall be designated from among the members by the Governor and shall serve at the pleasure of the Governor.

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- (e) The Council shall monitor Delaware's emergency medical services system to ensure that all elements of the system are functioning in a coordinated, effective, and efficient manner in order to reduce morbidity and mortality rates for the citizens of Delaware and to ensure quality of emergency care services.
- (f) The Council shall have the following duties and responsibilities:
 - (1) To examine policies and procedures and evaluate the effectiveness of the EMS system, specifically the respective roles, responsibilities, effectiveness and efficiency of the Office of Emergency Medical Services (OEMS), the State Fire Prevention Commission, the Department of Public Safety, the EMS provider agencies, and the medical community;
 - (2) To study, research, plan, evaluate as well as offer guidance to, cooperate with and assist public agencies and private institutions and organizations on methods for the coordination and effective utilization of their emergency medical service programs;
 - (3) To formulate goals and recommendations, based on objective criteria and data, to be used in evaluating EMS provider agency performance;
 - (4) To review and make recommendations concerning quality improvement efforts pursuant to this chapter;
 - (5) To make recommendations to the Office of EMS, the Department of Public Safety, the EMS provider agencies, and the medical community for improving EMS in Delaware;
 - (6) To make legislative recommendations to the Governor and General Assembly;
 - (7) To provide an annual report on or before March 15 of each year to the Governor, General Assembly, interested parties, and the public which will outline the performance of all EMS system agencies, comparing that performance to established goals and performance measures. The report shall also estimate the costs of Delaware's EMS medical system. Automatic external defibrillator and cardiopulmonary resuscitation program performance shall be included in this report. The first report will cover service provided in calendar year 2000 and will be delivered by March 15, 2001;
 - (8) To make recommendations concerning EMS to the State Fire Prevention Commission. The Commission will consider and act upon those recommendations; and
 - (9) To conduct a full review of EMS in the State at a minimum of every 5 years.
- (g) The Council may request and shall receive from any department, division, commission or agency of the State such reasonable assistance and data as will enable it to properly carry out its functions hereunder.
- (h) OEMS shall staff the Council. "

Section 3. Amend § 9804, Title 16, Delaware Code by deleting said section in its entirety.

Section 4. Amend § 6717(a), Title 16, Delaware Code by deleting said subsection in its entirety and replacing it as follows:

"(a) As the responsible agency for the regulation of ambulance services within the State, the Commission shall adopt regulations applicable to ambulance service providers including but not limited to the establishment of ambulance service districts, establishment of operational and administrative requirements and requirements for certification of ambulance service providers. The Commission shall also have the authority to establish a process for certification renewal and shall have the authority to decertify any agency for noncompliance with its regulations. "

Section 5. Amend § 6717, Title 16, Delaware Code by inserting as new subsections (c), (d), (e) and (f) the following:

"(c) The Commission shall produce and make available an annual list of certified ambulance service providers. Ambulance service providers not certified will not be eligible to receive state funding, including but not limited to the special fund established pursuant to 18 Del. C. § 713 and Medicaid payments, and federal

funding requiring certification. Nothing in this provision shall be construed to effect the eligibility of BLS agencies to receive state funding related to the operation of a rescue truck.

- (d) The Commission shall, in consultation and cooperation with other components of the Delaware EMS system, develop and maintain a contingency plan for uninterrupted provision of service in the event an ambulance service provider is no longer able to provide service within an ambulance service district.
- (e) The Commission shall monitor the occurrence of scratches by each ambulance service provider and take action to decertify any ambulance service provider that has excessive scratches. For purposes of this subsection, 'scratches' are defined as instances when a BLS ambulance is alerted but does not respond to a call for assistance. For purposes of this subsection, 'excessive scratches' shall mean a number of scratches exceeding a pre-established number or percentage for each BLS provider, determined and communicated annually in advance to the provider by the State Fire Prevention Commission.
- (f) This section shall not pertain to the operation of paramedic service as outlined in Chapter 98 of this title."

Section 6. Amend § 6708 (5), Title 16, Delaware Code by deleting the word "permitted" as it appears therein and replacing it with the word "certified".

Section 7. Amend § 9802(9), Title 16, Delaware Code by deleting the words "providers of advanced life support services" and substituting in lieu thereof the words "EMS providers".

Section 8. Amend § 9802(10), Title 16, Delaware Code by deleting the words "a paramedic" as they appear therein and substituting in lieu thereof the words "an EMS provider" and by inserting after the words "in-transit" the words "basic and".

Section 9. Amend § 9802 (11), Title 16, Delaware Code by deleting the words "a paramedic" as they appear therein and substituting in lieu thereof the words "an EMS provider".

Section 10. Amend § 9802 (12), Title 16, Delaware Code by deleting the words "Office of Paramedic Administration, an agency within the" as they appear therein.

Section 11. Amend § 9802(16), Title 16, Delaware Code by deleting the existing § 9802(16) in its entirety and inserting in lieu thereof the following:

"(16) 'State EMS Medical Director' shall mean a physician who is board-certified by the American Board of Emergency Medicine and/or by the Osteopathic Board of Emergency Medicine and who shall be the chief physician for the statewide emergency medical system and under whose license all EMS providers shall operate for the purpose of delivering the standing orders of the statewide standard treatment protocol;"

Section 12. Amend § 9802(17), Title 16, Delaware Code by deleting the existing § 9802(17) in its entirety and replacing it as follows:

"(17) 'Statewide ALS treatment protocol' shall mean written and uniform treatment and care plans for emergency and critical patients statewide that constitute the standing orders of paramedics. The treatment protocol for advanced life support must be approved and signed by the State EMS Medical Director and the Director of the Division of Public Health, Department of Health and Social Services. The treatment protocol shall be prepared by the Board of Medical Practice. In preparing and, from time to time, amending the statewide ALS treatment protocol, the Board shall consult with the State EMS Medical Director and the ALS Standards Committee of the Board of Medical Practice."

Section 13. Amend § 9802, Title 16, Delaware Code by renumbering the current § 9802(8) through (13) as § 9802(10) through (15) and inserting as new § 9802(8) and § 9802(9) the following:

"(8) 'Emergency medical services (EMS) provider' shall mean individual providers certified by the Delaware State Fire Prevention Commission or the Office of EMS, or emergency medical dispatchers certified by the National Academy of Emergency Medical Dispatch.

(9) 'Emergency medical services (EMS) provider agency' shall mean a provider agency certified by the Delaware State Fire Prevention Commission or the Office of EMS, or an emergency medical dispatch center under contract with the Department of Public Safety."

Section 14. Amend § 9802, Title 16, Delaware Code by renumbering the current § 9802 (14) through (17) as § 9802 (17) through (20) and inserting as new § 9802(16) the following:

"(16) 'Paramedic staff hour' shall mean one full hour of a paramedic on duty."

Section 15. Amend § 9802, Title 16, Delaware Code by inserting as new § 9802(21) the following:

"(21) 'Statewide BLS treatment protocol' shall mean written and uniform treatment and care plans for emergency and critical patients statewide that constitute the standing orders of basic life support providers. The treatment protocol shall be prepared by the Board of Medical Practice. The treatment protocol for basic life support must be approved and signed by the State EMS Medical Director, the BLS Medical Director, and the Director of the Division of Public Health, Department of Health and Social Services. The treatment protocol for basic life support shall be adopted and enacted by the State Fire Prevention Commission. In preparing and, from time to time, amending statewide BLS treatment protocol, the Board shall consult with the EMS Medical Director, the ALS Standards Commission and the State Fire Prevention Commission. The Statewide BLS treatment protocol shall be adopted by June 30, 2000, and in use by all EMS providers by January 1, 2002."

Section 16. Amend § 9803, Title 16, Delaware Code by inserting as new § 9803(c) and § 9803(d) the following:

"(c) In order to provide statewide paramedic services, the counties shall provide the following minimum number of paramedic staff hours: 122,640 paramedic staff hours per year for New Castle County; 52,560 paramedic staff hours per year for Kent County; and 87,600 paramedic staff hours per year for Sussex County. The Secretary of the Department of Health and Social Services shall have the authority, subject to appropriation, to increase the minimum number of paramedic staff hours to ensure the efficient and effective operation of the statewide paramedic services program. At any time after enactment into law, following submission of an application by New Castle County subject to approval by the Secretary of the Department of Health and Social Services, the paramedic staff hours for New Castle County shall increase by 17,520 paramedic staff hours per year until January 1, 2001, at which time it shall increase by an additional 17,520 paramedic staff hours.

(d) Each operating paramedic unit should be continuously staffed by 2 paramedics. Notwithstanding this requirement, the Board of Medical Practice, following review and approval by the State EMS Medical Director and ALS Standards Committee, shall have the authority to grant approval to the county paramedic services to conduct pilot programs utilizing other staff configurations including but not limited to the number and type of staff on each operating ALS unit."

Section 17. Amend § 9805, Title 16, Delaware Code by deleting subsection (10) in its entirety and inserting in lieu thereof the following:

"(10) Monitoring paramedic staff hours in each county."

Section 18. Amend § 9814(b), Title 16, Delaware Code by deleting the words "each county's component of the statewide paramedic service" as they appear therein and substituting in lieu thereof the words "the minimum paramedic staff hours established for each county in § 9803 (c)".

Section 19. Amend § 9806, Title 16, Delaware Code by deleting said section in its entirety and replacing it as follows:

"§ 9806. EMS medical directors.

(a) There shall be 5 part-time EMS medical directors: 1 State EMS Medical Director, 3 county EMS medical directors, and 1 SFPC Medical Director. Each county medical director shall reside in the county in which the county director serves as director. The State EMS Medical Director shall supervise the 3 county directors and the SFPC Medical Director. The SFPC Medical Director shall serve as an advisor for BLS to the State Fire Prevention Commission. Each county medical director shall be available at all times to advise supervising physicians, EMS providers and EMS provider agencies.

(b) As part of their responsibilities, the 3 county EMS medical directors shall:

- (1) Provide medical oversight and prospective, concurrent and retrospective medical quality control of advanced life support, basic life support and emergency medical dispatch;
- (2) Establish and ensure compliance with standing orders and treatment protocols;
- (3) Provide review and evaluate the medical interventions of the paramedics;
- (4) Coordinate with and advise the Office of EMS, State Fire Prevention Commission and provider agencies of any deficiencies within the system with suggested remedies;

- (5) Monitor the EMS providers for skill degradation and recommend appropriate remedies to the Office of EMS, the State Fire Prevention Commission and the provider agencies;
 - (6) Offer technical assistance to all EMS providers within the county they serve as medical director; and
 - (7) Have authority to suspend EMS providers immediately from patient treatment for a period not to exceed 30 days, if they determine that it is necessary in order to prevent a clear and immediate danger to the public health.
- (c) Each EMS medical director shall be employed by the State, by contract or otherwise, and shall be a board certified emergency physician actually involved in the practice of emergency medicine.
- (d) The EMS medical directors shall be appointed by the Director of the Division of Public Health who shall consult with the Board of Medical Practice as part of the selection process."

Section 20. Amend § 9702, Title 16, Delaware Code by renumbering the current § 9702(8) through (16) as § 9702(10) through (18) and inserting as new § 9702(8) and (9) the following:

- "(8) 'Early Defibrillation Provider' shall mean a member or employee of an Early Defibrillation Service certified to operate Semi-Automatic External Defibrillator (SAED) equipment under the requirements set forth in regulations promulgated by the Department of Health and Social Services.
- (9) 'Early Defibrillation Service' shall mean any agency, organization or company, certified as such by the State Office Of Emergency Medical Services, that employs or retains providers certified in the use of semi-automatic defibrillation equipment."

Section 21. Amend § 9702, Title 16, Delaware Code by renumbering the current § 9702(17) and (18) as § 9702(20) and (21) and inserting as new § 9702(19) the following:

- "(19) 'Semi-Automatic External Defibrillator' shall mean a device capable of analyzing a cardiac rhythm, determining the need for defibrillation, automatically charging and advising a provider to deliver a defibrillation electrical impulse."

Section 22. Amend § 9705, Title 16, Delaware Code by inserting as new § 9705(p) the following:

- "(p) Semi-Automatic External Defibrillators.
- (1) The Department of Health and Social Services shall promulgate regulations specific to the use of semi-automatic external defibrillators and shall seek input and review from the Board of Medical Practice, the Delaware EMS Oversight Council, and the Delaware State Fire Prevention Commission.
 - (2) The Office shall coordinate a statewide effort to promote and implement widespread use of semi-automatic external defibrillators and cardio-pulmonary resuscitation to increase the number of publicly available SAEDs to 100 by January 1, 2002, and 200 by January 1, 2004. In addition, the Office shall coordinate a statewide effort to provide, train and maintain a minimum of five qualified individuals for each publicly available SAED.
 - (3) All law enforcement vehicles on patrol shall be equipped with a semi-automatic external defibrillator by January 1, 2001, subject to appropriations.

Section 23. Amend § 6801, Title 16, Delaware Code by inserting as new § 6801(16) the following:

- "(16) One practicing paramedic, certified and employed in the State of Delaware. The chief or director of each county paramedic service shall submit one name for selection to the Board of Medical Practice."

Section 24. Amend § 9705 (k), Title 16, Delaware Code by inserting the following sentence at the end of said subsection: "EMS agency certification will be contingent upon agency participation in the Statewide EMS data collection system maintained by the Office."

Section 25. Amend § 9705(1), Title 16, Delaware Code by deleting said subsection in its entirety and inserting in lieu thereof the following:

"(1) *Public information, prevention and education.* - The Office shall provide programs of public information and education designed to inform residents of Delaware and visitors to the State of the availability of, proper use of and access to emergency medical services. The Office shall also support prevention activities designed to address key categories of illness and injury as identified through data collection. The Office will serve as a clearinghouse for illness and injury prevention activity, and will work to coordinate EMS prevention efforts statewide. These programs shall include elements related to citizen involvement in the administration of pre-hospital care, such as cardio-pulmonary resuscitation and first aid, and information concerning the availability of training programs in Delaware. In addition, the Office shall monitor public information and education programs offered by other EMS providers in Delaware. All EMS provider agencies shall provide a report on their prevention and education activities conducted during the previous year to the Office by January 15 of each year. The Office shall publish an annual report outlining the status of prevention and public education activities throughout the State by May 15 of each year."

Section 26. Amend § 10002, Title 16, Delaware Code by adding as a new § 10002(4) the following:

"(4) 'Emergency Medical Dispatch (EMD) Center' shall mean any dispatch center that receives 911 calls requesting emergency medical assistance, processes those calls, or dispatches emergency medical services resources."

Section 27. Amend Chapter 100, Title 16, Delaware Code by adding a new § 10006 to read as follows:
"§ 10006. Establishment of 911-Emergency Medical Dispatch System.

- (a) There is hereby established a statewide 911 Emergency Medical Dispatch System whereby all 911 Emergency Report Centers in this State providing emergency medical dispatch shall, through a contract with the Department of Public Safety:
- (1) Provide systematized caller interrogation questions; systematized pre-arrival instruction; and use and adhere to State EMD dispatch protocols matching the dispatchers evaluation of injury or illness severity with vehicle response mode and configuration;
 - (2) Electronically collect data regarding calls for assistance and all times related thereto, EMD dispatch protocol information, and ANI/ALI information;
 - (3) Measure all time increments in increments of seconds;
 - (4) Electronically transfer all required information collected to a central database maintained by OEMS on a real time basis;
 - (5) Use computerized case entry, case management and quality inspection software approved by OEMS;
 - (6) Have the capability of handling multiple (two or more) calls simultaneously, including the ability to provide pre-arrival instructions consistent with the

medical protocols. This capability must exist twenty-four hours per day throughout the entire year; and

- (7) Have the capability to one-button transfer all data related to a call for medical assistance to the county PSAPs and must utilize that capability. Specifically, when a local PSAP determines that a call for assistance requires ALS, an immediate one-button transfer of all data must be made to the county PSAP. The transferred data must include the first call pickup time (time call received by local PSAP) and the time the local PSAP transferred the call to the EMD.
 - (8) Be accredited by the National Academy of Emergency Medical Dispatch (NAEMD) by January 1, 2003.
- (b) All 911 Emergency Report Centers in this state receiving 911 calls and transferring them to a center providing emergency medical dispatch shall, through a contract with the Department of Public Safety:
- (1) Electronically collect data regarding calls for assistance including all times related thereto and ANI/ALI information;
 - (2) Measure all time increments in increments of seconds; and
 - (3) Have the capability to one-button transfer all data related to a call for medical assistance to the county PSAPs and must utilize that capability. The transferred data must include the first call pickup time (time call received by local PSAP) and the time the local PSAP transferred the call to the EMD.

Section 28. Amend § 9706, Title 16, Delaware Code by deleting the word "DEMSAC" as it appears therein and replacing it with the word "DEMSOC".

Section 29. Amend § 9808(f), Title 16, Delaware Code by deleting the words "unit deployment" as they appear therein and replacing them with the words "number of paramedic staff hours". Further amend § 9808(f), Title 16, Delaware Code by deleting the last sentence in its entirety.

Section 30. Amend § 9803(a), Title 16, Delaware Code by deleting the words "of Paramedic Administration" as they appear therein.

Section 31. Amend § 9808, Title 16, Delaware Code by deleting the words "of Paramedic Administration" as they appear therein.

Section 32. Amend § 6801(b), Title 16 of the Delaware Code, by deleting the number "19" as it appears therein and substituting in lieu thereof the number "20".

Approved July 12, 1999

CHAPTER 138

FORMERLY

HOUSE BILL NO. 60

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO COUNTIES.

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

Section 1. Amend Chapter 87, Title 9 of the Delaware Code by redesignating Sections 8726 through 8732 as Sections 8727 through 8733 respectively and by adding thereto a new section, designated as Section 8726, which new section shall read as follows:

“§ 8726. Sales subject to approval of Department of Finance or Chief County Financial Officer.

The Department of Finance or the chief county financial officer as designated by the county governing body may approve or disapprove the final bid at a sale made by the Sheriff under this subchapter provided that the notice of the public sale includes that such sale is 'subject to the approval of the Department of Finance or the chief county financial officer' in the terms of sale. In the event the Department of Finance or the chief county financial officer does not approve the final bid at such sale, the said Department of Finance or chief county financial officer may expose the property to another and as many succeeding sales as it chooses.”

Approved July 12,1999

CHAPTER 139

FORMERLY

HOUSE BILL NO. 68

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKERS' COMPENSATION.

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

Section 1. Amend § 2349, Title 19 of the Delaware Code, by striking the phrase “within 20 days after a copy thereof has been sent” as it appears in the first sentence therein and by substituting in lieu thereof the phrase “within 30 days of the day the notice of the award was mailed”.

Section 2. Amend § 2349, Title 19 of the Delaware Code, by striking the phrase “within five days” as it appears in the second sentence therein and by substituting in lieu thereof the phrase “at any time”.

Approved July 12,1999

medical protocols. This capability must exist twenty-four hours per day throughout the entire year; and

- (7) Have the capability to one-button transfer all data related to a call for medical assistance to the county PSAPs and must utilize that capability. Specifically, when a local PSAP determines that a call for assistance requires ALS, an immediate one-button transfer of all data must be made to the county PSAP. The transferred data must include the first call pickup time (time call received by local PSAP) and the time the local PSAP transferred the call to the EMD.
 - (8) Be accredited by the National Academy of Emergency Medical Dispatch (NAEMD) by January 1, 2003.
- (b) All 911 Emergency Report Centers in this state receiving 911 calls and transferring them to a center providing emergency medical dispatch shall, through a contract with the Department of Public Safety:
- (1) Electronically collect data regarding calls for assistance including all times related thereto and ANI/ALI information;
 - (2) Measure all time increments in increments of seconds; and
 - (3) Have the capability to one-button transfer all data related to a call for medical assistance to the county PSAPs and must utilize that capability. The transferred data must include the first call pickup time (time call received by local PSAP) and the time the local PSAP transferred the call to the EMD.

Section 28. Amend § 9706, Title 16, Delaware Code by deleting the word "DEMSAC" as it appears therein and replacing it with the word "DEMSOC".

Section 29. Amend § 9808(f), Title 16, Delaware Code by deleting the words "unit deployment" as they appear therein and replacing them with the words "number of paramedic staff hours". Further amend § 9808(f), Title 16, Delaware Code by deleting the last sentence in its entirety.

Section 30. Amend § 9803(a), Title 16, Delaware Code by deleting the words "of Paramedic Administration" as they appear therein.

Section 31. Amend § 9808, Title 16, Delaware Code by deleting the words "of Paramedic Administration" as they appear therein.

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Approved July 12, 1999

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"§ 8726. Sales subject to approval of Department of Finance or Chief County Financial Officer.

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Approved July 12, 1999

CHAPTER 139

FORMERLY

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Section 2. Amend § 2349, Title 19 of the Delaware Code, by striking the phrase "within five days" as it appears in the second sentence therein and by substituting in lieu thereof the phrase "at any time".

Approved July 12, 1999

CHAPTER 140

FORMERLY

HOUSE BILL NO. 102

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO RESIDENCY REQUIREMENTS FOR CABINET SECRETARIES.

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

Section 1. Amend subsection (a), § 7902, Title 29, Delaware Code, by adding at the end of the existing language in subsection (a) the following:

"The Secretary of the Department of Health and Social Services 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. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall be an automatic resignation from said office."

Section 2. Amend subsection (a), § 8002, Title 29, Delaware Code, by adding at the end of the existing language in subsection (a) the following:

"The Secretary of the Department of Natural Resources and Environmental Control 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. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall be an automatic resignation from said office."

Section 3. Amend subsection (a), § 8102, Title 29, Delaware Code, by adding at the end of the existing language in subsection (a) the following:

"The Secretary of the Department of Agriculture 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. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall be an automatic resignation from said office."

Section 4. Amend subsection (a), § 8202, Title 29, Delaware Code, by adding at the end of the existing language in subsection (a) the following:

"The Secretary of the Department of Public Safety 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. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall be an automatic resignation from said office."

Section 5. Amend subsection (a), § 8302, Title 29, Delaware Code, by adding at the end of the existing language in subsection (a) the following:

"The Secretary of the Department of Finance 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. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said office."

Section 6. Amend subsection (a)(1), § 8403, Title 29, Delaware Code, by adding at the end of the existing language in subsection (a) the following:

"The Secretary of the Department of Transportation 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. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said office."

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Section 7. Amend subsection (a), § 8502, Title 29, Delaware Code, by adding at the end of the existing language in subsection (a) the following:

"The Secretary of the Department of Labor 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. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said office."

Section 8. Amend subsection (a), § 8802, Title 29, Delaware Code, by adding at the end of the existing language in subsection (a) the following:

"The Secretary of the Department of Administrative Services 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. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said office."

Section 9. Amend subsection (a), § 8902, Title 29, Delaware Code, by adding at the end of the existing language in subsection (a) the following:

"The Commissioner of the Department of Correction 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. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said office."

Section 10. Amend subsection (a), § 9004, Title 29, Delaware Code, by adding at the end of the existing language in subsection (a) the following:

"The Secretary of the Department of Services for Children, Youth and Their Families 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. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said office."

Approved July 12, 1999

CHAPTER 141

FORMERLY

HOUSE BILL NO. 171

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MORTGAGES ON REAL ESTATE.

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

Section 1. Amend Chapter 21, Title 25 of the Delaware Code by adding a new Section 2122 to read as follows:

"§ 2122. Procedure to strike an entry of satisfaction or other indication of a mortgage satisfaction.

(a) When entry of satisfaction, recordation of a mortgage satisfaction piece or other indication of a mortgage satisfaction has been made upon the record through inadvertence, error or mistake, any person or party affected by such inadvertence, error or mistake may, upon sworn petition to the Superior Court of the county in which such mortgage was recorded, setting forth the facts, obtain from such Court a rule on the mortgagor or obligor or their heirs, executors, administrators or assigns, returnable at such time as the Court may direct, requiring such mortgagor or obligor or their heirs, executors, administrators or assigns to appear on the day fixed by the Court and show cause, if they have any, why the entry of satisfaction or

other indication of a mortgage satisfaction should not be stricken. Such rule shall be served as provided by law for service of writs of scire facias. In case the mortgagor or obligor or their heirs, executors, administrators or assigns reside out of the State and cannot be served, or in case the mortgagor or obligor is a corporation which has been dissolved for more than 3 years prior to the filing of the petition, and for whom no trustee or receiver has been appointed, the rule shall be continued and a copy thereof shall be published by the sheriff in a newspaper of the county once each week for 4 successive weeks, and upon proof of such advertisement by affidavit of the sheriff made at the time to which such rule was continued, shall be deemed and considered sufficient service of such rule.

(b) Upon the return of the rule, if the Court is satisfied from the evidence produced that entry of satisfaction or other indication of a mortgage satisfaction had been made upon the record of such mortgage through inadvertence, error or mistake, the rule shall be made absolute, and the Court shall order and decree that the entry of satisfaction or other indication of a mortgage satisfaction of such mortgage shall be stricken as if such satisfaction or other indication of a mortgage satisfaction had not been made.

(c) Upon the issuance of an order striking an entry of satisfaction or other indication of a mortgage satisfaction, the party who obtains such order shall forthwith file with the Recorder of Deeds a certified copy of said order. The Recorder shall at once record said order and make a proper note of the same in the indices. The Recorder shall collect recording fees upon receipt of the instrument as provided for in § 9607, of Title 9 of this Code."

Approved July 12, 1999

CHAPTER 142

FORMERLY

HOUSE BILL NO. 178

AN ACT TO AMEND CHAPTER 448, VOLUME 71 OF THE LAWS OF DELAWARE ENTITLED "AN ACT TO AMEND TITLE 12 AND TITLE 26 OF THE DELAWARE CODE RELATING TO COOPERATIVE ELECTRIC UTILITIES."

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

Section 1. Amend Chapter 448, Volume 71 of the Laws of Delaware, by deleting Section 4 of said chapter and substituting in lieu thereof a new Section 4 to read as follows:

"Section 4. This act shall apply to cooperative electric utility capital credits retired on or after January 1, 1994."

Approved July 12, 1999

CHAPTER 143

FORMERLY

HOUSE BILL NO. 269

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO COUNTY AND MUNICIPAL POLICE/FIREFIGHTER PENSION PLAN.

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

Section 1. Amend § 8813(a)(3), Title 11 of the Delaware Code, by striking the number "25" and substituting in lieu thereof the number "20".

Section 2. Amend § 8841, Title 11 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection to read as follows:

"§ 8841. Member Contributions.

Effective January 1, 2000, member contributions to the fund shall be 5% of monthly compensation for members covered under the Federal Social Security Act (41 U.S.C., § 301, et. Seq.) and 7% of monthly compensation for members not covered under the Federal Social Security Act (42 U.S.C., § 301, et. seq.). Members shall contribute to the Fund during 20 years of credited service."

Approved July 13,1999

CHAPTER 144

FORMERLY

SENATE BILL NO. 27

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 19, DELAWARE CODE, CHAPTER 13 CREATING A STATUTE OF LIMITATIONS FOR THE FILING OF UNFAIR LABOR PRACTICE CHARGES UNDER THE PUBLIC EMPLOYMENT RELATIONS ACT.

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

Section 1. Amend Title 19, Delaware Code, Chapter 13, §1308, by replacing the period (.) at the end of subsection (a) thereof with a semi-colon (;) and adding immediately thereafter the following:

"Provided, that no complaint shall issue based on any unfair labor practice occurring more than 180 days prior to the filing of the charge with the Board."

Approved July 12,1999

CHAPTER 145

FORMERLY

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

AN ACT TO AMEND TITLE 19, DELAWARE CODE, CHAPTER 16 CREATING A STATUTE OF LIMITATIONS FOR THE FILING OF UNFAIR LABOR PRACTICE CHARGES UNDER THE POLICE OFFICERS' AND FIREFIGHTERS' EMPLOYMENT RELATIONS ACT.

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

Section 1. Amend Title 19, Delaware Code, Chapter 16, §1608, by replacing the period (.) at the end of subsection (a) thereof with a semi-colon (;) and adding immediately thereafter the following:

"provided, that no complaint shall issue based on any unfair labor practice occurring more than 180 days prior to the filing of the charge with the Board."

Approved July 12, 1999

CHAPTER 146

FORMERLY

SENATE BILL NO. 29
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 14, DELAWARE CODE, CHAPTER 40 CREATING A STATUTE OF LIMITATIONS FOR THE FILING OF UNFAIR LABOR PRACTICE CHARGES UNDER THE PUBLIC SCHOOL EMPLOYMENT RELATIONS ACT.

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

1. Amend Title 14, Delaware Code, Chapter 40, §4008, by replacing the period (.) at the end of subsection (a) thereof with a semi-colon (;) and adding immediately thereafter the following:

"Provided, that no complaint shall issue based on any unfair labor practice occurring more than 180 days prior to the filing of the charge with the Board."

Approved July 12, 1999

CHAPTER 147

FORMERLY

SENATE BILL NO. 54
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO JURISDICTION OF JUSTICE OF THE PEACE COURTS.

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

(51): Section 1. Amend Section 2702 of Title 11 of the Delaware Code by adding the following as a new section

"(51) Section 2113 of this title only if punishable as a misdemeanor and where the jurisdiction over the underlying offense remains with the Justice of the Peace Court (Penalties for noncompliance with conditions of recognizances, bond or condition)."

Section 2. Amend Section 2702 of Title 11 of the Delaware Code by adding the following as a new section (52):

"(52) Section 4334 of this title where such probation or suspension of sentence was pursuant to an order of the Justice of the Peace. (Arrest for violation of conditions; subsequent disposition)."

Section 3. Further Amend Section 2702 of title 11 of the Delaware Code by adding the following as a new section (53):

(53) Section 8522 of this title. (Authority to take fingerprints, photographs and other data)."

Approved July 12, 1999

CHAPTER 148

FORMERLY

SENATE BILL NO. 197

AN ACT TO REINCORPORATE THE CITY OF MILFORD.

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

WHEREAS, it is deemed advisable that the Charter of the City of Milford, contained in Chapter 156, Volume 61, Laws of Delaware, entitled "An Act to Reincorporate the City of Milford" as thereafter amended, be consolidated into one complete act and in certain respects be amended and revised.

NOW THEREFORE,

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

Section 1. The following is hereby adopted as the Charter of the City of Milford.

ARTICLE I. INCORPORATION

1.01- INCORPORATION

The inhabitants of the City of Milford within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the "City of Milford."

1.02- TERRITORIAL LIMITS

The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say:

BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run; thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 1988; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State

Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid.

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to Article X.

The Council may, at any time hereafter, cause a survey and plot to be made of said City, and the said plot, when made and approved by said Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

1.03- WARDS

The City of Milford shall initially be divided into four Wards: The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U. S. Route 113; thence along the centerline of U. S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive, thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U. S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U. S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U. S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to

the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U. S. Route 113; thence along the centerline of U. S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U. S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U. S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street. The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth.

1.04- ANNEXATION

In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished pursuant to the following procedures shall be lawful:

(a) If all the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. The City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council.

Once the favorable vote for annexation shall have been case, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

(b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the City Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford.

Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the

recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore. A resolution shall then be passed by the City Council proposing to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote. The resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.

Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote.

Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation.

The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election.

At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed. Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only.

In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation.

The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

For the proposed annexation _____

Against the proposed annexation _____

The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until seven o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council.

In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

ARTICLE II. POWERS OF THE CITY

2.01- POWERS OF THE CITY

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows:

- (a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.
- (b) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:
 - (a) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,
 - (b) A contract for professional services.
 - (1) No contract shall be made by Council for any purpose, the contract price of which is in excess of \$10,000.00, without public competitive bidding; and
 - (2) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City, and
 - (3) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.
- (c) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford, a sum or sums not exceeding in the aggregate of two times the previous year's tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received hereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.

(d) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time by ordinance decree.

2.02- CONSTRUCTION

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

2.03- INTERGOVERNMENTAL RELATIONS

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof or the United States of America or any agency thereof.

2.04- NOTICE OF ACTION

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Milford 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.

ARTICLE III. STRUCTURE OF GOVERNMENT

3.01- FORM OF GOVERNMENT

The form of government established by this charter shall be known as the "council-manager" form.

3.02- COMPOSITION OF GOVERNMENT

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) councilmembers. Whenever the word "council" is used in this chapter, it shall refer to the eight (8) councilmembers. Whenever the word mayor is used, it shall refer solely to the mayor.

3.03- QUALIFICATIONS FOR MAYOR AND CITY COUNCIL

No person shall be eligible for election as Mayor or as a member of Council unless they have been a resident of the State of Delaware and the City for thirty (30) days preceding the day of the election; and are over the age of eighteen years prior to the day of the election. Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.

ARTICLE IV. POWERS OF CITY COUNCIL

4.01- COMPOSITION, ELECTION, TERM OF OFFICE

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward. Only qualified voters of the City shall be eligible to hold the office of Councilperson and Mayor. The Mayor and Councilpersons shall each serve for a term of two years.

At 7:30 o'clock P.M., on the Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. At said meeting, the Council shall organize by a majority vote, and elect a Vice-Mayor, who shall be a member of the Council.

4.02- COMPENSATION AND EXPENSES

The Council may determine the annual salary of Councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

4.03- GENERAL POWERS AND DUTIES

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

4.04- PROHIBITIONS

(a) **HOLDING OTHER OFFICE.** Except where authorized by law, no Councilperson shall hold any other City office or employment during the term for which he or she was elected to the Council, and no former Councilperson shall hold any compensated appointive City office or employment until one year after the expiration of the term for which he or she was elected to the Council.

(b) **APPOINTMENTS AND REMOVALS.** Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) **INTERFERENCE WITH ADMINISTRATION.** Except for the purposes of inquiries and investigations under Section 2.08, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

4.05- VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES

(a) **VACANCIES.** The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

(b) **FORFEITURE OF OFFICE.** A Councilperson shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude.

(c) **FILLING OF VACANCIES.** If a vacancy occurs in the Council and the remainder of the unexpired term is one (1) year or less, the Council may, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than one (1) year, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

4.06- JUDGE OF QUALIFICATIONS

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Superior Court.

4.07- APPOINTMENT AND DUTIES OF CITY CLERK

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned to him or her by this Charter or by the Council.

4.08- INVESTIGATIONS

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than \$100.00, or by imprisonment for not more than ten (10) days, or both.

4.09- INDEPENDENT AUDIT

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and approve each annual audit.

4.10- PROCEDURE

(a) **MEETINGS.** The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of four or more members and, whenever practicable, upon no less than twelve (12) hours' notice to each member. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter which would tend to defame or prejudice the character or reputation of any person, provided that a general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.

(b) **RULES AND JOURNAL.** The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

(c) **VOTING.** Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section 2.05, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

4.11- ACTION REQUIRING AN ORDINANCE

The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any City department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes, except as otherwise provided in Article V with respect to the property tax levied by adoption of the budget;
- (4) Grant, renew or extend a franchise;
- (5) Regulate the rate charged for its services by a public utility;

- (6) Authorize the borrowing of money;
- (7) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.
- (8) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

4.12- ORDINANCES IN GENERAL

- (a) **FORM.** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains . . ." Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.
- (b) **PROCEDURE.** An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Council member and to the City Manager. As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.
- (c) **EFFECTIVE DATE.** Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.
- (d) **"PUBLISH" DEFINED.** As used in this Section, the term "publish" means to print in one or more newspapers of general circulation in the City: (1) the ordinance or a brief summary thereof, and (2) the places where complete copies of it have been filed and the times when they are available for public inspection.

4.13- EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 5.09(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Subsection 5.09(b) shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.14- CODES OF TECHNICAL REGULATIONS

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (a) The requirements of Section 2.12 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and
- (b) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection 2.15(a).

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

4.15- AUTHENTICATION AND RECORDING; CODIFICATION PRINTING

(a) **AUTHENTICATION AND RECORDING.** The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) **CODIFICATION.** The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) **PRINTING OF ORDINANCES AND RESOLUTIONS.** The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations included in the Code.

ARTICLE V. POWERS AND DUTIES OF MAYOR

6.01- GENERAL POWERS

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City.

The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor.

ARTICLE VI. CITY MANAGER

6.01- APPOINTMENT; QUALIFICATIONS; COMPENSATION

The Council shall appoint a City Manager for an indefinite term and fix his compensation. The Manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council.

6.02- REMOVAL

The Council shall remove the Manager from office in accordance with the following procedures:

- (1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.
- (2) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.
- (3) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy

of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

6.03- ACTING CITY MANAGER

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

6.04- POWERS AND DUTIES OF THE CITY MANAGER

The City Manager shall be the chief administrative officer of the City. He shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He shall have the following powers and duties:

- (1) He shall appoint, and when he deems it necessary for the good of the service, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
- (2) He shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.
- (3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.
- (4) He shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- (5) He shall prepare and submit the annual budget and capital program to the Council.
- (6) He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
- (7) He shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.
- (8) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.
- (9) He shall perform such other duties as are specified in this Charter or may be required by the Council.

ARTICLE VII. ADMINISTRATIVE DEPARTMENTS

7.01- GENERAL PROVISIONS

- (a) **CREATION OF DEPARTMENTS.** The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued, or unless this Charter specifically so provides, assigned to any other.
- (b) **DIRECTION BY MANAGER.** All departments, offices and agencies under the direction and supervision of the Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of Council, the Manager may serve as the head of one of more such departments, offices or agencies or may appoint one person as the head of two or more of them.

7.02- CITY SOLICITOR

The City Council shall select and appoint a City Solicitor for an indefinite term who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the

State of Delaware or may be a Delaware law firm, any member of which can perform the duties of the City Solicitor.

7.03- POLICE DEPARTMENT

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise; and the Council shall from time to time make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of City Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council and shall be removed from office in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

7.04- CITY JAIL

The Council may build and maintain a jail for the City, which shall be used as a place for the detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to hearing and trial or arraignment.

7.05- CITY ALDERMAN

- (a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.
- (b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.
- (c) He shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.
- (d) He shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.
- (e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars (\$500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.
- (f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.
- (g) The Alderman shall keep a docket in which all his official acts shall be entered.
- (h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

7.06- FINANCE DEPARTMENT

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either mayor or city council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the city manager and council shall direct and which will keep the council, city manager and the public informed of the financial condition of the city. The books and accounts of the finance department shall be open at all times to inspection by the members of the council and the public under such regulations as the council may prescribe.

7.07- PLANNING DEPARTMENT

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

- 1) To advise the City Manager on any matter affecting the physical development of the city;
- 2) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;
- 3) To review and make recommendations regarding proposed actions of the council in implementing the comprehensive development plan;

- 4) To advise and seek advice from the planning commission in the exercise of his or her responsibilities, and in connection therewith, to provide it necessary staff assistance;
- 5) To review and make recommendations regarding proposed actions of the council in annexations;
- 1) 6) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;
- 7) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

7.08- CITY PLANNING COMMISSION

There shall be a City Planning Commission consisting of nine (9) members appointed by the Council. Appointed Planning Commission members shall serve two types of terms; five members will serve a three (3) year term and four members will serve a two (2) year term. Members of the Commission shall hold no other City office. The Commission may make recommendations to the City Manager and the City Council on all matters affecting the physical development of the City, shall be consulted on the comprehensive plan and the implementation thereof as provided in Section 7.09 and 7.10, and shall exercise all other responsibilities as may be provided by law, including but not limited to the following:

- (1) To advise the City Manager on any matter affecting the physical development of the City.
- (2) To formulate and recommend to the City Manager a comprehensive plan and modifications thereof.
- (3) To review and make recommendations regarding proposed Council action implementing the comprehensive plan.
- (4) To advise the City building inspector in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance.

7.09- COMPREHENSIVE PLAN

(a) **CONTENT.** The Council shall adopt and modify the Comprehensive Plan setting forth in graphic and textual form policies to govern the future physical development of the City every five (5) years. Such plan may cover the entire City and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services.

(b) **ADOPTION.** Upon receipt from the City Manager of a proposed comprehensive plan or proposed modification of the existing plan, the Council shall refer such proposal to the City Planning Commission, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Commission, the Council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.

(c) **EFFECT.** The comprehensive plan shall serve as a guide to all future Council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.

7.10- IMPLEMENTATION OF THE COMPREHENSIVE PLAN

(a) **LAND USE AND DEVELOPMENT REGULATIONS.** The Council shall by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.

(b) **URBAN RENEWAL.** The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.

(c) **COUNCIL ACTION.** Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures of capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the Council shall refer the proposal to the City Planning Commission, which shall within a time specified by the Council and prior to the public hearing on the proposed ordinance report its recommendations thereon. Upon adopting any such ordinance, the Council shall make findings and report on the relationship between the ordinance and the comprehensive

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plan and, in the event that the ordinance does not accord with the comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report.

7.11- BOARD OF ADJUSTMENT

The Council shall by ordinance establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

7.12- STATE LAW

The action taken by the City shall at all times be consistent with 22. Del. C. Chapter 7 as amended.

ARTICLE VIII. FINANCIAL PROCEDURES

8.01- FISCAL YEAR

The Fiscal year of the City shall be set by the City Council.

8.02- SUBMISSION OF BUDGET DATE

On or before the last day of the twelfth month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

8.03- BUDGET MESSAGE

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

8.04- OPERATING BUDGET

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;
- (3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

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

8.05- CAPITAL PROGRAM

- (a) **SUBMISSION TO COUNCIL.** The Manager shall prepare and submit to the Council a five-year capital program at least three months prior to the final date for submission of the operating budget.
- (b) **CONTENTS.** The capital program shall include:
 - (1) A clear, general summary of its contents;

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

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

8.06- COUNCIL ACTION ON OPERATING BUDGET

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

8.07- COUNCIL ACTION ON CAPITAL PROGRAM

ADOPTION. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

8.08- PUBLIC RECORDS

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the City.

8.09- AMENDMENTS AFTER ADOPTION

(a) **SUPPLEMENTAL APPROPRIATIONS.** If during the fiscal year the Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) **EMERGENCY APPROPRIATIONS.** To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) **REDUCTION OF APPROPRIATIONS.** If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) **TRANSFER OF APPROPRIATIONS.** At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) **LIMITATIONS: EFFECTIVE DATE.** No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

8.10- LAPSE OF APPROPRIATIONS

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

8.11- ADMINISTRATION OF BUDGET

(a) **WORK PROGRAMS AND ALLOTMENTS.** At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

(b) **PAYMENTS AND OBLIGATIONS PROHIBITED.** No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

ARTICLE IX. NOMINATIONS AND ELECTIONS

9.01- CITY ELECTIONS

(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which shall be given by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election.

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five citizens of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

(c) A clerk from each respective ward will be assigned to verify the identity and

residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. At the last regular meeting preceding the annual election, the City Council shall appoint an election clerk(s) for each ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least thirty days prior to the registration deadline or owns property within the City of Milford, and who is over the age of eighteen (18) years, shall be entitled to vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. Registered voters who own property in more than one ward must declare within thirty (30) days prior to the election which ward they will vote in on the day of the election. (e) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly, and the person having the highest number of votes, for each office, shall be declared duly elected, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(f) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected

certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of at least ten (10) days following said election.

(g) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.

(h) In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.

(i) Not less than thirty (30) days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) qualified voters resident in the Ward in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than thirty (30) days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) qualified voters resident in the City.

The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election.

The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter.

9.02- ABSENTEE BALLOT PROCEDURES

The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum.

9.03- COUNCIL BALLOTS

(a) NAMES ON BALLOTS. The full names of all candidates who are seeking a seat on City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.

9.04- WATCHERS AND CHALLENGERS

A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots.

9.05- BALLOTS FOR ORDINANCES AND CHARTER AMENDMENTS

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

9.06- VOTING MACHINES

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

9.07- COUNCIL DISTRICTS; ADJUSTMENT OF DISTRICTS

(a) NUMBER OF DISTRICTS. There shall initially be four City Council districts to be known as Wards.

(b) DISTRICTING COMMISSION. The City Council shall comprise the districting commission.

(c) **REPORT; SPECIFICATIONS.** By the first day of January of every tenth year from the adoption of this Charter, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters, determined from the registration for the last statewide general election, but districts shall not differ in population by more than ten (10) percent of the population in the smallest district created.

The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) **PROCEDURE.** The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts.

(e) The Commission may but is not required to establish five Wards instead of four, with two Councilmen to be elected from each Ward.

(f) **ENACT ORDINANCE.** The Council shall adopt the ordinance at least six months before the next regular City election.

(g) **EFFECT OF ENACTMENT.** The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

ARTICLE X. TAXATION, ASSESSORS AND ASSESSMENT OF TAXES

10.01

Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

10.02

It shall be the duty of the City Manager each year to prepare a scrap assessment which shall value and assess all taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment. In the year that a scrap assessment is made, the General Assessment then in force as supplemented or modified by the scrap assessment, shall constitute the assessment for the year.

10.03

The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

10.04

The property of the City Assessors shall be assessed by the Council.

10.05

The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as supplemented by the scrap assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

10.06

At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

10.07

The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City.

10.08

The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

10.09

The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

10.10

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

10.11

(a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the Secretary, commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. The City Manager, in the name of the City of Milford, may institute suit before any Justice of the Peace within Kent County or Sussex County, or before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas or in the Superior Court as the case may be.

(e) However, should the City Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure: The City Manager shall present in the name of the City of Milford to the Superior Court of the State of Delaware in and for Sussex County or Kent County a petition in which shall be stated; (1) the name of the taxable; (2) the year for which the tax was levied; (3) the rate of the tax;

(4) the total amount due; (5) the date from which interest and the penalty for non-payment shall commence and the rate of such interest and penalty; (6) a reasonable precise description of the lands and tenements proposed to be sold; (7) a statement that a bill of said tax has been mailed to the taxable at this last known post office address with return receipt requested by registered mail; (8) that it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be verified before a Notary Public.

(f) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at this last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The City Manager shall exhibit the return registered receipt to the Court by filing the same with the petition; provided that if the taxpayer cannot be found, it shall be sufficient for the City Manager to file with said petition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.

(g) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court in and for Kent or Sussex County and shall endorse upon the said record of said petition the following: "This petition filed the ____ day of _____, A.D., _____. The City Manager of the City of Milford is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." The endorsement shall be signed by the Prothonotary.

(h) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Milford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper having a general circulation in the City. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the date fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(i) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware in and for Kent or Sussex County at the next motion day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the City Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or of his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

(j) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(k) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

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

To the Prothonotary for filing and

recording Petition

For filing and recording return

of sale

To the City Manager for

- preparing certificate
- For making sale of land
- For preparing and filing return
- For posting sale bills

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

- (m) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.
- (n) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.
- (o) 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 or Kent 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 Milford for Sussex County or Kent County therein.

10.12- REAL ESTATE TRANSFER TAX

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

10.13- ASSESSMENT, PAYMENT, AND COLLECTION OF TAXES FOR NEW CONSTRUCTION

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

ARTICLE XI. BORROWING OF MONEY AND ISSUANCE OF BONDS

11.01

The City of Milford may borrow money, and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

11.02

This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

- (1) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

- (2) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;
- (3) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefor;
- (4) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing of any lands, easements or rights-of-way which may be required therefor;
- (5) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

11.03

The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

- (1) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;
- (2) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;
- (3) The manner in which it is proposed to be secured;
- (4) The manner in which it is proposed that it shall be paid or funded, or both;
- (5) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and
- (6) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

11.04

It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the

borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City.

At least five days prior to the date of the Special Election the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "FOR THE PROPOSED BORROWING", and upon the other half of said ballot shall be printed the words, "AGAINST THE PROPOSED BORROWING", and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used.

Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

11.05

The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

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

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it shall also provide a sinking fund therefor.

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefor.

11.06- REFINANCING OF MUNICIPAL BONDS

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

11.07- SHORT TERM BORROWING

The City of Milford may borrow money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project anticipative funding. The money shall be paid back in no longer than five (5) years.

ARTICLE XII. SEPARABILITY

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

ARTICLE XIII. TRANSITIONAL PROVISIONS

13.01- OFFICERS AND EMPLOYEES

(a) RIGHTS AND PRIVILEGES PRESERVED. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) CONTINUANCE OF OFFICE OR EMPLOYMENT. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

13.02- DEPARTMENTS, OFFICES AND AGENCIES

(a) TRANSFER OF POWERS. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) PROPERTY AND RECORDS. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

13.03- PENDING MATTERS

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

13.04- STATE AND MUNICIPAL LAWS

IN GENERAL. All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

13.05- SURVIVAL OF POWERS AND VALIDATIONS SECTIONS

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or

performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

Section 2. REPEALER

This Act shall operate to amend, revise and consolidate "An Act to Reincorporate the City of Milford", being Chapter 156, Volume 61, Laws of Delaware, and the several amendments and supplements thereto. The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in anyway invalidate the remaining provisions of this Act.

Section 3. The following shall be the Index of the Charter of the City of Milford.

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Approved July 12, 1999

CHAPTER 149

FORMERLY

SENATE BILL NO. 141

AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE RESPONSIBILITIES AND DUTIES FOR ALL ASPECTS OF CUSTODY, INCLUDING TREATMENT AND EVALUATION, OF YOUTH OFFENDERS WHO ARE LAWFULLY SENTENCED AS ADULTS OR WHO ARE LAWFULLY TRANSFERRED TO DEPARTMENT OF CORRECTION.

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

Section 1. Amend Section 2103A, Title 11, Delaware Code by adding the following at the end of the current section:

"When a child (youth) has been lawfully administratively remanded or transferred to the Department of Correction ("DOC"), DOC shall be exclusively responsible for all aspects of the child's (youth's) care, custody and control, including services associated with those responsibilities upon such remand and transfer. The Department of Services for Children, Youth and Their Families ("DSCYF") shall have no authority or jurisdiction of such child (youth)."

Section 2 Amend Section 4204A, Title 11, Delaware Code by adding the following subsection (c) at the end of the current section:

"(c) When a child (youth) has been lawfully sentenced in Superior Court or has been lawfully transferred to the Department of Correction ("DOC"), DOC shall be exclusively responsible for all aspects of the child's (youth's) care, custody and control, including services associated with those responsibilities. The Department of Correction, and not the Department of Services for Children, Youth and Their Families shall have authority or jurisdiction of such child (youth)."

Approved July 12, 1999

CHAPTER 150

FORMERLY

SENATE BILL NO. 159
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 10 AND 11 OF THE DELAWARE CODE REGARDING THE EXPUNGEMENT
OF ARREST RECORDS.

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

Section 1. Amend §1001(b) of Title 10 by adding a new paragraph (3) to read as follows:

"(3) Notwithstanding any provision to the contrary, the Attorney General or designee responsible for prosecuting a delinquency action may petition the Court to expunge the instant arrest record of a juvenile if at the time of a state motion to dismiss or entry of nolle prosequi in the case, the prosecutor has determined that the continued existence and possible dissemination of information relating to the arrest of the juvenile for the matter dismissed or for which a nolle prosequi was entered may cause circumstances which constitute a manifest injustice to the juvenile."

Section 2. Amend §1001(b)(2) of Title 10, Delaware Code by adding at the end of that paragraph the following sentence:

"However, the court shall grant petitions filed by the Attorney General or his or her designee pursuant to §1001(b)(3) of this section."

Section 3. Amend §1025 of Title 10, Delaware Code by adding a new subsection (g) to read as follows:

"(g) Notwithstanding any provision to the contrary, the Attorney General or designee responsible for prosecuting a criminal action may petition the court to expunge the instant arrest record of a defendant if at the time of a state motion to dismiss or entry of nolle prosequi in the case, the prosecutor has determined that the continued existence and possible dissemination of information relating to the arrest of the defendant for the matter dismissed or for which a nolle prosequi was entered may cause circumstances which constitute a manifest injustice to the defendant."

Section 4. Amend §1025 of Title 10, Delaware Code by adding in subsection (d), after the third sentence, the following:

"However, the court shall grant petitions filed by the Attorney General or his or her designee pursuant to §1025(g) of this Title."

Section 5. Amend §4372 of Title 11 by adding a new subsection (d) to read as follows:

"(d) Notwithstanding any provision to the contrary, the Attorney General or designee responsible for prosecuting a criminal action may petition the court to expunge the instant arrest record of a defendant if at the time of a state motion to dismiss or entry of nolle prosequi in the case, the prosecutor has determined that the continued existence and possible dissemination of information relating to the arrest of the defendant for the matter dismissed or for which a nolle prosequi was entered may cause circumstances which constitute a manifest injustice to the defendant."

Section 6. Amend §4373(a) of Title 11 by adding after the third sentence, the following sentence:

"However, the Court shall grant petitions filed by the Attorney General or his or her designee pursuant to §4372(d) of this Title."

Approved July 12, 1999

CHAPTER 151

FORMERLY

SENATE BILL NO. 176

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO COMMERCE AND TRADE AND THE ADOPTION OF THE DELAWARE REVISED UNIFORM PARTNERSHIP ACT.

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

Section 1. Amend Title 6 of the Delaware Code by adding new Sections 15-101 through 15-1210 as follows:

"Chapter 15. DELAWARE REVISED UNIFORM PARTNERSHIP ACT

SUBCHAPTER I

GENERAL PROVISIONS

- Section 15-101. Definitions.
- Section 15-102. Knowledge and Notice.
- Section 15-103. Effect of Partnership Agreement; Nonwaivable Provisions.
- Section 15-104. Supplemental Principles of Law.
- Section 15-105. Execution, Filing and Recording of Statements and Certificates.
- Section 15-106. Governing Law.
- Section 15-107. Reserved Power of State of Delaware to Alter or Repeal Chapter.
- Section 15-108. Name of Partnership.
- Section 15-109. Reservation of Name.
- Section 15-110. Indemnification.
- Section 15-111. Registered Office; Registered Agent.
- Section 15-112. Service of Process on Partnership Filing a Statement.
- Section 15-113. Service of Process on a Partnership Not Filing a Statement.
- Section 15-114. Service of Process on a Partner and Liquidating Trustee.
- Section 15-115. Doing Business.
- Section 15-116. Restated Statement of Partnership Existence.
- Section 15-117. Execution, Amendment or Cancellation by Judicial Order.
- Section 15-118. Statement or Certificate of Correction; Corrected Statement or Certificate.
- Section 15-119. Business Transactions of Partner With the Partnership.
- Section 15-120. Contractual Appraisal Rights.
- Section 15-121. Contested Matters Relating To Partners; Contested Votes.
- Section 15-122. Interpretation and Enforcement of Partnership Agreement.

SUBCHAPTER II

NATURE OF PARTNERSHIP

- Section 15-201. Partnership As Entity.
- Section 15-202. Formation of Partnership; Powers.
- Section 15-203. Partnership Property.

- Section 15-204. When Property Is Partnership Property.
- Section 15-205. Admission Without Contribution or Partnership Interest.
- Section 15-206. Form of Contribution.
- Section 15-207. Liability for Contribution.

SUBCHAPTER III

RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

- Section 15-301. Partner Agent of Partnership.
- Section 15-302. Transfer of Partnership Property.
- Section 15-303. Statement of Partnership Existence.
- Section 15-304. Denial of Status as Partner.
- Section 15-305. Partnership Liable for Partner's Actionable Conduct.
- Section 15-306. Partner's Liability.
- Section 15-307. Actions By and Against Partnership and Partners.
- Section 15-308. Liability of Purported Partner.
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SECTION 15-101. DEFINITIONS.

As used in this chapter unless the context otherwise requires:

(1) 'Business' includes every trade, occupation and profession, the holding or ownership of property and any other activity for profit.

(2) 'Certificate' means a certificate of conversion to partnership under Section 15-901, a certificate of merger or consolidation under Sections 15-902, a certificate of partnership domestication under Section 15-904, a

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certificate of transfer and a certificate of transfer and continuance under Section 15-905, and a certificate of correction and a corrected certificate under Sections 15-122.

(3) 'Debtor in bankruptcy' means a person who is the subject of:

(i) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

(ii) a comparable order under State of Delaware federal, state or foreign law governing insolvency.

(4) 'Distribution' means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to a transferee of all or a part of a partner's economic interest.

(5) 'Domestic Partnership' means an association of two or more persons formed under Section 15-202 or predecessor law to carry on any lawful business, purpose or activity.

(6) 'Economic interest' means a partner's share of the profits and losses of a partnership and the partner's right to receive distributions.

(7) 'Foreign limited liability partnership' means a partnership that:

(i) is formed under laws other than the laws of the State of Delaware; and

(ii) has the status of a limited liability partnership under those laws.

(8) 'Limited liability partnership' means a partnership that has filed a statement of qualification under Section 15-1001 and does not have a similar statement in effect in any other jurisdiction.

(9) 'Liquidating Trustee' means a person, other than a partner, carrying out the winding up of a partnership.

(10) 'Partner' means a person who has been admitted to a partnership as a partner of the partnership.

(11) 'Partnership' means an association of two or more persons formed under Section 15-202, predecessor law or comparable law of another jurisdiction to carry on any business, purpose or activity.

(12) 'Partnership agreement' means the agreement, whether written, oral or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(13) 'Partnership at will' means a partnership that is not a partnership for a definite term or particular undertaking.

(14) 'Partnership for a definite term or particular undertaking' means a partnership in which the partners have agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(15) 'Partnership interest' or 'partner's interest in the partnership' means all of a partner's interests in the partnership, including the partner's economic interest and all management and other rights.

(16) 'Person' means a natural person, partnership, limited partnership, trust, estate, limited liability company, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity.

(17) 'Property' means all property, real, personal or mixed, tangible or intangible, or any interest therein.

(18) 'State' means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession or other jurisdiction of the United States other than the State of Delaware.

(19) 'Statement' means a statement of partnership existence under Section 15-303, a statement of denial under Section 15-304, a statement of dissociation under Section 15-704, a statement of dissolution under Section 15-805, a statement of qualification under Section 15-1001, a statement of foreign qualification under Section 15-1102, and an amendment or cancellation of any of the foregoing under Section 15-105 and a statement of correction and a corrected statement under Section 15-118.

(20) 'Transfer' includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.

SECTION 15-102. KNOWLEDGE AND NOTICE.

(a) A person knows a fact if the person has actual knowledge of it.

(b) A person has notice of a fact:

- (1) if the person knows of it;
- (2) if the person has received a notification of it;
- (3) if the person has reason to know it exists from all of the facts known to the person at the time in question; or
- (4) by reason of a filing or recording of a statement or certificate to the extent provided by and subject to the limitations set forth in this chapter.

(c) A person notifies or gives a notification to another by taking steps reasonably required to inform the other person in the ordinary course, whether or not the other person obtains knowledge of it.

- (d) A person receives a notification when the notification:

- (1) comes to the person's attention; or
- (2) is received at the person's place of business or at any other place held out by the person as a place for receiving communications.

(e) Except as otherwise provided in subsection (f), a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. The person exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(f) A partner's knowledge, notice or receipt of a notification of a fact relating to the partnership is effective immediately as knowledge by, notice to or receipt of a notification by the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

SECTION 15-103. EFFECT OF PARTNERSHIP AGREEMENT. NONWAIVABLE PROVISIONS.

(a) Except as otherwise provided in subsection (b), relations among the partners and between the partners and the partnership are governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.

- (b) The partnership agreement may not:

- (1) vary the rights and duties under Section 15-105 except to eliminate the duty to provide copies of statements to all of the partners;

- (2) unreasonably restrict a partner's rights under Section 15-403;

- (3) eliminate the obligation of good faith and fair dealing under Section 15-404(d), but the partnership agreement may restrict the obligation or prescribe the standards by which the performance of the obligation is to be measured;

- (4) vary the power to dissociate as a partner under Section 15-602(a), except to require the notice under Section 15-601(1) to be in writing;

- (5) vary the right of a court to expel a partner in the events specified in Section 15-601(5);

- (6) vary the requirement to wind up the partnership business in cases specified in Section 15-801(4).

(5) or (6);

- (7) vary the law applicable to a limited liability partnership under Section 15-106(b); or

- (8) restrict rights of third parties under this chapter without the consent of those third parties.

(c) It is the policy of this chapter to give maximum effect to the principle of freedom of contract and to the enforceability of partnership agreements.

(d) A partner or another person shall not be liable to the partnership or the other partners or another person for the partner's or other person's good faith reliance on the provisions of the partnership agreement.

SECTION 15-104. SUPPLEMENTAL PRINCIPLES OF LAW.

(a) In any case not provided for in this chapter, the rules of law and equity, including the law merchant, shall govern.

(b) No obligation of partner to a partnership arising under a partnership agreement or a separate agreement or writing, and no note, instruction or other writing evidencing any such obligation of a partner, shall be subject to the defense of usury, and no partner shall interpose the defense of usury with respect to any such obligation in any action. If an obligation to pay interest arises under this chapter and the rate is not specified, the rate is that specified in 6 Del. Ch. § 2301.

SECTION 15-105. EXECUTION, FILING AND RECORDING OF STATEMENTS AND CERTIFICATES.

(a) A statement or certificate may be filed with the Secretary of State by delivery to the Secretary of State of the original signed copy of the statement or of the certificate. A certified copy of a statement that is filed in an office in another state may be filed with the Secretary of State. Either filing in the State of Delaware has the effect provided in this chapter with respect to partnership property located in or transactions that occur in the State of Delaware.

(b) Only a certified copy of a filed statement recorded in the office for recording transfers of real property has the effect provided for recorded statements in this chapter.

(c) A statement or certificate filed by a partnership must be executed by at least one partner or by one or more authorized persons. Other statements must be executed by a partner or other authorized person. The execution of a statement or certificate by an individual as, or on behalf of, a partner or other person named as a partner in a statement or certificate constitutes an oath or affirmation, under the penalties of perjury in the third degree, that, to the best of the individual's knowledge and belief, the facts stated therein are true. A person who executes a statement or a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Any signature on any statement or certificate authorized to be filed with the Secretary of State under any provision of this chapter may be a facsimile, a conformed signature or an electronically transmitted signature. Unless the Secretary of State finds that any statement or certificate does not conform to law, upon receipt of all filing fees required by law the Secretary of State shall:

(1) Certify that the statement or certificate has been filed with the Secretary of State by endorsing upon the original statement or certificate the word 'Filed', and the date and hour of the filing. This endorsement is conclusive of the date and time of its filing in the absence of actual fraud;

(2) File and index the endorsed statement or certificate; and

(3) Prepare and return to the person who filed it or the person's representative a copy of the original signed instrument, similarly endorsed, and shall certify such copy as a true copy of the original signed instrument.

(d) A person authorized by this chapter to file a statement or certificate may amend or cancel the statement or certificate by filing an amendment or cancellation that names the partnership, identifies the statement or certificate, and states the substance of the amendment or cancellation. A person authorized by this chapter to file a statement or certificate who becomes aware that such statement or certificate was false when made, or that any matter described in the statement or certificate has changed, making the statement or certificate false in any material respect, shall promptly amend the statement or certificate. Upon the filing of a statement or a certificate amending or correcting a statement or a certificate (or judicial decree of amendment) with the Secretary of State, or upon the future effective date or time of a statement or a certificate amending or correcting a statement or a certificate (or judicial decree thereof), as provided for therein, the statement or the certificate being corrected or amended shall be corrected or amended as set forth therein. Upon the filing of a statement of cancellation (or judicial decree thereof), or a certificate of merger or consolidation which acts as a statement of cancellation, or a certificate of transfer, or upon the future effective date or time of a statement of cancellation (or a judicial decree thereof) or of a certificate of merger or consolidation which acts as a statement of cancellation, or a certificate of transfer, as provided for therein, or as specified in Section 15-111(d) of this chapter, the statement of partnership existence is cancelled. A statement of partnership existence shall be cancelled upon the dissolution and the completion of winding up of the partnership, or as provided in Section 15-111(d) of this chapter, or upon the filing of a certificate of merger or consolidation if the domestic partnership is not the surviving or resulting entity in a merger or consolidation, or upon the filing of a certificate of transfer, or upon the conversion of a domestic partnership approved in accordance with Section 15-903 of this chapter. A statement of cancellation shall be filed with the Secretary of State to accomplish the cancellation of a statement of partnership existence upon the dissolution and the completion of winding up of a domestic

partnership or upon the conversion of a domestic partnership approved in accordance with Section 15-903 of this chapter and shall set forth:

- (1) The name of the partnership;
- (2) The date of filing of its statement of partnership existence;
- (3) The reason for filing the statement of cancellation;
- (4) In the case of the conversion of a domestic partnership, the name of the entity to which the domestic partnership has been converted; and
- (5) Any other information the person filing the statement of cancellation determines.

Upon the filing of a certificate of partnership domestication, or upon the future effective date or time of a certificate of partnership domestication, the entity filing the certificate of partnership domestication is domesticated as a partnership with the effect provided in Section 15-904 of this chapter. Upon the filing of a certificate of conversion to partnership, or upon the future effective date or time of a certificate of conversion to partnership, the entity filing the certificate of conversion to partnership is converted to a partnership with the effect provided in Section 15-901 of this chapter. Upon the filing of a certificate of termination of a merger or consolidation, the certificate of merger or consolidation identified in the certificate of termination of a merger or consolidation is terminated. Upon the filing of a certificate of amendment of a certificate of merger or consolidation, the certificate of merger or consolidation identified in the certificate of amendment of a certificate of merger or consolidation is amended. 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 partnership filing the certificate of transfer and continuance shall continue to exist as a partnership of the State of Delaware with the effect provided in Section 15-905 of this chapter.

(e) A person who files a statement or certificate pursuant to this section shall promptly send a copy of the statement or certificate to every nonfiling partner and to any other person named as a partner in the statement or certificate. Failure to send a copy of a statement or certificate to a partner or other person does not limit the effectiveness of the statement or certificate as to a person not a partner.

(f) The filing of a statement of partnership existence under Section 15-303, a statement of qualification under Section 15-1001 or a statement of foreign qualification under Section 15-1102 with the Secretary of State shall make it unnecessary to file any other document under Chapter 31 of this Title.

(g) A statement or certificate filed with the Secretary of State shall be effective if there has been substantial compliance with the requirements of this chapter.

(h) A statement or certificate shall be effective at the time of its filing with the Secretary of State or at any later date or time specified in the statement or certificate.

(i) A fee as set forth in Section 15-1207 of this chapter shall be paid at the time of the filing of a statement or a certificate.

(j) A fee as set forth in Section 15-1207 of this chapter shall be paid for a certified copy of any paper on file as provided for by this chapter, and a fee as set forth in Section 15-1207 of this chapter shall be paid for each page copied.

SECTION 15-106. GOVERNING LAW.

(a) Except as otherwise provided in subsection (b), the law of the jurisdiction governing a partnership agreement governs relations among the partners and between the partners and the partnership.

(b) The law of the State of Delaware governs relations among the partners and between the partners and the partnership and the liability of partners for an obligation of a limited liability partnership.

SECTION 15-107. RESERVED POWER OF STATE OF DELAWARE TO ALTER OR REPEAL CHAPTER.

All provisions of this chapter may be altered from time to time or repealed and all rights of partners are subject to this reservation. Unless expressly stated to the contrary in this chapter, all amendments of this chapter shall apply to partnerships and partners whether or not existing at the time of the enactment of any such amendment.

SECTION 15-108. NAME OF PARTNERSHIP.

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(a) The name of a partnership (i) may contain the name of a partner and (ii) may contain the following words: 'Company,' 'Association,' 'Club,' 'Foundation,' 'Fund,' 'Institute,' 'Society,' 'Union,' 'Syndicate,' 'Trust' (or abbreviations of like import).

(b) The name of a limited liability partnership shall contain as the last words or letters of its name the words 'Limited Liability Partnership,' the abbreviation 'L.L.P.' or the designation 'LLP.'

(c) The name of a partnership to be included in the statement of partnership existence, statement of qualification or statement of foreign qualification filed by such partnership must be such as to distinguish it upon the records of the Secretary of State from the name of any corporation, partnership (including a limited liability partnership), limited partnership (including a limited liability limited partnership), business trust or limited liability company organized under the laws of the State of Delaware and reserved or registered with the Secretary of State or qualified to do business and registered as a foreign corporation, foreign limited liability partnership, foreign limited partnership, foreign business trust or foreign limited liability company in the State of Delaware; provided, however, that a partnership may be registered under any name which is not such as to distinguish it upon the records of the Secretary of State from the name of any domestic or foreign corporation, partnership (including a limited liability partnership), limited partnership (including a limited liability limited partnership), business trust or limited liability company reserved or registered under the laws of the State of Delaware with the written consent of the other corporation, partnership (including a limited liability partnership), limited partnership (including a limited liability limited partnership), business trust or limited liability company, which written consent shall be filed with the Secretary of State.

SECTION 15-109. RESERVATION OF NAME.

(a) The exclusive right to use of a specified name in a statement using the specified name may be reserved by: (1) any person intending to organize a partnership under this chapter and to adopt that name; (2) any partnership or any foreign limited liability partnership registered in the State of Delaware which, in either case, proposes to change its name; (3) any foreign limited liability partnership intending to register in the State of Delaware and adopt that name; and (4) any person intending to organize a foreign limited liability partnership and intending to have it register in the State of Delaware and adopt that name.

(b) The reservation of a specified name shall be made by filing with the Secretary of State an application, executed by the applicant, specifying the name to be reserved and the name and address of the applicant. If the Secretary of State finds that the name is available for use, the Secretary shall reserve the name for exclusive use of the applicant in a statement using the specified name for a period of 120 days. Once having so reserved a name, the same applicant may again reserve the same name for successive 120 day periods. The right to the exclusive use of a reserved name in a statement using the specified name may be transferred to any other person by filing with the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved, specifying the name to be transferred and the name and address of the transferee. The reservation of a specified name may be canceled by filing with the Secretary of State a notice of cancellation, executed by the applicant or transferee, specifying the name reservation to be canceled and the name and address of the applicant or transferee. Unless the Secretary of State finds that any application, notice of transfer or notice of cancellation filed with the Secretary of State as required by this subsection does not conform to law, upon receipt of all filing fees required by law, the Secretary shall prepare and return to the person who filed such instrument a copy of the filed instrument with a notation thereon of the action taken by Secretary of State.

(c) A fee as set forth in Section 15-1207 of this chapter shall be paid at the time of the initial reservation of any name, at the time of the renewal of any such reservation and at the time of the filing of a notice of the transfer or cancellation of any such reservation.

SECTION 15-110. INDEMNIFICATION.

Subject to such standards and restrictions, if any, as are set forth in its partnership agreement, a partnership may, and shall have the power to, indemnify and hold harmless any partner or other person from and against any and all claims and demands whatsoever.

SECTION 15-111. REGISTERED OFFICE; REGISTERED AGENT.

(a) Each partnership that files a statement of partnership existence, a statement of qualification or a statement of foreign qualification shall have and maintain in the State of Delaware:

(1) A registered office, which may but need not be a place of its business in the State of Delaware; and

(2) A registered agent for service of process on the partnership, which agent may be either an individual resident of the State of Delaware whose business office is identical with the partnership's registered office, or a domestic corporation, or a domestic limited partnership, or a domestic limited liability company, or a domestic business trust, or a domestic limited liability partnership, or a foreign corporation, or a foreign limited partnership, or a foreign limited liability company, or a foreign business trust, or a foreign limited liability partnership authorized to do business in the State of Delaware having a business office identical with such registered office, which is generally open during normal business hours to accept service of process and otherwise perform the functions of a registered agent, or the partnership itself.

(b) A registered agent may change the address of the registered office of the partnerships for which it is registered agent to another address in the State of Delaware by paying a fee as set forth in Section 15-1207 of this chapter and filing with the Secretary of State a certificate, executed by such registered agent, setting forth the names of all the partnerships represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such partnerships, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such registered agent will thereafter maintain the registered office for each of the partnerships recited in the certificate. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under his hand and seal of office, and thereafter, or until further change of address as authorized by law, the registered office in the State of Delaware of each of the partnerships recited in the certificate shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as registered agent of a partnership, such registered agent shall file with the Secretary of State a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, the names of all the partnerships represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such partnerships, and shall pay a fee as set forth in Section 15-1207 of this chapter. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under his hand and seal of office. Filing a certificate under this section shall be deemed to be an amendment of the statement of partnership existence, statement of qualification or statement of foreign qualification of each partnership affected thereby and each such partnership shall not be required to take any further action, with respect thereto, to amend its statement of partnership existence, statement of qualification or statement of foreign qualification under Section 15-105(d) of this chapter. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each partnership affected thereby.

(c) The registered agent of 1 or more partnerships may resign and appoint a successor agent by paying a fee as set forth in Section 15-1207 of this chapter and filing a certificate with the Secretary of State stating that it resigns and the name and address of the successor registered agent. There shall be attached to such certificate a statement executed by each affected partnership ratifying and approving such change of registered agent. Upon such filing, the successor registered agent shall become the registered agent of such partnerships as have ratified and approved such substitution and the successor registered agent's address, as stated in such certificate, shall become the address of each such partnership's registered office in the State of Delaware. The Secretary of State shall furnish to the successor registered agent a certified copy of the certificate of resignation. Filing of such certificate of resignation shall be deemed to be an amendment of the statement of partnership existence, statement of qualification or statement of foreign qualification of each partnership affected thereby and each such partnership shall not be required to take any further action, with respect thereto, to amend its statement of partnership existence, statement of qualification or statement of foreign qualification under Section 15-105(d) of this chapter.

(d) The registered agent of a partnership may resign without appointing a successor registered agent by paying a fee as set forth in Section 15-1207 of this chapter and filing a certificate with the Secretary of State stating that it resigns as registered agent for the partnership identified in the certificate, but such resignation shall not become effective until 120 days after the certificate is filed. There shall be attached to such certificate an affidavit of such registered agent that at least 30 days prior to and on or about the date of filing of said certificate, notices were sent by certified or registered mail to the partnership for which such registered agent is resigning as registered agent, at the principal office thereof within or outside the State of Delaware, if known to such registered agent or, if not, to the last known address of the attorney or other individual at whose request such registered agent was appointed for such partnership, of the resignation of such registered agent. After receipt of the notice of the resignation of its registered agent, the partnership for which such registered agent was acting shall obtain and designate a new registered agent to take the place of the registered agent so resigning. If such partnership fails to obtain and designate a new registered agent as aforesaid prior to the expiration of the period of 120 days after the filing by the registered agent of the certificate of resignation, the statement of partnership existence, statement of qualification or statement of foreign qualification of such partnership shall be deemed to be canceled. After the resignation of the registered agent shall have become effective as provided in this section and if no new registered

agent shall have been obtained and designated in the time and manner aforesaid, service of legal process against the partnership for which the resigned registered agent had been acting shall thereafter be upon the Secretary of State in accordance with Section 15-113 of this chapter.

SECTION 15-112. SERVICE OF PROCESS ON PARTNERSHIP FILING A STATEMENT.

(a) Service of legal process upon any partnership which has filed a statement of partnership existence, a statement of qualification or a statement of foreign qualification shall be made by delivering a copy personally to any partner of the partnership in the State of Delaware or any partner who signed a statement of partnership existence, a statement of qualification or a statement of foreign qualification or the registered agent of the partnership in the State of Delaware or by leaving it at the dwelling house or usual place of abode in the State of Delaware of any such partner or registered agent (if the registered agent be an individual), or at the registered office or any place of business of the partnership in the State of Delaware. Service by copy left at the dwelling house or usual place of abode of a partner, registered agent, or at the registered office or any place of business of the partnership in the State of Delaware, to be effective, must be delivered thereat at least 6 days before the return date of the process, and in the presence of an adult person, and the officer serving the process shall distinctly state the manner of service in the return thereto. Process returnable forthwith must be delivered personally to the partner or registered agent.

(b) In case the officer whose duty it is to serve legal process cannot by due diligence serve the process in any manner provided for by subsection (a) of this section, it shall be lawful to serve the process against the partnership upon the Secretary of State, and such service shall be as effectual for all intents and purposes as if made in any of the ways provided for in subsection (a) hereof. In the event that service is effected through the Secretary of State in accordance with this subsection, the Secretary of State shall forthwith notify the partnership by letter, certified mail, return receipt requested, directed to the partnership at the address of any partner as it appears on the records relating to such partnership on file with the Secretary of State or, if no such address appears, at the last registered office. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection, and to pay the Secretary of State the sum of \$50 for the use of the State of Delaware, which sum shall be taxed as part of the costs in the proceeding if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and defendant, the title, docket number and nature of the proceeding in which process has been served upon him, the fact that service has been effected pursuant to this subsection, the return date thereof, and the day and hour when the service was made. The Secretary of State shall not be required to retain such information for a period longer than 5 years from receipt of the service of process.

SECTION 15-113. SERVICE OF PROCESS ON A PARTNERSHIP NOT FILING A STATEMENT.

(a) Service of legal process upon any partnership which has not filed a statement of partnership existence, a statement of qualification or a statement of foreign qualification and which is formed under the laws of the State of Delaware or doing business in the State of Delaware shall be made by delivering a copy personally to any partner doing business in the State of Delaware or by leaving it at the dwelling house or usual place of abode in the State of Delaware of a partner or at a place of business of the partnership in the State of Delaware. Service by copy left at the dwelling house or usual place of abode of a partner or at a place of business of the partnership in the State of Delaware, to be effective, must be delivered thereat at least 6 days before the return date of the process, and in the presence of an adult person, and the officer serving the process shall distinctly state the manner of service in the return thereto. Process returnable forthwith must be delivered personally to the partner.

(b) In case the officer whose duty it is to serve legal process cannot by due diligence serve the process in any manner provided for by subsection (a) of this section, it shall be lawful to serve the process against the partnership upon the Secretary of State, and such service shall be as effectual for all intents and purposes as if made in any of the ways provided for in subsection (a) hereof. In the event that service is effected through the Secretary of State in accordance with this subsection, the Secretary of State shall forthwith notify the partnership by letter, certified mail, return receipt requested, directed to the partnership at the address of any partner or the partnership as it is furnished to the Secretary of State by the person desiring to make service. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of

State that service is being effected pursuant to this subsection, and to pay the Secretary of State the sum of \$50 for the use of the State of Delaware, which sum shall be taxed as part of the costs on the proceeding if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and defendant, the title, docket number and nature of the proceeding in which process has been served upon the Secretary of State, the fact that service has been effected pursuant to this subsection, the return date thereof, and the day and hour when the service was made. The Secretary of State shall not be required to retain such information for a period longer than 5 years from the Secretary of State's receipt of the service of process.

SECTION 15-114. SERVICE OF PROCESS ON A PARTNER AND LIQUIDATING TRUSTEE.

(a) A partner or a liquidating trustee of a partnership which is formed under the laws of the State of Delaware or doing business in the State of Delaware may be served with process in the manner prescribed in this section in all civil actions or proceedings brought in the State of Delaware involving or relating to the business of the partnership or a violation by the partner or the liquidating trustee of a duty to the partnership or any partner of the partnership, whether or not the partner or the liquidating trustee is a partner or a liquidating trustee at the time suit is commenced. A person who is at the time of the effectiveness of this section or who becomes a partner or a liquidating trustee of a partnership thereby consents to the appointment of the registered agent of the partnership (or, if there is none, the Secretary of State) as such person's agent upon whom service of process may be made as provided in this section. Any process when so served shall be of the same legal force and validity as if served upon such partner or liquidating trustee within the State of Delaware and such appointment of the registered agent (or, if there is none, the Secretary of State) shall be irrevocable.

(b) Service of process shall be effected by serving the registered agent (or, if there is none, the Secretary of State) with 1 copy of such process in the manner provided by law for service of writs of summons. In the event service is made under this subsection upon the Secretary of State, the plaintiff shall pay to the Secretary of State the sum of \$50 for the use of the State of Delaware, which sum shall be taxed as part of the costs of the proceeding if the plaintiff shall prevail therein. In addition, the Prothonotary or the Register in Chancery of the court in which the civil action or proceeding is pending shall, within 7 days of such service, deposit in the United States mails, by registered mail, postage prepaid, true and attested copies of the process, together with a statement that service is being made pursuant to this section, addressed to such partner or liquidating trustee at the partner's or liquidating trustee's address furnished to the Prothonotary or Register in Chancery by the person desiring to make service, which address shall be the partner's or the liquidating trustee's address as the same appears in any statement of the partnership or, if no such address appears, the partner's or the liquidating trustee's last known address.

(c) In any action in which any such partner or liquidating trustee has been served with process as hereinabove provided, the time in which a defendant shall be required to appear and file a responsive pleading shall be computed from the date of mailing by the Prothonotary or the Register in Chancery as provided in subsection (b) of the section; however, the court in which such action has been commenced may order such continuance or continuances as may be necessary to afford such partner or liquidating trustee reasonable opportunity to defend the action.

(d) In a written partnership agreement or other writing, a partner may consent to be subject to the nonexclusive jurisdiction of the courts of, or arbitration in, a specified jurisdiction, or the exclusive jurisdiction of the courts of the State of Delaware, or the exclusivity of arbitration in a specified jurisdiction or the State of Delaware, and to be served with legal process in the manner proscribed in such partnership agreement or other writing.

(e) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon nonresidents.

(f) The Court of Chancery and the Superior Court may make all necessary rules respecting the form of process, the manner of issuance and return thereof and such other rules which may be necessary to implement this section and are not inconsistent with this section.

SECTION 15-115. DOING BUSINESS.

A limited partnership, a partnership, a limited liability company, a business or other trust or association, or a corporation formed or organized under the laws of any foreign country or other foreign jurisdiction or the laws of any state shall not be deemed to be doing business in the State of Delaware solely by reason of its being a partner in a domestic partnership.

SECTION 15-116. RESTATED STATEMENT OF PARTNERSHIP EXISTENCE.

(a) A statement of partnership existence may be restated by integrating into a single instrument all of the provisions of the statement of partnership existence which are then in effect and operative as a result of there having been theretofore filed 1 or more amendments pursuant to Section 15-105(d) or other instruments having the effect of amending a statement of partnership existence and the statement of partnership existence may be amended or further amended by the filing of a restated statement of partnership existence. The restated statement of partnership existence shall be specifically designated as such in its heading and shall set forth:

(1) The present name of the partnership, and if it has been changed, the name under which the partnership was originally formed;

(2) The date of filing of the original statement of partnership existence with the Secretary of State;

(3) The information required to be included pursuant to Section 15-303(a); and

(4) Any other information desired to be included therein.

(b) Upon the filing of the restated statement of partnership existence with the Secretary of State, or upon the future effective date or time of a restated statement of partnership existence as provided for therein, the initial statement of partnership existence, as theretofore amended, shall be superseded; thenceforth, the restated statement of partnership existence, including any further amendment made thereby, shall be the statement of partnership existence of the partnership, but the original date of formation of the partnership shall remain unchanged.

(c) Any amendment effected in connection with the restatement of the statement of partnership existence shall be subject to any other provision of this chapter, not inconsistent with this section, which would apply if a separate amendment were filed to effect such amendment.

SECTION 15-117. EXECUTION, AMENDMENT OR CANCELLATION BY

JUDICIAL ORDER.

(a) If a person required by this chapter to execute any statement or certificate fails or refuses to do so, any other person who is adversely affected by the failure or refusal, may petition the Court of Chancery to direct the execution of the statement or certificate. If the Court finds that the execution of the statement or certificate is proper and that any person so designated has failed or refused to execute the statement or certificate, the Court shall order the Secretary of State to file an appropriate statement or certificate.

(b) If a person required to execute a partnership agreement or amendment thereof fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the Court of Chancery to direct the execution of the partnership agreement or amendment thereof. If the Court finds that the partnership agreement or amendment thereof should be executed and that any person so designated has failed or refused to do so, the Court shall enter an order granting appropriate relief.

SECTION 15-118. STATEMENT OR CERTIFICATE OF CORRECTION:

CORRECTED STATEMENT OR CERTIFICATE.

(a) Whenever any statement or certificate authorized to be filed with the Secretary of State under any provision of this chapter has been so filed and is an inaccurate record of the action therein referred to, or was defectively or erroneously executed, such statement or certificate may be corrected by filing with the Secretary of State a statement or certificate of correction of such statement or certificate. The statement or certificate of correction shall specify the inaccuracy or defect to be corrected, shall set forth the portion of the statement or certificate in corrected form and shall be executed and filed as required by this chapter. The statement or certificate of correction shall be effective as of the date the original statement or certificate was filed, except as to those persons who are substantially and adversely affected by the correction, and as to those persons the statement or certificate of correction shall be effective from the filing date.

(b) In lieu of filing a statement or certificate of correction, a statement or certificate may be corrected by filing with the Secretary of State a corrected statement or certificate which shall be executed and filed as if the corrected statement or certificate were the statement or certificate being corrected, and a fee equal to the fee payable to the Secretary of State if the statement or 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 statement or certificate. The corrected statement or 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 statement or certificate in

corrected form. A statement or certificate corrected in accordance with this section shall be effective as of the date the original statement or certificate was filed, except as to those persons who are substantially and adversely affected by the correction and as to those persons the statement or certificate as corrected shall be effective from the filing date.

SECTION 15-119. BUSINESS TRANSACTIONS OF PARTNER WITH THE PARTNERSHIP.

Except as provided in the partnership agreement, a partner may lend money to, borrow money from, act as a surety, guarantor or endorser for, guarantee or assume 1 or more specific obligations of, provide collateral for and transact other business with, the partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.

SECTION 15-120. CONTRACTUAL APPRAISAL RIGHTS.

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

SECTION 15-121. CONTESTED MATTERS RELATING TO PARTNERS: CONTESTED VOTES.

(a) Upon application of any partner of a partnership which is formed under the laws of the State of Delaware or doing business in the State of Delaware, the Court of Chancery may hear and determine the validity of any admission, election, appointment or dissociation of a partner of the partnership, and the right of any person to become or continue to be a partner of the partnership, and to that end make such order or decree in any such case as may be just and proper, with power to enforce the production of any books, papers and records relating to the issue. In any such application, the partnership shall be named as a party, and service of copies of the application upon the partnership shall be deemed to be service upon the partnership and upon the person or persons whose right to be a partner is contested and upon the person or persons, if any, claiming to be a partner or claiming the right to be a partner; and the person upon whom service is made shall forward immediately a copy of the application to the partnership and to the person or persons whose right to be a partner is contested and to the person or persons, if any, claiming to be a partner or the right to be a partner, in a postpaid, sealed, registered letter addressed to such partnership and such person or persons at their post-office addresses last known to the person upon whom service is made or furnished to the person upon whom service is made by the applicant partner. The Court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(b) Upon application of any partner of a partnership which is formed under the laws of the State of Delaware or doing business in the State of Delaware, the Court of Chancery may hear and determine the result of any vote of partners upon matters as to which the partners of the partnership, or any class or group of partners, have the right to vote pursuant to the partnership agreement or other agreement or this chapter (other than the admission, election, appointment or dissociation of partners). In any such application, the partnership shall be named as a party, and service of the application upon the person upon whom service is made shall be deemed to be service upon the partnership, and no other party need be joined in order for the Court to adjudicate the result of the vote. The Court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(c) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon nonresidents.

SECTION 15-122. INTERPRETATION AND ENFORCEMENT OF PARTNERSHIP AGREEMENT.

Any action to interpret, apply or enforce the provisions of a partnership agreement of a partnership which is formed under the laws of the State of Delaware or doing business in the State of Delaware, or the duties, obligations or liabilities of such partnership to the partners of the partnership, or the duties, obligations or liabilities among partners or of partners to such partnership, or the rights or powers of, or restrictions on, such partnership or partners, including actions authorized by Section 15-405, may be brought in the Court of Chancery.

SUBCHAPTER II

NATURE OF PARTNERSHIP

Section 15-201. Partnership As Entity.

Section 15-202. Formation of Partnership; Powers.

Section 15-203. Partnership Property.

Section 15-204. When Property Is Partnership Property.

Section 15-205. Admission Without Contribution or Partnership Interest.

Section 15-206. Form of Contribution.

Section 15-207. Liability for Contribution.

SECTION 15-201. PARTNERSHIP AS ENTITY.

(a) A partnership is a separate legal entity which is an entity distinct from its partners unless or to the extent otherwise provided in a statement of partnership existence and in a partnership agreement.

(b) A limited liability partnership continues to be the same entity that existed before the filing of a statement of qualification under Section 15-1001.

SECTION 15-202. FORMATION OF PARTNERSHIP; POWERS.

(a) Except as otherwise provided in subsection (b), the association of two or more persons (i) to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership, and (ii) to carry on any purpose or activity not for profit, forms a partnership when the persons intend to form a partnership. A limited liability partnership is for all purposes a partnership.

(b) Subject to Section 15-1206, an association formed under a statute other than this chapter, a predecessor statute or a comparable statute of another jurisdiction is not a partnership under this chapter.

(c) In determining whether a partnership is formed under Section 15-202(a)(i), the following rules apply:

(1) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property.

(2) The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.

(3) A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:

(i) of a debt by installments or otherwise;

(ii) for services as an independent contractor or of wages or other compensation to an employee;

(iii) of rent;

(iv) of an annuity or other retirement or health benefit to a beneficiary, representative or designee of a deceased or retired partner;

(v) of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds or increase in value derived from the collateral; or

(vi) for the sale of the goodwill of a business or other property by installments or otherwise.

(d) A partnership shall possess and may exercise all the powers and privileges granted by this chapter or by any other law or by its partnership agreement, together with any powers incidental thereto, including such powers and privileges as are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the partnership.

SECTION 15-203. PARTNERSHIP PROPERTY.

Property acquired by a partnership is property of the partnership and not of the partners individually.

SECTION 15-204. WHEN PROPERTY IS PARTNERSHIP PROPERTY.

(a) Property is partnership property if acquired in the name of:

(1) the partnership; or

(2) one or more persons with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.

(b) Property is acquired in the name of the partnership by a transfer to:

(1) the partnership in its name; or

(2) one or more persons in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

(c) Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more persons with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

(d) Property acquired in the name of one or more persons, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

SECTION 15-205. ADMISSION WITHOUT CONTRIBUTION OR PARTNERSHIP INTEREST.

A person may be admitted to a partnership as a partner of the partnership and may receive a partnership interest in the partnership without making a contribution or being obligated to make a contribution to the partnership. A person may be admitted to a partnership as a partner of the partnership without acquiring a partnership interest in the partnership. Nothing contained in this section shall affect a partner's liability under Section 15-306.

SECTION 15-206. FORM OF CONTRIBUTION.

The contribution of a partner may be in cash, property or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

SECTION 15-207. LIABILITY FOR CONTRIBUTION.

(a) A partner is obligated to the partnership to perform any promise to contribute cash or property or to perform services, even if the partner is unable to perform because of death, disability or any other reason. If a partner does not make the required contribution of property or services, the partner is obligated at the option of the partnership to contribute cash equal to that portion of the value of the contribution that has not been made. The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the partnership may have against such partner under the partnership agreement or applicable law.

(b) A partnership agreement may provide that the partnership interest of any partner who fails to make any contribution that the partner is obligated to make shall be subject to specified penalties for, or specified consequences of, such failure. Such penalty or consequence may take the form of reducing or eliminating the defaulting partner's interest in the partnership, subordinating the partner's partnership interest to that of nondefaulting partners, a forced sale of the partner's partnership interest, forfeiture of the partner's partnership interest, the lending by other partners of the amount necessary to meet the partner's commitment, a fixing of the value of the partner's partnership interest by appraisal or by formula and redemption or sale of the partner's partnership interest at such value, or other penalty or consequence.

SUBCHAPTER III

RELATIONS OF PARTNERS TO
PERSONS DEALING WITH PARTNERSHIP

Section 15-301. Partner Agent of Partnership.

Section 15-302. Transfer of Partnership Property.

Section 15-303. Statement of Partnership Existence.

Section 15-304. Denial of Status as Partner.

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Section 15-305. Partnership Liable for Partner's Actionable Conduct.

Section 15-306. Partner's Liability.

Section 15-307. Actions By and Against Partnership and Partners.

Section 15-308. Liability of Purported Partner.

Section 15-309. Limitations on Distribution.

SECTION 15-301. PARTNER AGENT OF PARTNERSHIP.

Subject to the effect of a statement of partnership existence under Section 15-303:

(1) Each partner is an agent of the partnership for the purpose of its business, purposes or activities. An act of a partner, including the execution of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership's business, purposes or activities or business, purposes or activities of the kind carried on by the partnership binds the partnership, unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing had notice that the partner lacked authority.

(2) An act of a partner which is not apparently for carrying on in the ordinary course the partnership's business, purposes or activities or business, purposes or activities of the kind carried on by the partnership binds the partnership only if the act was authorized by the other partners.

SECTION 15-302. TRANSFER OF PARTNERSHIP PROPERTY.

(a) Partnership property may be transferred as follows:

(1) Subject to the effect of a statement of partnership existence under Section 15-303, partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name.

(2) Partnership property held in the name of one or more partners with an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(3) Partnership property held in the name of one or more persons other than the partnership, without an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(b) A partnership may recover partnership property from a transferee only if it proves that execution of the instrument of initial transfer did not bind the partnership under Section 15-301 and:

(1) as to a subsequent transferee who gave value for property transferred under subsection 15-302(a)(1) and (2), proves that the subsequent transferee had notice that the person who executed the instrument of initial transfer lacked authority to bind the partnership; or

(2) as to a transferee who gave value for property transferred under subsection 15-302(a)(3), proves that the transferee had notice that the property was partnership property and that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

(c) A partnership may not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under subsection 15-302(b), from any earlier transferee of the property.

(d) If a person holds all of the partners' interests in the partnership, all of the partnership property vests in that person. The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document.

SECTION 15-303. STATEMENT OF PARTNERSHIP EXISTENCE.

(a) A partnership may file a statement of partnership existence, which:

(1) must include:

(i) the name of the partnership; and

(ii) the address of the registered office and the name and address of the registered agent for service of process required to be maintained by Section 15-111 of this chapter; and

(2) may state (i) the names of the partners authorized to execute an instrument transferring real property held in the name of the partnership, (ii) the authority, or limitations on the authority, of some or all of the partners to enter into other transactions on behalf of the partnership and (iii) any other matter.

(b) A statement of partnership existence supplements the authority of a partner to enter into transactions on behalf of the partnership as follows:

(1) Except for transfers of real property, a grant of authority contained in a statement of partnership existence is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a limitation on that authority is not then contained in another statement. A filed cancellation of a limitation on authority revives the previous grant of authority.

(2) A grant of authority to transfer real property held in the name of the partnership contained in a certified copy of a statement of partnership existence recorded in the office for recording transfers of that real property is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a certified copy of a statement containing a limitation on that authority is not then of record in the office for recording transfers of that real property. The recording in the office for recording transfers of that real property of a certified copy of a cancellation of a limitation on authority revives the previous grant of authority.

(c) A person not a partner is deemed to know of a limitation on the authority of a partner to transfer real property held in the name of the partnership if a certified copy of the statement containing the limitation on authority is of record in the office for recording transfers of that real property.

(d) Except as otherwise provided in subsections (b) and (c) and Sections 15-704 and 15-805, a person not a partner is not deemed to know of a limitation on the authority of a partner merely because the limitation is contained in a statement.

SECTION 15-304.

DENIAL OF STATUS AS PARTNER.

If a person named in a statement of partnership existence is or may be adversely affected by being so named, the person may petition the Court of Chancery to direct the correction of the statement. If the Court finds that correction of the statement is proper and that an authorized person has failed or refused to execute and file a certificate of correction or a corrected statement, the Court shall order the Secretary of State to file an appropriate correction.

SECTION 15-305.

PARTNERSHIP LIABLE FOR PARTNER'S ACTIONABLE CONDUCT.

(a) A partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.

(b) If, in the course of the partnership's business or while acting with authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership is liable for the loss.

SECTION 15-306.

PARTNER'S LIABILITY.

(a) Except as otherwise provided in subsections (b) and (c), all partners are liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.

(b) A person admitted as a partner into an existing partnership is not personally liable for any obligation of the partnership incurred before the person's admission as a partner.

(c) An obligation of a partnership incurred while the partnership is a limited liability partnership, whether arising in contract, tort or otherwise, is solely the obligation of the partnership. A partner is not personally liable, directly or indirectly, by way of indemnification, contribution, assessment or otherwise, for such an obligation solely by reason of being or so acting as a partner. (d) Subsection (c) of this section shall not affect the liability of a partner in a limited liability partnership for such partner's own negligence or willful misconduct.

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

SECTION 15-307. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS.

- (a) A partnership may sue and be sued in the name of the partnership.
- (b) An action may be brought against the partnership and, to the extent not inconsistent with Section 15-306, any or all of the partners in the same action or in separate actions.
- (c) A judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership may not be satisfied from the assets of a partner liable as provided in Section 15-306 for a partnership obligation unless there is also a judgment against the partner for such obligation.
- (d) A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless:
 - (1) the claim is for an obligation of the partnership for which the partner is liable as provided in Section 15-306 and either:
 - (i) a judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;
 - (ii) the partnership is a debtor in bankruptcy;
 - (iii) the partner has agreed that the creditor need not exhaust partnership assets; or
 - (iv) a court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or
 - (2) liability is imposed on the partner by law or contract independent of the existence of the partnership.
- (e) This section applies to any obligation of the partnership resulting from a representation by a partner or purported partner under Section 15-308.

SECTION 15-308. LIABILITY OF PURPORTED PARTNER.

- (a) If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons not partners, the purported partner is liable to a person to whom the representation is made, if that person, relying on the representation, enters into a transaction with the actual or purported partnership. If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner is liable to a person who relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If a partnership obligation results, the purported partner is liable with respect to that obligation as if the purported partner were a partner. If no partnership obligation results, the purported partner is liable with respect to that obligation jointly and severally with any other person consenting to the representation. In the case of a limited liability partnership, a person's liability under Section 15-308(a) is subject to Section 15-306 as if the person were a partner in the limited liability partnership.
- (b) If a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, the purported partner is an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation. If all of the partners of the existing partnership consent to the representation, a partnership act or obligation results. If fewer than all of the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation are jointly and severally liable.
- (c) A person is not liable as a partner merely because the person is named by another in a statement of partnership existence.
- (d) A person does not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership existence to indicate the partner's dissociation from the partnership.

(e) Except as otherwise provided in subsections (a) and (b), persons who are not partners as to each other are not liable as partners to other persons.

SECTION 15-309. LIMITATIONS ON DISTRIBUTION.

(a) A partnership shall not make a distribution to a partner to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the partnership, other than liabilities to partners on account of their partnership interests and liabilities for which the recourse of creditors is limited to specified property of the partnership, exceed the fair value of the assets of the partnership, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the partnership only to the extent that the fair value of that property exceeds that liability.

(b) A partner of a limited liability partnership who receives a distribution in violation of subsection (a) of this section, and who knew at the time of the distribution that the distribution violated subsection (a) of this section, shall be liable to the partnership for the amount of the distribution. A partner of a limited liability partnership who receives a distribution in violation of subsection (a) of this section, and who did not know at the time of the distribution that the distribution violated subsection (a) of this section, shall not be liable for the amount of the distribution. Subject to subsection (c) of this section, this subsection (b) shall not affect any obligation or liability of a partner of a limited liability partnership under an agreement or other applicable law for the amount of a distribution.

(c) Unless otherwise agreed, a partner of a limited liability partnership who receives a distribution from a partnership shall have no liability under this chapter or other applicable law for the amount of the distribution after the expiration of three years from the date of the distribution.

SUBCHAPTER IV

RELATIONS OF PARTNERS TO EACH OTHER

AND TO PARTNERSHIP

Section 15-401. Partner's Rights and Duties.

Section 15-402. Distributions in Kind.

Section 15-403. Partner's Rights and Duties with Respect to Information.

Section 15-404. General Standards of Partner's Conduct.

Section 15-405. Actions by Partnership and Partners; Derivative Actions.

Section 15-406. Continuation of Partnership Beyond Definite Term or Particular Undertaking.

Section 15-407. Classes and Voting.

Section 15-408. Remedies for Breach of Partnership Agreement.

SECTION 15-401. PARTNER'S RIGHTS AND DUTIES.

(a) Each partner is deemed to have an account that is:

(1) credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits; and

(2) charged with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, distributed by the partnership to the partner and the partner's share of the partnership losses.

(b) Each partner is entitled to an equal share of the partnership profits and is chargeable with a share of the partnership losses in proportion to the partner's share of the profits.

(c) In addition to indemnification under Section 15-110, a partnership shall reimburse a partner for payments made and indemnify a partner for liabilities incurred by the partner in the ordinary course of the business of the partnership or for the preservation of its business or property; however, no person shall be required as a consequence of any such indemnification to make any payment to the extent that the payment is inconsistent with Sections 15-306(b) or (c).

(d) A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.

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(e) A payment or advance made by a partner which gives rise to a partnership obligation under subsection (c) or (d) constitutes a loan to the partnership which accrues interest from the date of the payment or advance.

(f) Each partner has equal rights in the management and conduct of the partnership business and affairs.

(g) A partner may use or possess partnership property only on behalf of the partnership.

(h) A partner is not entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the partnership.

(i) A person may become a partner only with the consent of all of the partners.

(j) A difference arising as to a matter in the ordinary course of business of a partnership may be decided by a majority of the partners. An act outside the ordinary course of business of a partnership may be undertaken only with the consent of all of the partners.

(k) This section does not affect the obligations of a partnership to other persons under Section 15-301.

(l) A partner has the power and authority to delegate to one or more other persons the partner's rights and powers to manage and control the business and affairs of the partnership, including to delegate to agents, officers and employees of the partner or the partnership, and to delegate by a management agreement or other agreement with, or otherwise to, other persons. Such delegation by a partner shall not cause the partner to cease to be a partner of the partnership.

SECTION 15-402. DISTRIBUTIONS IN KIND.

A partner, regardless of the nature of the partner's contribution, has no right to demand and receive any distribution from a partnership in kind. A partner may not be compelled to accept a distribution of any asset in kind from a partnership to the extent that the percentage of the asset distributed to the partner exceeds a percentage of that asset which is equal to the percentage in which the partner shares in distributions from the partnership. A partner may be compelled to accept a distribution of any asset in kind from a partnership to the extent that the percentage of the asset distributed to the partner is equal to a percentage of that asset which is equal to the percentage in which the partner shares in distributions from the partnership.

SECTION 15-403. PARTNER'S RIGHTS AND DUTIES WITH RESPECT TO INFORMATION.

(a) Each partner and the partnership shall provide partners, former partners and the legal representative of a deceased partner or partner under a legal disability and their agents and attorneys, access to the books and records of the partnership and other information concerning the partnership's business and affairs (in the case of former partners, only with respect to the period during which they were partners) upon reasonable demand, for any purpose reasonably related to the partner's interest as a partner in the partnership. The right of access shall include access to:

(1) True and full information regarding the status of the business and financial condition of the partnership;

(2) Promptly after becoming available, a copy of the partnership's federal, state and local income tax returns for each year;

(3) A current list of the name and last known business, residence or mailing address of each partner;

(4) A copy of any statement and written partnership agreement and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the statement or the partnership agreement and any amendments thereto have been executed;

(5) True and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each partner and which each partner has agreed to contribute in the future, and the date on which each partner became a partner; and

(6) Other information regarding the affairs of the partnership as is just and reasonable.

The right of access includes the right to examine and make extracts from books and records and other information concerning the partnership's business and affairs. The partnership agreement may provide for, and in the absence of such provision in the partnership agreement, the partnership or the partner from whom access is sought may impose, reasonable standards (including standards governing what information and documents are to be furnished at what time and location and at whose expense) with respect to exercise of the right of access.

(b) A partnership agreement may provide that the partnership shall have the right to keep confidential from partners for such period of time as the partnership deems reasonable, any information which the partnership reasonably believes to be in the nature of trade secrets or other information the disclosure of which the partnership in good faith believes is not in the best interest of the partnership or could damage the partnership or its business or affairs or which the partnership is required by law or by agreement with a third party to keep confidential.

(c) A partnership and its partners may maintain the books and records and other information concerning the partnership in other than a written form if such form is capable of conversion into written form within a reasonable time.

(d) Any demand by a partner under this section shall be in writing and shall state the purpose of such demand.

(e) Any action to enforce any right arising under this section shall be brought in the Court of Chancery. If the partnership or a partner refuses to permit access as described in subsection (a)(3) of this section or does not reply to a demand that has been made within 5 business days after the demand has been made, the demanding partner, former partner, or legal representative of a deceased partner or partner under a legal disability may apply to the Court of Chancery for an order to compel such disclosure. The Court of Chancery is hereby vested with exclusive jurisdiction to determine whether or not the person making the demand is entitled to the books and records or other information concerning the partnership's business and affairs sought. The Court of Chancery may summarily order the partnership or partner to permit the demanding partner, former partner or legal representative of a deceased partner or partner under a legal disability and their agents and attorneys to provide access to the information described in subsection (a)(3) of this section and to make copies or extracts therefrom; or the Court of Chancery may summarily order the partnership or partner to furnish to the demanding partner, former partner or legal representative of a deceased partner or partner under a legal disability and their agents and attorneys the information described in subsection (a)(3) of this section on the condition that the partner, former partner or legal representative of a deceased partner or partner under a legal disability first pay to the partnership or to the partner from whom access is sought the reasonable cost of obtaining and furnishing such information and on such other conditions as the Court of Chancery deems appropriate. When a demanding partner, former partner or legal representative of a deceased partner or partner under a legal disability seeks to obtain access to information described in subsection (a)(3) of this section, the demanding partner, former partner or legal representative of a deceased partner or partner under a legal disability shall first establish (1) that the demanding partner, former partner or legal representative of a deceased partner or partner under a legal disability has complied with the provisions of this section respecting the form and manner of making demand for obtaining access to such information and (2) that the information the demanding partner, former partner or legal representative of a deceased partner or partner under a legal disability seeks is reasonably related to the partner's interest as a partner in the partnership. The Court of Chancery may, in its discretion, prescribe any limitations or conditions with reference to the access to information, or award such other or further relief as the Court of Chancery may deem just and proper. The Court of Chancery may order books, documents and records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought within the State of Delaware and kept in the State of Delaware upon such terms and conditions as the order may prescribe.

SECTION 15-404.

GENERAL STANDARDS OF PARTNER'S CONDUCT.

(a) The only fiduciary duties a partner owes to the partnership and the other partners are the duty of loyalty and the duty of care set forth in subsections (b) and (c).

(b) A partner's duty of loyalty to the partnership and the other partners is limited to the following:

(1) to account to the partnership and hold as trustee for it any property, profit or benefit derived by the partner in the conduct or winding up of the partnership business or affairs or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity;

(2) to refrain from dealing with the partnership in the conduct or winding up of the partnership business or affairs as or on behalf of a party having an interest adverse to the partnership; and

(3) to refrain from competing with the partnership in the conduct of the partnership business or affairs before the dissolution of the partnership.

(c) A partner's duty of care to the partnership and the other partners in the conduct and winding up of the partnership business or affairs is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(d) A partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(e) A partner does not violate a duty or obligation under this chapter or under the partnership agreement solely because the partner's conduct furthers the partner's own interest.

(f) A partner may lend money to, borrow money from, act as a surety, guarantor or endorser for, guarantee or assume 1 or more specific obligations of, provide collateral for and transact other business with, the partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.

(g) This section applies to a person winding up the partnership business or affairs as the personal or legal representative of the last surviving partner as if the person were a partner.

SECTION 15-405. ACTIONS BY PARTNERSHIP AND PARTNERS: DERIVATIVE ACTIONS.

(a) A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership, causing harm to the partnership.

(b) A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to partnership business, to:

(1) enforce the partner's rights under the partnership agreement;

(2) enforce the partner's rights under this chapter, including:

(i) the partner's rights under Sections 15-401, 15-403 or 15-404;

(ii) the partner's right on dissociation to have the partner's interest in the partnership purchased pursuant to Section 15-701 or enforce any other right under Subchapter VI or VII; or

(iii) the partner's right to compel a dissolution and winding up of the partnership business under Section 15-801 or enforce any other right under Subchapter VIII; or

(3) enforce the rights and otherwise protect the interests of the partner, including rights and interests arising independently of the partnership relationship.

(c) The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

(d) A partner may bring a derivative action in the Court of Chancery in the right of a partnership to recover a judgment in the partnership's favor.

(e) In a derivative action, the plaintiff must be a partner at the time of bringing the action and:

(1) At the time of the transaction of which the partner complains; or

(2) The partner's status as a partner had devolved upon the partner by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

(f) In a derivative action, the complaint shall set forth with particularity the effort, if any, of the plaintiff to secure initiation of the action by the partnership or the reason for not making the effort.

(g) If a derivative action is successful, in whole or in part, as a result of a judgment, compromise or settlement of any such action, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, from any recovery in any such action or from a partnership.

SECTION 15-406. CONTINUATION OF PARTNERSHIP BEYOND DEFINITE TERM OR PARTICULAR UNDERTAKING.

(a) If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, the rights and duties of the partners remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.

(b) If the partners, or those of them who habitually acted in the business or affairs during the term or undertaking, continue the business or affairs without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.

SECTION 15-407. CLASSES AND VOTING.

(a) A partnership agreement may provide for classes or groups of partners having such relative rights, powers and duties as the partnership agreement may provide, and may make provision for the future creation in the manner provided in the partnership agreement of additional classes or groups of partners having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of partners. A partnership agreement may provide for the taking of an action, including the amendment of the partnership agreement, without the vote or approval of any partner or class or group of partners, including an action to create under the provisions of the partnership agreement a class or group of partnership interests that was not previously outstanding. A partnership agreement may provide that any partner or class or group of partners shall have no voting rights.

(b) The partnership agreement may grant to all or certain identified partners or a specified class or group of the partners the right to vote separately or with all or any class or group of the partners on any matter. Voting by partners may be on a per capita, number, financial interest, class, group or any other basis.

(c) A partnership agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any partners, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(d) On any matter that is to be voted on by partners, the 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 partners having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting. On any matter that is to be voted on by partners, the partners may vote in person or by proxy.

(e) If a partnership agreement provides for the manner in which it may be amended, it may be amended in that manner or with the approval of all the partners or as otherwise permitted by law. If a partnership agreement does not provide for the manner in which it may be amended, the partnership agreement may be amended with the approval of all the partners or as otherwise permitted by law.

SECTION 15-408. REMEDIES FOR BREACH OF PARTNERSHIP AGREEMENT.

A partnership agreement may provide that (i) a partner, who fails to perform in accordance with, or to comply with the terms and conditions of, the partnership agreement shall be subject to specified penalties or specified consequences, and (ii) at the time or upon the happening of events specified in the partnership agreement, a partner shall be subject to specified penalties or specified consequences.

SUBCHAPTER V

TRANSFEREES AND CREDITORS OF PARTNER

Section 15-501. Partner Not Co-Owner of Partnership Property.

Section 15-502. Partner's Economic Interest in Partnership; Personal Property.

Section 15-503. Transfer of Partner's Economic Interest.

Section 15-504. Partner's Economic Interest Subject to Charging Order.

SECTION 15-501. PARTNER NOT CO-OWNER OF PARTNERSHIP PROPERTY.

A partner is not a co-owner of partnership property and has no interest in specific partnership property.

SECTION 15-502. PARTNER'S ECONOMIC INTEREST IN PARTNERSHIP; PERSONAL PROPERTY.

A partnership interest is personal property. Only a partner's economic interest may be transferred.

SECTION 15-503. TRANSFER OF PARTNER'S ECONOMIC INTEREST.

(a) A transfer, in whole or in part, of a partner's economic interest in the partnership:

(1) is permissible;

(2) does not by itself cause the partner's dissociation or a dissolution and winding up of the partnership business or affairs; and

(3) does not entitle the transferee to participate in the management or conduct of the partnership business or affairs, to require access to information concerning partnership transactions, or to inspect or copy the partnership books or records.

(b) A transferee of a partner's economic interest in the partnership has a right:

(1) to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled;

(2) to receive upon the dissolution and winding up of the partnership business or affairs, in accordance with the transfer, the net amount otherwise distributable to the transferor; and

(3) to seek under Section 15-801(6) a judicial determination that it is equitable to wind up the partnership business or affairs.

(c) In a dissolution and winding up, a transferee is entitled to an account of partnership transactions only from the date of the latest account agreed to by all of the partners.

(d) Upon transfer, the transferor retains the rights and duties of a partner other than the economic interest transferred.

(e) A partnership need not give effect to a transferee's rights under this section until it has notice of the transfer. Upon request of a partnership or a partner, a transferee must furnish reasonable proof of a transfer.

(f) A transfer of a partner's economic interest in the partnership in violation of a restriction on transfer contained in a partnership agreement is ineffective.

(g) Notwithstanding anything to the contrary under applicable law, a partnership agreement may provide that a partner's economic interest may not be transferred prior to the dissolution and winding up of the partnership.

(h) The partnership agreement may provide that a partnership interest in a partnership may be evidenced by a certificate of partnership interest issued by the partnership and may also provide for the transfer of any partnership interest represented by such a certificate and make other provisions with respect to such certificates.

(i) Except to the extent assumed by agreement, until a transferee of a partnership interest becomes a partner, the transferee shall have no liability as a partner solely as a result of the transfer.

(j) A partnership may acquire, by purchase, redemption or otherwise, any partnership interest or other interest of a partner in the partnership. Any such interest so acquired by the partnership shall be deemed canceled.

SECTION 15-504. PARTNER'S ECONOMIC INTEREST SUBJECT TO CHARGING ORDER.

(a) On application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the economic interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership which receiver shall have only the rights of a transferee, and the court may make all other orders, directions, accounts and inquiries the judgment debtor might have made or which the circumstances of the case may require.

(b) A charging order constitutes a lien on the judgment debtor's economic interest in the partnership. The court may order a foreclosure of the economic interest subject to the charging order at any time. The purchaser at the foreclosure sale has only the rights of a transferee.

(c) At any time before foreclosure, an economic interest charged may be redeemed:

(1) by the judgment debtor;

(2) with property other than partnership property, by one or more of the other partners; or

(3) by the partnership with the consent of all of the partners whose interests are not so charged.

(d) This chapter does not deprive a partner of a right under exemption laws with respect to the partner's economic interest in the partnership.

(e) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's economic interest in the partnership.

SUBCHAPTER VI
PARTNER'S DISSOCIATION

Section 15-601. Events Causing Partner's Dissociation.

Section 15-602. Partner's Power to Dissociate; Wrongful Dissociation.

Section 15-603. Effect of Partner's Dissociation.

SECTION 15-601. EVENTS CAUSING PARTNER'S DISSOCIATION.

A partner is dissociated from a partnership upon the occurrence of any of the following events:

- (1) the partnership's having notice of the partner's express will to withdraw as a partner on a later date specified by the partner in the notice or, if no later date is specified, then upon receipt of notice;
- (2) an event agreed to in the partnership agreement as causing the partner's dissociation;
- (3) the partner's expulsion pursuant to the partnership agreement;
- (4) the partner's expulsion by the unanimous vote of the other partners if:
 - (i) it is unlawful to carry on the partnership business or affairs with that partner; or
 - (ii) there has been a transfer of all or substantially all of that partner's economic interest, other than a transfer for security purposes, or a court order charging the partner's interest which, in either case, has not been foreclosed;
- (5) on application by or for the partnership or another partner to the Court of Chancery, the partner's expulsion by determination by the Court of Chancery because:
 - (i) the partner engaged in wrongful conduct that adversely and materially affected the partnership business or affairs;
 - (ii) the partner willfully or persistently committed a material breach of either the partnership agreement or of a duty owed to the partnership or the other partners; or
 - (iii) the partner engaged in conduct relating to the partnership business or affairs which makes it not reasonably practicable to carry on the business or affairs in partnership with the partner;
- (6) the partner's:
 - (i) becoming a debtor in bankruptcy;
 - (ii) executing an assignment for the benefit of creditors;
 - (iii) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of that partner or of all or substantially all of that partner's property; or
 - (iv) failing, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated;
- (7) in the case of a partner who is an individual:
 - (i) the partner's death;
 - (ii) the appointment of a guardian or general conservator for the partner; or
 - (iii) a judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;
- (8) in the case of a partner that is a trust or is acting as a partner by virtue of being a trustee of a trust, distribution of the trust's entire economic interest, but not merely by reason of the substitution of a successor trustee;
- (9) in the case of a partner that is an estate or is acting as a partner by virtue of being a personal representative of an estate, distribution of the estate's entire economic interest, but not merely by reason of the substitution of a successor personal representative;

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(10) the expiration of 90 days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its existence has been terminated or its certificate of incorporation has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, if there is no revocation of the certificate of dissolution or no reinstatement of its existence, its certificate of incorporation or its right to conduct business;

(11) a partnership, a limited liability company, a trust or a limited partnership that is a partner has been dissolved and its business is being wound up; or

(12) termination of a partner who is not an individual, partnership, corporation, trust, limited partnership, limited liability company or estate.

SECTION 15-602. PARTNER'S POWER TO DISSOCIATE; WRONGFUL DISSOCIATION.

(a) A partner has the power to dissociate at any time, rightfully or wrongfully, by express will pursuant to Section 15-601(1).

(b) A partner's dissociation is wrongful only if any of the following apply:

(1) it is in breach of an express provision of the partnership agreement; or

(2) in the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking if any of the following apply:

(i) the partner withdraws by express will, unless the withdrawal follows within 90 days after another partner's dissociation by death or otherwise under Section 15-601(6) through (12) or wrongful dissociation under this subsection;

(ii) the partner is expelled by judicial determination under Section 15-601(5);

(iii) the partner is dissociated under Section 15-601(6); or

(iv) in the case of a partner who is not an individual, trust (other than a business trust), or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.

(c) A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. Such liability is in addition to any other obligation of the partner to the partnership or to the other partners.

SECTION 15-603. EFFECT OF PARTNER'S DISSOCIATION.

(a) If a partner's dissociation results in a dissolution and winding up of the partnership business, Subchapter VIII applies; otherwise, Subchapter VII applies.

(b) Upon a partner's dissociation:

(1) the partner's right to participate in the management and conduct of the partnership business terminates, except as otherwise provided in Section 15-803;

(2) the partner's duty of loyalty under Section 15-404(b)(3) terminates; and

(3) the partner's duty of loyalty under Section 15-404(b)(1) and (2) and duty of care under Section 15-404(c) continue only with regard to matters arising and events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to Section 15-803.

SUBCHAPTER VII

PARTNER'S DISSOCIATION WHEN BUSINESS OR AFFAIRS NOT WOUND UP

Section 15-701. Purchase of Dissociated Partner's Partnership Interest.

Section 15-702. Dissociated Partner's Power to Bind and Liability to Partnership.

Section 15-703. Dissociated Partner's Liability to Other Persons.

Section 15-704. Statement of Dissociation.

Section 15-705. Continued Use of Partnership Name.

SECTION 15-701. PURCHASE OF DISSOCIATED PARTNER'S
PARTNERSHIP INTEREST.

(a) If a partner is dissociated from a partnership without resulting in a dissolution and winding up of the partnership business or affairs under Section 15-801, the partnership shall cause the dissociated partner's interest in the partnership to be purchased for a buyout price determined pursuant to subsection (b).

(b) The buyout price of a dissociated partner's partnership interest is an amount equal to the fair value of the partner's interest in the partnership. Interest must be paid from the date of dissociation to the date of payment.

(c) Damages for wrongful dissociation under Section 15-602(b), and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, must be offset against the buyout price. Interest must be paid from the date the amount owed becomes due to the date of payment.

(d) A partnership shall indemnify a dissociated partner whose partnership interest is being purchased against all partnership obligations, whether incurred before or after the dissociation, except partnership obligations incurred by an act of the dissociated partner under Section 15-702.

(e) If no agreement for the purchase of a dissociated partner's partnership interest is reached within 120 days after a written demand for payment, the partnership shall pay, or cause to be paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under subsection (c).

(f) If a deferred payment is authorized under subsection (h), the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subsection (c), stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.

(g) The payment or tender required by subsection (e) or (f) must be accompanied by the following:

(1) a written statement of partnership assets and liabilities as of the date of dissociation;

(2) the latest available partnership balance sheet and income statement, if any;

(3) a written explanation of how the estimated amount of the payment was calculated; and

(4) written notice which shall state that the payment is in full satisfaction of the obligation to purchase unless, within 120 days after the written notice, the dissociated partner commences an action in the Court of Chancery under (i) to determine the buyout price of that partner's partnership interest, any offsets under subsection (c) or other terms of the obligation to purchase.

(h) A partner who wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the partner establishes to the satisfaction of the Court of Chancery that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment must bear interest and, to the extent it would not cause undue hardship to the business of the partnership, be adequately secured.

(i) A dissociated partner may maintain an action against the partnership, pursuant to Section 15-405(b)(2)(ii), to determine the buyout price of that partner's partnership interest, any offsets under subsection (c), or other terms of the obligation to purchase. The action must be commenced within 120 days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The Court of Chancery shall determine the buyout price of the dissociated partner's partnership interest, any offset due under subsection (c), and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection (h), the Court of Chancery shall also determine the security, if any, for payment and other terms of the obligation to purchase. The Court of Chancery may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the Court of Chancery finds equitable, against a party that the Court of Chancery finds acted arbitrarily, vexatiously or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection (g).

SECTION 15-702. DISSOCIATED PARTNER'S POWER TO BIND AND
LIABILITY TO PARTNERSHIP.

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(a) For one year after a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a surviving partnership under Subchapter IX, is bound by an act of the dissociated partner which would have bound the partnership under Section 15-301 before dissociation only if at the time of entering into the transaction the other party:

(1) reasonably believed that the dissociated partner was then a partner and reasonably relied on such belief in entering into the transaction;

(2) did not have notice of the partner's dissociation; and

(3) is not deemed to have had knowledge under Section 15-303(c) or notice under Section 15-704(c).

(b) A dissociated partner is liable to the partnership for any damage caused to the partnership arising from an obligation incurred by the dissociated partner after dissociation for which the partnership is liable under subsection (a).

SECTION 15-703. DISSOCIATED PARTNER'S LIABILITY TO OTHER PERSONS.

(a) A partner's dissociation does not of itself discharge the partner's liability for a partnership obligation incurred before dissociation. A dissociated partner is not liable for a partnership obligation incurred after dissociation, except as otherwise provided in subsection (b).

(b) A partner who dissociates without resulting in a dissolution and winding up of the partnership business is liable as a partner to the other party in a transaction entered into by the partnership, or a surviving partnership under Subchapter IX, within one year after the partner's dissociation, only if the partner is liable for the obligation under Section 15-306 and at the time of entering into the transaction the other party:

(1) reasonably believed that the dissociated partner was then a partner and reasonably relied on such belief in entering into the transaction;

(2) did not have notice of the partner's dissociation; and

(3) is not deemed to have had knowledge under Section 15-303(c) or notice under Section 15-704(c).

(c) By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership obligation.

(d) A dissociated partner is released from liability for a partnership obligation if a partnership creditor, with notice of the partner's dissociation but without the partner's consent, agrees to a material alteration in the nature or time of payment of a partnership obligation.

SECTION 15-704. STATEMENT OF DISSOCIATION.

(a) A dissociated partner or, after the filing by the partnership of a statement of partnership existence, the partnership may file a statement of dissociation stating the name of the partnership and that the partner is dissociated from the partnership.

(b) A statement of dissociation is a limitation on the authority of a dissociated partner for the purposes of Section 15-303(b) and (c).

(c) For the purposes of Sections 15-702(a)(3) and 15-703(b)(3), a person not a partner is deemed to have notice of the dissociation 60 days after the statement of dissociation is filed.

SECTION 15-705. CONTINUED USE OF PARTNERSHIP NAME.

Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the business does not of itself make the dissociated partner liable for an obligation of the partners or the partnership.

SUBCHAPTER VIII

WINDING UP PARTNERSHIP BUSINESS OR AFFAIRS

Section 15-801. Events Causing Dissolution and Winding Up of Partnership Business or Affairs.

Section 15-802. Partnership Continues After Dissolution.

Section 15-803. Right to Wind Up Partnership Business or Affairs.

Section 15-804. Partner's Power to Bind Partnership After Dissolution.

Section 15-805. Statement of Dissolution.

Section 15-806. Partner's Liability to Other Partners After Dissolution.

Section 15-807. Settlement of Accounts and Contributions Among Partners.

SECTION 15-801. EVENTS CAUSING DISSOLUTION AND WINDING UP
OF PARTNERSHIP BUSINESS OR AFFAIRS.

A partnership is dissolved, and its business must be wound up, only upon the occurrence of any of the following events:

(1) in a partnership at will, the partnership's having notice from a partner, other than a partner who is dissociated under Section 15-601(2) through (12), of that partner's express will to withdraw as a partner, on a later date specified by the partner in the notice or, if no later date is specified, then upon receipt of notice;

(2) in a partnership for a definite term or particular undertaking:

(i) within 90 days after a partner's dissociation by death or otherwise under Section 15-601(6) through (12) or wrongful dissociation under Section 15-602(b), at least half of the remaining partners express the will to wind up the partnership business, for which purpose a partner's rightful dissociation pursuant to Section 15-602(b)(2)(i) constitutes the expression of that partner's will to wind up the partnership business;

(ii) the express will of all of the partners to wind up the partnership business or affairs; or

(iii) the expiration of the term or the completion of the undertaking;

(3) an event agreed to in the partnership agreement resulting in the winding up of the partnership business or affairs;

(4) an event that makes it unlawful for all or substantially all of the business or affairs of the partnership to be continued, but a cure of such illegality within 90 days after the partnership has notice of the event is effective retroactively to the date of the event for purposes of this section;

(5) on application by or for a partner to the Court of Chancery, a determination by the Court of Chancery that:

(i) the economic purpose of the partnership is likely to be unreasonably frustrated;

(ii) another partner has engaged in conduct relating to the partnership business or affairs which makes it not reasonably practicable to carry on the business or affairs in partnership with that partner; or

(iii) it is not otherwise reasonably practicable to carry on the partnership business or affairs in conformity with the partnership agreement; or

(6) on application by a transferee of a partner's economic interest to the Court of Chancery, a determination by the Court of Chancery that it is equitable to wind up the partnership business or affairs:

(i) after the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(ii) at any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer.

SECTION 15-802. PARTNERSHIP CONTINUES AFTER DISSOLUTION.

(a) Subject to subsection (b), a partnership continues after dissolution only for the purpose of winding up its business or affairs. The partnership is terminated when the winding up of its business or affairs is completed.

(b) At any time after the dissolution of a partnership and before the winding up of its business or affairs is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business or affairs wound up and the partnership terminated. In that event

(1) the partnership resumes carrying on its business or affairs as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred; and

(2) the rights of a third party accruing under Section 15-804(1) or arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver may not be adversely affected.

SECTION 15-803. RIGHT TO WIND UP PARTNERSHIP BUSINESS OR AFFAIRS.

(a) A partner at the time of dissolution, including a partner who has dissociated but not wrongfully, may participate in winding up the partnership's business or affairs, but on application of any partner or a partner's legal representative or transferee, the Court of Chancery for good cause shown, may order judicial supervision of the winding up.

(b) The legal representative of the last surviving partner may wind up a partnership's business or affairs.

(c) The persons winding up the partnership's business or affairs may, in the name of, and for and on behalf of, the partnership, prosecute and defend suits, whether civil, criminal or administrative, gradually settle and close the partnership's business or affairs, dispose of and convey the partnership's property, discharge or make reasonable provision for the partnership's liabilities, distribute to the partners pursuant to Section 15-807 any remaining assets of the partnership, and perform other acts which are necessary or convenient to the winding up of the partnership's business or affairs.

SECTION 15-804. PARTNER'S POWER TO BIND PARTNERSHIP AFTER DISSOLUTION.

Subject to Section 15-805, a partnership is bound by a partner's act after dissolution that:

(1) is appropriate for winding up the partnership business or affairs; or

(2) would have bound the partnership under Section 15-301 before dissolution, if the other party to the transaction did not have notice of the dissolution.

SECTION 15-805. STATEMENT OF DISSOLUTION.

(a) After dissolution, a partnership may file a statement of dissolution stating the name of the partnership and that the partnership has dissolved and is winding up its business or affairs.

(b) A statement of dissolution cancels a filed statement of partnership existence for the purposes of Section 15-303(b) and is a limitation on authority for the purposes of Section 15-303(c).

(c) For the purposes of Sections 15-301 and 15-804, a person not a partner is deemed to have notice of the dissolution and the limitation on the partners' authority as a result of a statement of dissolution 60 days after it is filed.

(d) After filing a statement of dissolution, a dissolved partnership may file a statement of partnership existence which will operate with respect to a person not a partner as provided in Section 15-303(b) and (c) in any transaction, whether or not the transaction is appropriate for winding up the partnership business or affairs.

(e) If a partnership which has dissolved fails or refuses to file a statement of dissolution, any partner or dissociated partner who is or may be adversely affected by the failure or refusal may petition the Court of Chancery to direct the filing. If the Court finds that the statement of dissolution should be filed and that the partnership has failed or refused to do so, it shall enter an order granting appropriate relief.

SECTION 15-806. PARTNER'S LIABILITY TO OTHER PARTNERS AFTER DISSOLUTION.

(a) Except as otherwise provided in subsection (b) and Section 15-306, after dissolution a partner is liable to the other partners for the partner's share of any partnership obligation incurred under Section 15-804.

(b) A partner who, with knowledge of the dissolution, causes the partnership to incur an obligation under Section 15-804(2) by an act that is not appropriate for winding up the partnership business or affairs is liable to the partnership for any damage caused to the partnership arising from the obligation.

SECTION 15-807. SETTLEMENT OF ACCOUNTS AND CONTRIBUTIONS AMONG PARTNERS.

(a) In winding up a partnership's business or affairs, the assets of the partnership, including the contributions of the partners required by this section, must be applied to pay or make reasonable provision to pay the

partnership's obligations to creditors, including, to the extent permitted by law, partners who are creditors. Any surplus must be applied to pay in cash the net amount distributable to partners in accordance with their right to distributions under subsection (b).

(b) Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business or affairs. In settling accounts among the partners, profits and losses that result from the liquidation of the partnership assets must be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account but excluding from the calculation charges attributable to an obligation for which the partner is not personally liable under Section 15-306.

(c) After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to pay or make reasonable provision to pay partnership obligations that were not known at the time of the settlement and for which the partner is personally liable under Section 15-306.

(d) If a partner fails to contribute, all of the other partners shall contribute, in the proportions in which those partners share partnership losses, the additional amount necessary to pay or make reasonable provision to pay the partnership obligations for which they are personally liable under Section 15-306.

(e) A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations for which the partner is personally liable under Section 15-306.

(f) The estate of a deceased partner is liable for the partner's obligation to contribute to the partnership.

(g) An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership.

(h) A limited liability partnership which has dissolved (i) shall pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional or unmatured contractual claims, known to the limited liability partnership, (ii) shall make such provision as will be reasonably likely to be sufficient to provide compensation for any claim against the limited liability partnership which is the subject of a pending action, suit or proceeding to which the limited liability partnership is a party and (iii) shall make such provision as will be reasonably likely to be sufficient to provide compensation for claims that have not been made known to the limited liability partnership or that have not arisen but that, based on facts known to the limited liability partnership, are likely to arise or to become known to the limited liability partnership within 10 years after the date of dissolution. If there are sufficient assets, such claims and obligations shall be paid in full and any such provision for payment made shall be made in full. If there are insufficient assets, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of assets available therefor. Unless otherwise provided in the partnership agreement, any remaining assets shall be distributed as provided in this chapter. Any liquidating trustee winding up a limited liability partnership's affairs who has complied with this section shall not be personally liable to the claimants of the dissolved limited liability partnership by reason of such person's actions in winding up the limited liability partnership.

(i) A partner of a limited liability partnership who receives a distribution in violation of subsection (h) of this section, and who knew at the time of the distribution that the distribution violated subsection (h) of this section, shall be liable to the limited liability partnership for the amount of the distribution. A partner of a limited liability partnership who receives a distribution in violation of subsection (h) of this section, and who did not know at the time of the distribution that the distribution violated subsection (h) of this section, shall not be liable for the amount of the distribution. Subject to subsection (j) of this section, this subsection shall not affect any obligation or liability of a partner of a limited liability partnership under an agreement or other applicable law for the amount of a distribution.

(j) Unless otherwise agreed, a partner of a limited liability partnership who receives a distribution from a limited liability partnership shall have no liability under this chapter or other applicable law for the amount of the distribution after the expiration of 3 years from the date of the distribution.

(k) Section 15-309 of this chapter shall not apply to a distribution to which subsections (h), (i) and (j) of this section apply.

SUBCHAPTER IX

CONVERSION; MERGER; DOMESTICATION; AND TRANSFER

Section 15-901. Conversion of Certain Entities to a Domestic Partnership.

Section 15-902. Merger or Consolidation.

Section 15-903. Approval of Conversion of a Domestic Partnership.

Section 15-904. Domestication of Non-United States Entities.

Section 15-905. Transfer or Continuance of Domestic Partnerships.

SECTION 15-901. CONVERSION OF CERTAIN ENTITIES TO A DOMESTIC PARTNERSHIP.

(a) As used in this section, the term 'other entity' means a corporation, a business trust or association, a real estate investment trust, a common-law trust or any other unincorporated business, including a limited partnership (including a limited liability limited partnership), a foreign partnership or a limited liability company.

(b) Any other entity may convert to a domestic partnership (including a limited liability partnership) by complying with subsection (h) of this section and filing with the Secretary of State in accordance with Section 15-105 of this chapter:

(1) A certificate of conversion to partnership that has been executed in accordance with Section 15-105 of this chapter; and

(2) A statement of partnership existence that complies with Section 15-303 of this chapter and has been executed in accordance with Section 15-105 of this chapter.

(c) The certificate of conversion to partnership shall state:

(1) The date on which and jurisdiction where the other entity was first created, formed or otherwise came into being and, if it has changed, its jurisdiction immediately prior to its conversion to a domestic partnership;

(2) The name of the other entity immediately prior to the filing of the certificate of conversion to partnership;

(3) The name of the partnership as set forth in its statement of partnership existence filed in accordance with subsection (b) of this section; and

(4) The future effective date or time (which shall be a date or time certain) of the conversion to a partnership if it is not to be effective upon the filing of the certificate of conversion to partnership and the statement of partnership existence.

(d) Upon the filing with the Secretary of State of the certificate of conversion to partnership and the statement of partnership existence or upon the future effective date or time of the certificate of conversion to partnership and the statement of partnership existence, the other entity shall be converted into a domestic partnership and the partnership shall thereafter be subject to all of the provisions of this chapter, except that the existence of the partnership shall be deemed to have commenced on the date the other entity commenced its existence in the jurisdiction in which the other entity was first created, formed, incorporated or otherwise came into being.

(e) The conversion of any other entity into a domestic partnership shall not be deemed to affect any obligations or liabilities of the other entity incurred prior to its conversion to a domestic partnership, or the personal liability of any person incurred prior to such conversion.

(f) When any conversion shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of the other entity that has converted, and all property, real, personal and mixed, and all debts due to such other entity as well as all other things and causes of action belonging to such other entity, shall be vested in the domestic partnership and shall thereafter be the property of the domestic partnership as they were of the other entity that has converted, and the title to any real property vested by deed or otherwise in such other entity shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such other entity shall be preserved unimpaired, and all debts, liabilities and duties of the other entity that has converted shall thenceforth attach to the domestic partnership, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

(g) Unless otherwise agreed, or as required under applicable non-Delaware law, the converting other entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not be deemed to constitute a dissolution of such other entity and shall constitute a continuation of the existence of the converting other entity in the form of a domestic partnership.

(h) Prior to filing a certificate of conversion to partnership with the Secretary of State, the conversion shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the other entity and the conduct of its business or by applicable law, as appropriate, and a partnership agreement shall be approved by the same authorization required to approve the conversion; provided, that in any event, such approval shall include the approval of any person who, at the effective date or time of the conversion, shall be a partner of the partnership.

(i) The provisions of this section shall not be construed to limit the accomplishment of a change in the law governing, or the domicile of, an other entity to the State of Delaware by any other means provided for in a document, instrument, agreement or other writing, including by the amendment of any such document, instrument, agreement or other writing, or by applicable law.

SECTION 15-902. MERGER OR CONSOLIDATION.

(a) As used in this section, 'other business entity' means a corporation, a business trust or association, a real estate investment trust, a common-law trust, or an unincorporated business, including a limited liability company, a limited partnership (including a limited liability limited partnership) and a foreign partnership, but excluding a domestic partnership.

(b) Pursuant to an agreement of merger or consolidation, 1 or more domestic partnerships may merge or consolidate with or into 1 or more domestic partnerships or 1 or more other business entities formed or organized under the laws of the State of Delaware or any other state or the United States or any foreign country or other foreign jurisdiction, or any combination thereof, with such domestic partnership or other business entity as the agreement shall provide being the surviving or resulting domestic partnership or other business entity. Unless otherwise provided in the partnership agreement, a merger or consolidation shall be approved by each domestic partnership which is to merge or consolidate by all of its partners. In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a domestic partnership or other business entity which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting domestic partnership or other business entity or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in a domestic partnership or other business entity which is not the surviving or resulting domestic partnership or other business entity in the merger or consolidation. Notwithstanding prior approval, an agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation.

(c) If a domestic partnership is merging or consolidating under this section, (i) if the domestic partnership has not filed a statement of partnership existence, then the domestic partnership shall file a statement of partnership existence and (ii) the domestic partnership or other business entity surviving or resulting in or from the merger or consolidation shall file a certificate of merger or consolidation executed by at least one partner on behalf of the domestic partnership when it is the surviving or resulting entity with the Secretary of State. The certificate of merger or consolidation shall state:

(1) The name and jurisdiction of formation or organization of each of the domestic partnerships and other business entities which is to merge or consolidate;

(2) That an agreement of merger or consolidation has been approved and executed by each of the domestic partnerships and other business entities which is to merge or consolidate;

(3) The name of the surviving or resulting domestic partnership or other business entity;

(4) The future effective date or time (which shall be a date or time certain) of the merger or consolidation if it is not to be effective upon the filing of the certificate of merger or consolidation;

(5) That the agreement of merger or consolidation is on file at a place of business of the surviving or resulting domestic partnership or other business entity, and shall state the address thereof;

(6) That a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting domestic partnership or other business entity, on request and without cost, to any partner of any domestic partnership or any person holding an interest in any other business entity which is to merge or consolidate; and

(7) If the surviving or resulting entity is not formed, organized or created under the laws of the State of Delaware, a statement that such surviving or resulting entity agrees that it may be served with process in the State of Delaware in any action, suit or proceeding for the enforcement of any obligation of any domestic partnership which is to merge or consolidate, irrevocably appointing the Secretary of State as its agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to it by the Secretary of State. In the event of service hereunder upon the Secretary of State, the procedures set forth in Section 15-113(b) of this chapter 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 the certificate of merger or consolidation provided for in this section and any other address which the plaintiff may elect to furnish, together with copies of each process as required by the Secretary of State, and the Secretary of State shall notify such surviving or resulting entity at all such addresses furnished by the plaintiff in accordance with the procedures set forth in Section 15-113(b) of this chapter.

(d) Any failure to file a certificate of merger or consolidation in connection with a merger or consolidation which occurred prior to the effective date of this chapter shall not affect the validity or effectiveness of any such merger or consolidation.

(e) Any failure to file a certificate of merger or consolidation in connection with a merger or consolidation which occurred prior to the effective date of this chapter shall not affect the validity or effectiveness of any such merger or consolidation.

(f) Unless a future effective date or time is provided in a certificate of merger or consolidation, in which event a merger or consolidation shall be effective at any such future effective date or time, a merger or consolidation shall be effective upon the filing with the Secretary of State of a certificate of merger or consolidation. If a certificate of merger or consolidation provides for a future effective date or time and if an agreement of merger or consolidation is amended to change the future effective date or time, or if an agreement of merger or consolidation permits a certificate of merger or consolidation to be amended to change the future effective date or time without an amendment to the agreement of merger or consolidation, or if an agreement of merger or consolidation is amended to change any other matter described in the certificate of merger or consolidation so as to make the certificate of merger or consolidation false in any material respect, as permitted by Section 15-902(b) of this chapter prior to the future effective date or time, the certificate of merger or consolidation shall be amended by the filing of a certificate of amendment of a certificate of merger or consolidation which shall identify the certificate of merger or consolidation and the agreement of merger or consolidation, if applicable, which has been amended and shall state that the agreement of merger or consolidation, if applicable, has been amended and shall set forth the amendment to the certificate of merger or consolidation. If a certificate of merger or consolidation provides for a future effective date or time and if an agreement of merger or consolidation is terminated as permitted by subsection (b) of this section prior to the future effective date or time, the certificate of merger or consolidation shall be terminated by the filing of a certificate of termination of a merger or consolidation which shall identify the certificate of merger or consolidation and the agreement of merger or consolidation which has been terminated and shall state that the agreement of merger or consolidation has been terminated.

(g) A certificate of merger or consolidation shall act as a certificate of cancellation of the statement of partnership existence for a domestic partnership which is not the surviving or resulting entity in the merger or consolidation. Whenever this section requires the filing of a certificate of merger or consolidation, such requirement shall be deemed satisfied by the filing of an agreement of merger or consolidation containing the information required by this section to be set forth in the certificate of merger or consolidation.

(h) An agreement of merger or consolidation approved in accordance with subsection (b) of this section may (1) effect any amendment to the partnership agreement or (2) effect the adoption of a new partnership agreement for a domestic partnership if it is the surviving or resulting partnership in the merger or consolidation. Any amendment to a partnership agreement or adoption of a new partnership agreement made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger or consolidation. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in a partnership agreement or other agreement or as otherwise permitted by law, including that the partnership agreement of any constituent domestic partnership to the merger or consolidation (including a domestic partnership formed for the purpose of consummating a merger or consolidation) shall be the partnership agreement of the surviving or resulting domestic partnership.

(i) When any merger or consolidation shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of each of the domestic partnerships and other business entities that have merged or consolidated, and all property, real, personal and mixed, and all debts due

to any of said domestic partnerships and other business entities, as well as all other things and causes of action belonging to each of such domestic partnerships and other business entities, shall be vested in the surviving or resulting domestic partnership or other business entity, and shall thereafter be the property of the surviving or resulting domestic partnership or other business entity as they were of each of the domestic partnerships and other business entities that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of the State of Delaware, in any of such domestic partnerships and other business entities, shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of any of said domestic partnerships and other business entities shall be preserved unimpaired, and all debts, liabilities and duties of each of the said domestic partnerships and other business entities that have merged or consolidated shall thenceforth attach to the surviving or resulting domestic partnership or other business entity, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. Unless otherwise agreed, a merger or consolidation of a domestic partnership, including a domestic partnership which is not the surviving or resulting entity in the merger or consolidation, shall not require such domestic partnership to wind up its affairs under Subchapter VIII or pay its liabilities and distribute its assets under Subchapter VIII.

(j) Except as provided by agreement with a person to whom a partner of a domestic partnership is obligated, a merger or consolidation of a domestic partnership that has become effective shall not affect any obligation or liability existing at the time of such merger or consolidation of a partner of a domestic partnership which is merging or consolidating.

(k) If a domestic partnership is a constituent party to a merger or consolidation that shall have become effective, but the domestic partnership is not the surviving or resulting entity of the merger or consolidation, then a judgment creditor of a partner of such domestic partnership may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the surviving entity of the merger or consolidation unless:

(1) The claim is for an obligation of the domestic partnership for which the partner is liable as provided in Section 15-306 and either:

(i) A judgment based on the same claim has been obtained against the surviving or resulting entity of the merger or consolidation and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(ii) The surviving or resulting entity of the merger or consolidation is a debtor in bankruptcy;

(iii) The partner has agreed that the creditor need not exhaust the assets of the domestic partnership that was not the surviving or resulting entity of the merger or consolidation; or

(iv) The partner has agreed that the creditor need not exhaust the assets of the surviving or resulting entity of the merger or consolidation;

(2) A court grants permission to the judgment creditor to levy execution against the assets of the partner based on a finding that the assets of the surviving or resulting entity of the merger or consolidation that are subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of the assets of the surviving or resulting entity of the merger or consolidation is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(3) Liability is imposed on the partner by law or contract independent of the existence of the surviving or resulting entity of the merger or consolidation.

SECTION 15-903. APPROVAL OF CONVERSION OF A DOMESTIC PARTNERSHIP.

A domestic partnership may convert to a business trust or association, a real estate investment trust, a common-law trust, a limited partnership (including a registered limited liability limited partnership), a limited liability company or a corporation, organized, formed or created under the laws of the State of Delaware, upon the authorization of such conversion in accordance with this section. If the partnership agreement specifies the manner of authorizing a conversion of the partnership, the conversion shall be authorized as specified in the partnership agreement. If the partnership agreement does not specify the manner of authorizing a conversion of the partnership and does not prohibit a conversion of the partnership, the conversion shall be authorized in the same manner as is specified in the partnership agreement for authorizing a merger or consolidation that involves the partnership as a constituent party to the merger or consolidation. If the partnership agreement does not specify the manner of authorizing a conversion of the partnership or a merger or consolidation that involves the

partnership as a constituent party and does not prohibit a conversion of the partnership, the conversion shall be authorized by the approval by all partners.

SECTION 15-904. DOMESTICATION OF NON-UNITED STATES ENTITIES.

(a) As used in this section, 'non-United States entity' means a foreign limited partnership (other than one formed under the laws of a state) (including a foreign limited liability limited partnership (other than one formed under the laws of a state)), or a corporation, a business trust or association, a real estate investment trust, a common-law trust or any other unincorporated business, including a general partnership (including a limited liability partnership) or a limited liability company, formed, incorporated, created or that otherwise came into being under the laws of any foreign country or other foreign jurisdiction (other than any state).

(b) Any non-United States entity may become domesticated as a partnership in the State of Delaware by complying with subsection (g) of this section and filing with the Secretary of State in accordance with Section 15-105 of this chapter:

(1) A certificate of partnership domestication that has been executed in accordance with Section 15-105 of this chapter; and

(2) A statement of partnership existence that complies with Section 15-303 of this chapter and has been executed in accordance with Section 15-105 of this chapter.

(c) The certificate of partnership domestication shall state:

(1) The date on which and jurisdiction where the non-United States entity was first formed, incorporated, created or otherwise came into being;

(2) The name of the non-United States entity immediately prior to the filing of the certificate of partnership domestication;

(3) The name of the partnership as set forth in the statement of partnership existence filed in accordance with subsection (b) of this section;

(4) The future effective date or time (which shall be a date or time certain) of the domestication as a partnership if it is not to be effective upon the filing of the certificate of partnership domestication and the statement of partnership existence; and

(5) The jurisdiction that constituted the seat, siege social, or principal place of business or central administration of the non-United States entity, or any other equivalent thereto under applicable law, immediately prior to the filing of the certificate of partnership domestication.

(d) Upon the filing with the Secretary of State of the certificate of partnership domestication and the statement of partnership existence or upon the future effective date or time of the certificate of partnership domestication and the statement of partnership existence, the non-United States entity shall be domesticated as a partnership in the State of Delaware and the partnership shall thereafter be subject to all of the provisions of this chapter, provided that the existence of the partnership shall be deemed to have commenced on the date the non-United States entity commenced its existence in the jurisdiction in which the non-United States entity was first formed, incorporated, created or otherwise came into being.

(e) The domestication of any non-United States entity as a partnership in the State of Delaware shall not be deemed to affect any obligations or liabilities of the non-United States entity incurred prior to its domestication as a partnership in the State of Delaware, or the personal liability of any person therefor.

(f) The filing of a certificate of partnership domestication shall not affect the choice of law applicable to the non-United States entity, except that from the effective date or time of the domestication, the laws of the State of Delaware, including the provisions of this chapter, shall apply to the non-United States entity to the same extent as if the non-United States entity had been formed as a partnership on that date.

(g) Prior to filing a certificate of partnership domestication with the Secretary of State, the domestication shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the non-United States entity and the conduct of its business or by applicable non-Delaware law, as appropriate, and a partnership agreement shall be approved by the same authorization required to approve the domestication; provided that, in any event, such approval shall include the approval of any person who, at the effective date or time of the domestication, shall be a partner of the partnership.

(h) When any domestication shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of the non-United States entity that has been domesticated, and all property, real, personal and mixed, and all debts due to such non-United States entity, as well as all other things and causes of action belonging to such non-United States entity, shall be vested in the domestic partnership and shall thereafter be the property of the domestic partnership as they were of the non-United States entity immediately prior to its domestication, and the title to any real property vested by deed or otherwise in such non-United States entity shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such non-United States entity shall be preserved unimpaired, and all debts, liabilities and duties of the non-United States entity that has been domesticated shall thenceforth attach to the domestic partnership, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by the domestic partnership.

SECTION 15-905. TRANSFER OR CONTINUANCE OF DOMESTIC PARTNERSHIPS.

(a) Upon compliance with the provisions of this section, any domestic 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 partnership and, in connection therewith, may elect to continue its existence as a partnership in the State of Delaware.

(b) Unless otherwise provided in 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 partnership or such other vote as may be stated in a partnership agreement shall approve the transfer or domestication described in subsection (a) of this section, a certificate of transfer if the partnership's existence as a partnership of the State of Delaware is to cease, or a certificate of transfer and continuance if the partnership's existence as a partnership in the State of Delaware is to continue, executed in accordance with Section 15-105 of this chapter, shall be filed with the Secretary of State in accordance with Section 15-105 of this chapter. The certificate of transfer or the certificate of transfer and continuance shall state:

- (1) The name of the partnership;
- (2) The date of the filing of its original statement of partnership existence with the Secretary of State, if any;
- (3) The jurisdiction to which the 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 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 partnership as a partnership of the State of Delaware shall cease when the certificate of transfer becomes effective and (ii) the agreement of the 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 partnership arising while it was a 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 Section 15-113(b) of this chapter 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 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 Section 15-113(b) of this chapter; and

(8) In the case of a certificate of transfer and continuance, that the partnership will continue to exist as a partnership of the State of Delaware after the certificate of transfer and continuance becomes effective.

(c) Upon the filing with 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

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Secretary of State shall certify that the partnership has filed all documents and paid all fees required by this chapter, and thereupon the partnership shall cease to exist as a 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 partnership out of the State of Delaware.

(d) The transfer or domestication of a partnership out of the State of Delaware in accordance with this section and the resulting cessation of its existence as a partnership of the State of Delaware pursuant to a certificate of transfer shall not be deemed to affect any obligations or liabilities of the 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 partnership with respect to matters arising prior to such transfer or domestication.

(e) If a partnership files a certificate of transfer and continuance, (i) at the time of the filing of the certificate of transfer and continuance, the partnership shall file a statement of partnership existence that complies with Section 15-303 of this chapter and has been executed in accordance with Section 15-105 of this chapter, if not previously filed, and (ii) after the time the certificate of transfer and continuance becomes effective, the partnership shall continue to exist as a partnership of the State of Delaware, and the laws of the State of Delaware, including the provisions of this chapter, shall apply to the partnership, to the same extent as prior to such time.

SUBCHAPTER X

LIMITED LIABILITY PARTNERSHIP

Section 15-1001. Statement of Qualification.

Section 15-1002. Name.

Section 15-1003. Annual Report.

SECTION 15-1001. STATEMENT OF QUALIFICATION.

(a) A partnership may become a limited liability partnership pursuant to this section.

(b) The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, the vote necessary to amend those provisions.

(c) After the approval required by subsection (b), a partnership may become a limited liability partnership by filing a statement of qualification. The statement of qualification must contain:

(1) the name of the partnership;

(2) the address of the registered office and the name and address of the registered agent for service of process required to be maintained by Section 15-111 of this chapter;

(3) the number of partners of the partnership;

(4) a statement that the partnership elects to be a limited liability partnership; and

(5) the future effective date or time (which shall be a date or time certain) of the statement of qualification if it is not to be effective upon the filing of the statement of qualification.

(d) The status of a partnership as a limited liability partnership is effective on the later of the filing of the statement of qualification or a future effective date or time specified in the statement of qualification. The status as a limited liability partnership remains effective, regardless of changes in the partnership, until it is canceled pursuant to Section 15-105(d) of this chapter or revoked pursuant to Section 15-1003 of this chapter.

(e) A partnership is a limited liability partnership if there has been substantial compliance with the requirements of this subchapter. The status of a partnership as a limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the statement of qualification under subsection (c).

(f) The filing of a statement of qualification establishes that a partnership has satisfied all conditions precedent to the qualification of the partnership as a limited liability partnership.

(g) An amendment or cancellation of a statement of qualification is effective when it is filed or on a future effective date or time specified in the amendment or cancellation.

(h) If a person is included in the number of partners of a limited liability partnership set forth in a statement of qualification, a statement of foreign qualification or an annual report, the inclusion of such person shall not be admissible as evidence in any action, suit or proceeding, whether civil, criminal, administrative or investigative, for the purpose of determining whether such person is liable as a partner of such limited liability partnership. The status of a partnership as a limited liability partnership and the liability of a partner of such limited liability partnership shall not be adversely affected if the number of partners stated in a statement of qualification, a statement of foreign qualification or an annual report is erroneously stated provided that the statement of qualification, the statement of foreign qualification or the annual report was filed in good faith.

SECTION 15-1002. NAME. The name of a limited liability partnership shall comply with Section 15-108 of this chapter.

SECTION 15-1003. ANNUAL REPORT.

(a) A limited liability partnership, and a foreign limited liability partnership authorized to transact business in the State of Delaware, shall file an annual report with the Secretary of State which contains:

(1) the name of the limited liability partnership and the state or other jurisdiction under whose laws the foreign limited liability partnership is formed and the number of partners of the partnership; and

(2) the address of the registered office and the name and address of the registered agent for service of process required to be maintained by Section 15-111 of this chapter.

(b) An annual report must be filed by the first day of June of each year following the calendar year in which a partnership files a statement of qualification or a foreign partnership becomes authorized to transact business in the State of Delaware.

(c) The Secretary of State may revoke the statement of qualification or statement of foreign qualification of a partnership that fails to file an annual report when due or pay the required filing fee. To do so, the Secretary of State shall provide the partnership at least 60 days' written notice of intent to revoke the statement of qualification or statement of foreign qualification. The notice must be mailed to the partnership at its registered office set forth in the last filed statement of qualification or statement of foreign qualification or annual report. The notice must specify the annual report that has not been filed, the fee that has not been paid, and the effective date of the revocation. The revocation is not effective if the annual report is filed and the fee is paid before the effective date of the revocation.

(d) A revocation under subsection (c) only affects a partnership's status as a limited liability partnership and is not an event of dissolution of the partnership.

(e) A partnership whose statement of qualification or statement of foreign qualification has been revoked may apply to the Secretary of State for reinstatement within three years after the effective date of the revocation. The application must state:

(1) the name of the partnership and the effective date of the revocation; and

(2) that the ground for revocation either did not exist or has been corrected.

(f) A reinstatement under subsection (e) relates back to and takes effect as of the effective date of the revocation, and the partnership's status as a limited liability partnership continues as if the revocation had never occurred.

SUBCHAPTER XI

FOREIGN LIMITED LIABILITY PARTNERSHIP

Section 15-1101. Law Governing Foreign Limited Liability Partnership.

Section 15-1102. Statement of Foreign Qualification.

Section 15-1103. Effect of Failure to Qualify.

Section 15-1104. Activities Not Constituting Transacting Business.

Section 15-1105. Foreign Limited Liability Partnerships Doing Business Without Having Qualified: Injunctions.

SECTION 15-1101. LAW GOVERNING FOREIGN LIMITED LIABILITY

PARTNERSHIP.

(a) The law under which a foreign limited liability partnership is formed governs relations among the partners and between the partners and the partnership and the liability of partners for obligations of the partnership.

(b) A foreign limited liability partnership may not be denied a statement of foreign qualification by reason of any difference between the law under which the partnership was formed and the law of the State of Delaware.

(c) A statement of foreign qualification does not authorize a foreign limited liability partnership to engage in any business or exercise any power that a partnership may not engage in or exercise in the State of Delaware as a limited liability partnership.

SECTION 15-1102. STATEMENT OF FOREIGN QUALIFICATION.

(a) Before doing business in the State of Delaware, a foreign limited liability partnership shall register with the Secretary of State by filing a statement of foreign qualification. The statement of foreign qualification must contain:

(1) the name of the foreign limited liability partnership which satisfies the requirements of the State or other jurisdiction under whose law it is formed and ends with the words 'Registered Limited Liability Partnership' or 'Limited Liability Partnership,' the abbreviation 'R.L.L.P.' or 'L.L.P.' or the designation 'RLLP' or 'LLP';

(2) the address of the registered office and the name and address of the registered agent for service of process required to be maintained by Section 15-111 of this chapter;

(3) the number of partners of the partnership; and

(4) the future effective date or time (which shall be a date or time certain) of the statement of foreign qualification if it is not to be effective upon the filing of statement of foreign qualification.

(b) The status of a partnership as a foreign limited liability partnership is effective on the later of the filing of the statement of foreign qualification or the future effective date or time specified in the statement of foreign qualification. The status remains effective, regardless of changes in the partnership, until it is canceled pursuant to Section 15-105(d) of this chapter or revoked pursuant to Section 15-1003 of this chapter.

(c) An amendment or cancellation of a statement of foreign qualification is effective when it is filed or on the future effective date or time specified in the amendment or cancellation.

SECTION 15-1103. EFFECT OF FAILURE TO QUALIFY.

(a) A foreign limited liability partnership doing business in the State of Delaware may not maintain an action or proceeding in the State of Delaware until it has in effect a statement of foreign qualification and has paid to the State of Delaware all fees and penalties for the years or parts thereof during which it did business in the State of Delaware without such qualification.

(b) The failure of a foreign limited liability partnership to have in effect a statement of foreign qualification does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in the State of Delaware or does not impair the right of any other party to a contract to maintain any action, suit or proceeding on the contract.

(c) A limitation on personal liability of a partner is not waived solely by doing business in the State of Delaware without a statement of foreign qualification having been filed.

(d) If a foreign limited liability partnership does business in the State of Delaware without a statement of foreign qualification having been filed, the Secretary of State is its agent for service of process with respect to a right of action arising out of the doing of business in the State of Delaware and service of process may be made in accordance with the procedures set forth in Section 15-113 of this chapter.

SECTION 15-1104. ACTIVITIES NOT CONSTITUTING DOING BUSINESS.

(a) Activities of a foreign limited liability partnership in the State of Delaware which do not constitute doing business for the purpose of this subchapter include:

(1) maintaining, defending or settling an action or proceeding;

(2) holding meetings of its partners or carrying on any other activity concerning its internal affairs;

(3) maintaining bank accounts;

(4) maintaining offices or agencies for the transfer, exchange or registration of the partnership's own securities or maintaining trustees or depositories with respect to those securities;

(5) selling through independent contractors;

(6) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside the State of Delaware before they become contracts;

(7) creating or acquiring indebtedness, with or without a mortgage, or other security interest in property;

(8) collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting and maintaining property so acquired;

(9) conducting an isolated transaction that is not one in the course of similar transactions; and

(10) doing business in interstate commerce.

(b) A person shall not be deemed to be doing business in the State of Delaware solely by reason of being a partner in a partnership.

(c) This section does not apply in determining whether a foreign limited liability partnership is subject to service of process, taxation or regulation under any other law of the State of Delaware.

SECTION 15-1105. FOREIGN LIMITED LIABILITY PARTNERSHIPS DOING BUSINESS WITHOUT HAVING QUALIFIED; INJUNCTIONS.

(a) The Court of Chancery shall have jurisdiction to enjoin any foreign limited liability partnership, or any agent thereof, from doing any business in the State of Delaware if such foreign limited liability partnership has failed to register under this subchapter or if such foreign limited liability partnership's statement of foreign qualification contains false or misleading representations. The Attorney General shall, upon his own motion or upon the relation of proper parties, proceed for this purpose by complaint in any county in which such foreign limited liability partnership is doing or has done business.

(b) Any foreign limited liability partnership doing business in the State of Delaware without first having registered shall pay to the Secretary of State a fee of \$200 for each year or part thereof during which the foreign limited liability partnership failed to register in the State of Delaware.

SUBCHAPTER XII

MISCELLANEOUS PROVISIONS

Section 15-1201. Uniformity of Application and Construction.

Section 15-1202. Short Title.

Section 15-1203. Severability.

Section 15-1204. Effective Date.

Section 15-1205. Repeals.

Section 15-1206. Applicability.

Section 15-1207. Fees.

Section 15-1208. Annual Tax of Partnership.

Section 15-1209. Cancellation of Statement of Partnership Existence for Failure to Pay Annual Tax.

Section 15-1210. Revival of Partnership.

SECTION 15-1201. 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. The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

SECTION 15-1202. SHORT TITLE. This chapter may be cited as the Delaware Revised Uniform Partnership Act.

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SECTION 15-1203. 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 15-1204. EFFECTIVE DATE. This chapter takes effect January 1, 2000.

SECTION 15-1205. REPEALS. Except with respect to limited partnerships (see 6 Del. C. § 17-1105), effective January 1, 2002, the Delaware Uniform Partnership Law, 6 Del. C. § 1501 - § 1553 is repealed.

SECTION 15-1206. APPLICABILITY.

(a) Before January 1, 2002, this chapter governs only a partnership formed:

(1) after the effective date of this chapter, except a partnership that is continuing the business of a dissolved partnership under 6 Del. C. § 1541; and

(2) before the effective date of this chapter, that elects, as provided by subsection (c), to be governed by this chapter.

(b) On and after January 1, 2002, this chapter governs all partnerships.

(c) Before January 1, 2002, a partnership voluntarily may elect, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be governed by this chapter. The provisions of this chapter relating to the liability of the partnership's partners to third parties apply to limit those partners' liability to a third party who had done business with the partnership within one year before the partnership's election to be governed by this chapter only if the third party knows or has received a notification of the partnership's election to be governed by this chapter.

SECTION 15-1207. FEES.

(a) No document required to be filed under this chapter shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the Secretary of State for the use of the State of Delaware:

(1) Upon the receipt for filing of any statement or certificate, a fee in the amount of \$100.00.

(2) Upon the receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation of reservation pursuant to Section 15-109 of this chapter, a fee in the amount of \$75.

(3) Upon the receipt for filing of a statement of qualification, a statement of foreign qualification or an annual report for a limited liability partnership or a foreign limited liability partnership, a fee in the amount of \$100 for each partner, but in no event shall the fee payable for any year with respect to a limited liability partnership or a foreign limited liability partnership under this section be more than \$120,000.

(4) For certifying copies of any paper on file as provided for by this chapter, a fee in the amount of \$20 for each copy certified.

(5) The Secretary of State may issue photocopies or electronic image copies of instruments on file, as well as instruments, documents and other papers not on file, and for all such photocopies or electronic image copies, whether certified or not, a fee of \$5 shall be paid for the first page and \$1 for each additional page. The Secretary of State may also issue microfiche copies of instruments on file as well as instruments, documents and other papers not on file, and for each such microfiche a fee of \$2 shall be paid therefor. Notwithstanding the State of Delaware's Freedom of Information Act or other provision of this Code granting access to public records, the Secretary of State shall issue only photocopies, microfiche or electronic image copies of records in exchange for the fees described above.

(6) Upon the receipt for filing of a certificate under Section 15-111(b) of this chapter, a fee in the amount of \$50, upon the receipt for filing of a certificate under Section 15-111(c) of this chapter, a fee in the amount of \$50 and a further fee of \$2 for each partnership affected by such certificate, and upon the receipt for filing of a certificate under Section 15-111(d) of this chapter, a fee in the amount of \$10.

(7) For preclearance of any document for filing, a fee in the amount of \$250.

(8) For preparing and providing a written report of a record search, a fee in the amount of \$30.

(9) For issuing any certificate of the Secretary of State, including but not limited to a certificate of good standing, other than a certification of a copy under paragraph (2) of this subsection, a fee in the amount of \$20, except that for issuing any certificate of the Secretary of State that recites all of a partnership's filings with the Secretary of State, a fee of \$100 shall be paid for each such certificate.

(10) For receiving and filing and/or indexing any certificate, affidavit, agreement or any other paper provided for by this chapter, for which no different fee is specifically prescribed, a fee in the amount of \$25.

(11) The Secretary of State may in the Secretary of State's discretion charge a fee of \$25 for each check received for payment of any fee that is returned due to insufficient funds or the result of a stop payment order.

(b) In addition to those fees charged under subsection (a) of this section, there shall be collected by and paid to the Secretary of State the following:

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

(2) For all services described in subsection (a) of this section that are requested to be completed within the same day as the day of the request, an additional sum of up to \$200; and

(3) For all services described in subsection (a) of this section that are requested to be completed within a 24-hour period from the time of the request, an additional sum of up to \$100.

The Secretary of State shall establish (and may from time to time amend) a schedule of specific fees payable pursuant to this subsection.

(c) The Secretary of State may in the Secretary of State's discretion permit the extension of credit for the fees required by this section upon such terms as the Secretary of State shall deem to be appropriate.

(d) The Secretary of State shall retain from the revenue collected from the fees required by this section a sum sufficient to provide at all times a fund of at least \$500, but not more than \$1,500, from which the Secretary of State may refund any payment made pursuant to this section to the extent that it exceeds the fees required by this section. The funds shall be deposited in a financial institution which is a legal depository of State of Delaware moneys to the credit of the Secretary of State and shall be disburseable on order of the Secretary of State.

(e) Except as provided in this section, the fees of the Secretary of State shall be as provided in Section 2315 of Title 29.

Section 15-1208. ANNUAL TAX OF PARTNERSHIP.

(a) Every partnership that has filed a statement of partnership existence shall pay an annual tax, for the use of the State of Delaware, in the amount of \$100.

(b) The annual tax shall be due and payable on the first day of June following the close of the calendar year or upon the cancellation of a statement of partnership existence. The Secretary of State shall receive the annual tax and pay over all taxes collected to the Department of Finance of the State of Delaware. If the annual tax remains unpaid after the due date established by subsection (d) of this section, the tax shall bear interest at the rate of 1 1/2% for each month or portion thereof until fully paid.

(c) The Secretary of State shall, at least 60 days prior to the first day of June of each year, cause to be mailed to each partnership required to comply with the provisions of this section in care of its registered agent in the State of Delaware an annual statement for the tax to be paid hereunder.

(d) In the event of neglect, refusal or failure on the part of any partnership to pay the annual tax to be paid hereunder on or before the first day of June in any year, such partnership shall pay the sum of \$100 to be recovered by adding that amount to the annual tax, and such additional sum shall become a part of the tax and shall be collected in the same manner and subject to the same penalties.

(e) In case any partnership shall fail to pay the annual tax due within the time required by this section, and in case the agent in charge of the registered office of any partnership upon whom process against such partnership may be served shall die, resign, refuse to act as such, remove from the State of Delaware or cannot with due diligence be found, it shall be lawful while default continues to serve process against such partnership upon the Secretary of State. Such service upon the Secretary of State shall be made in the manner and shall have the effect stated in Section 15-113 of this chapter in the case of a partnership and shall be governed in all respects by said sections.

(f) The annual tax shall be a debt due from a partnership to the State of Delaware, for which an action at law may be maintained after the same shall have been in arrears for a period of one month. The tax shall also be a preferred debt in the case of insolvency.

(g) A partnership that neglects, refuses or fails to pay the annual tax when due shall cease to be in good standing as a partnership in the State of Delaware.

(h) A partnership that has ceased to be in good standing by reason of the failure to pay an annual tax shall be restored to and have the status of a partnership in good standing in the State of Delaware upon the payment of the annual tax and all penalties and interest thereon for each year for which such partnership neglected, refused or failed to pay an annual tax.

(i) The Attorney General, either on his own motion or upon request of the Secretary of State, whenever any annual tax due under this chapter from any partnership shall have remained in arrears for a period of 3 months after the tax shall have become payable, may apply to the Court of Chancery, by petition in the name of the State of Delaware, on 5 days' notice to such partnership, which notice may be served in such manner as the Court may direct, for an injunction to restrain such partnership from the transaction of any business within the State of Delaware or elsewhere, until the payment of the annual tax, and all penalties and interest due thereon and the cost of the application, which shall be fixed by the Court. The Court of Chancery may grant the injunction, if a proper case appears, and upon granting and service of the injunction, such partnership thereafter shall not transact any business until the injunction shall be dissolved.

(j) A partnership that has ceased to be in good standing by reason of its neglect, refusal or failure to pay an annual tax shall remain a partnership formed under this chapter. The Secretary of State shall not accept for filing any certificate (except a certificate of resignation of a registered agent when a successor registered agent is not being appointed) required or permitted by this chapter to be filed in respect of any partnership which has neglected, refused or failed to pay an annual tax, and shall not issue any certificate of good standing with respect to such partnership, unless and until such partnership shall have been restored to and have the status of a partnership in good standing in the State of Delaware.

(k) A partnership that has ceased to be in good standing in the State of Delaware by reason of its neglect, refusal or failure to pay an annual tax may not maintain any action, suit or proceeding in any court of the State of Delaware until such partnership has been restored to and has the status of a partnership in good standing in the State of Delaware. An action, suit or proceeding may not be maintained in any court of the State of Delaware by any successor or assignee of such partnership on any right, claim or demand arising out of the transaction of business by such partnership after it has ceased to be in good standing in the State of Delaware until such partnership, or any person that has acquired all or substantially all of its assets, has paid any annual tax then due and payable, together with penalties and interest thereon.

(l) The neglect, refusal or failure of a partnership to pay an annual tax shall not impair the validity of any contract, deed, mortgage, security interest, lien or act of such partnership or prevent such partnership from defending any action, suit, or proceeding in any court of the State of Delaware.

Section 15-1209 CANCELLATION OF STATEMENT OF PARTNERSHIP EXISTENCE FOR FAILURE TO PAY ANNUAL TAX.

(a) The statement of partnership existence of a partnership shall be deemed to be canceled if the partnership shall fail to pay the annual tax due under Section 15-1208 of this chapter for a period of three years from the date it is due, such cancellation to be effective on the third anniversary of such due date.

(b) On or before October 31 of each calendar year, the Secretary of State shall publish in at least 1 newspaper of general circulation in the State of Delaware a list of those partnerships whose statements of partnership existence were canceled on June 1 of such calendar year pursuant to Section 15-1209(a) of this chapter.

Section 15-1210. REVIVAL OF PARTNERSHIP.

(a) A partnership whose statement of partnership existence has been canceled pursuant to Section 15-111(d) or Section 15-1209(a) of this chapter may be revived by filing in the office of the Secretary of State a certificate of revival accompanied by the payment of the fee required by Section 15-1207 of this chapter and payment of the annual tax due under Section 15-1208 of this chapter and all penalties and interest thereon for each year for which such partnership neglected, refused or failed to pay such annual tax, including each year between the cancellation of its statement of partnership existence and its revival. The certificate of revival shall set forth:

(1) The name of the partnership at the time its statement of partnership existence was canceled and, if such name is not available at the time of revival, the name under which the partnership is to be revived;

(2) The date of filing of the original statement of partnership existence of the partnership;

(3) The address of the partnership's registered office in the State of Delaware and the name and address of the partnership's registered agent in the State of Delaware;

(4) A statement that the certificate of revival is filed by one or more partners of the partnership authorized to execute and file the certificate of revival to revive the partnership; and

(5) Any other matters the partner or partners executing the certificate of revival determine to include therein.

(b) The certificate of revival shall be deemed to be an amendment to the statement of partnership existence of the partnership, and the partnership shall not be required to take any further action to amend its statement of partnership existence under Section 15-105 of this chapter with respect to the matters set forth in the certificate of revival.

(c) Upon the filing of a certificate of revival, a partnership shall be revived with the same force and effect as if its statement of partnership existence had not been canceled pursuant to Section 15-111(d) or Section 15-1209(a) of this chapter. Such revival shall validate all contracts, acts, matters and things made, done and performed by the partnership, its partners, employees and agents during the time when its statement of partnership existence was canceled pursuant to Section 15-111(d) or Section 15-1209(a) of this chapter, with the same force and effect and to all intents and purposes as if the statement of partnership existence had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the partnership at the time its statement of partnership existence was canceled pursuant to Section 15-111(d) or Section 15-1209(a) of this chapter, or which were acquired by the partnership following the cancellation of its statement of partnership existence pursuant to Section 15-111(d) or Section 15-1209(a) of this chapter, and which were not disposed of prior to the time of its revival, shall be vested in the partnership after its revival as fully as they were held by the partnership at, and after, as the case may be, the time its statement of partnership existence was canceled pursuant to Section 15-111(d) or Section 15-1209(a) of this chapter. After its revival, the partnership and its partners shall have the same liability for all contracts, acts, matters and things made, done or performed in the partnership's name and on its behalf by its partners, employees and agents as the partnership and its partners would have had if the partnership's statement of partnership existence had at all times remained in full force and effect."

Approved July 12, 1999

CHAPTER 152

FORMERLY

SENATE BILL NO. 232

AN ACT TO AMEND 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 (g) to read as follows:

"(g). Any monthly service, disability, and survivor pension based on a former service or disability pension that was effective on or before July 1, 1998 but after December 31, 1979 and is payable on the effective date of this subsection shall be increased effective July 1, 1999 by 2%. Any monthly service, disability, or survivor pension based on a former service or disability pension that was effective prior to January 1, 1980. Shall be increased effective July 1, 1999 by 3% or \$25 per month, whichever is greater. These increases shall continue to be paid through June 30, 2000 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 (i) to read as follows:

"(i)(1) The State's obligation to the State Employees' Pension Plan, the State Judiciary Retirement Fund, and the New State Police Retirement Fund to implement the provisions of §5532(g) of this Chapter shall be the payment required to amortize the unfunded accrued liability over five years from July 1, 1999.

(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(g) of this Chapter in fiscal year 2000 shall be the lump sum actuarial liability of the benefits granted."

Approved July 09, 1999

CHAPTER 153

FORMERLY

HOUSE BILL NO. 5

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO THE COMMISSION ON FAMILY LAW.

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

Section 1. Amend Section 2002, Title 13 of the Delaware Code, by striking the number "14" as it appears in the first sentence therein and by substituting in lieu thereof the number "16".

Section 2. Amend Section 2003(3), Title 13 of the Delaware Code, by striking the number "14" as it appears in the first sentence of subsection(3) therein and by substituting in lieu thereof the number "16".

Approved July 16,1999

CHAPTER 154

FORMERLY

HOUSE BILL NO. 52

AN ACT TO AMEND TITLE 20 OF THE DELAWARE CODE RELATING TO PENSION BENEFITS FOR PARAPLEGIC VETERANS.

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

Section 1. Amend § 1001(a), Title 20 of the Delaware Code, by striking the phrase "\$1,200 per year" as it appears therein and by substituting in lieu thereof the phrase "\$3,000 per year".

Approved July 16,1999

CHAPTER 155

FORMERLY

HOUSE BILL NO. 59
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 19 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 enacting the following as a new § 2317, which shall read as follows:

"§ 2317. HAZMAT team members treated as State employees; wage as basis for compensation.

(a) For purposes of this chapter, HAZMAT team members shall be treated as State employees so long as the State elects to be covered by application of this chapter.

(b) The wage of HAZMAT team members on which compensation is based shall be the wage received in the regular employment of such HAZMAT team members.

(c) For purposes of this section, HAZMAT team members shall include all those persons designated as HAZMAT response team members by the Department of Natural Resources and Environmental Control and/or the State Fire School, and shall include personnel employed by private industry.

(d) Covered incidents shall include any incident where the HAZMAT team members are notified to respond, including travel to and from the incident, the incident itself, and cleanup after the incident, and any training exercises."

Approved July 16, 1999

CHAPTER 156

FORMERLY

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

AN ACT TO AMEND TITLE 7 AND TITLE 29 OF THE DELAWARE CODE RELATING TO ZONING, USE AND SALE OF STATE PARKS, OPEN SPACE AND PUBLIC LANDS.

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

Section 1. Amend Chapter 47, Title 7 of the Delaware Code, by adding a new section thereto as follows:

"§ 4706. Zoning and Use.

Notwithstanding any provision of this Chapter to the contrary, no state park, or any part thereof, or other area acquired primarily for recreational use, shall be rezoned, neither shall there be a change in the use of any such lands requiring a variance or subdivision approval, except upon 45 days prior notice to all elected members of the General Assembly in whose district such lands, or any part thereof, lie."

Section 2. Amend Chapter 75, Title 7 of the Delaware Code, by adding a new section thereto as follows:

"§ 7510. Zoning and Use.

Notwithstanding any provision of this Chapter to the contrary, no open space or other area acquired primarily for recreational use shall be rezoned, neither shall there be a change in the use

of any such lands requiring a variance or subdivision approval, except upon 45 days prior notice to all elected members of the General Assembly in whose district such lands, or any part thereof, lie."

Section 3. Amend Chapter 45, Title 7 of the Delaware Code, by adding a new section thereto as follows:

"§ 4521. Zoning and Use.

Notwithstanding any provision of this Chapter to the contrary, no state park, or any part thereof, open space as defined in § 7504, Title 7 of the Delaware Code, or other area acquired primarily for recreational use, shall be rezoned, neither shall there be a change in the use of any such lands requiring a variance or subdivision approval, except upon 45 days prior notice to all elected members of the General Assembly in whose district such lands, or any part thereof, lie."

Section 4. Amend Chapter 94, Title 29 of the Delaware Code, by adding a new section thereto as follows:

"§ 9406. State Parks and Open Spaces.

Notwithstanding any provision of this Chapter to the contrary, no state park, or any part thereof, open space as defined in § 7504, Title 7 of the Delaware Code, or other area acquired primarily for recreational use, shall be rezoned, neither shall there be a change in the use of any such lands requiring a variance or subdivision approval, except upon 45 days prior notice to all elected members of the General Assembly in whose district such lands, or any part thereof, lie."

Approved July 16, 1999

CHAPTER 157

FORMERLY

HOUSE BILL NO. 130

AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 3

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO THE DETERMINATION OF APPLICATIONS FOR LICENSES.

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

Section 1. Amend § 543(b)(11), Title 4, of the Delaware Code by adding the following to the end of said subsection:

"For the purposes of this subsection, the term 'substantial objection' shall include:

- a. any objection, or group of objections, presented to the Commission either individually or as a group, by persons who reside within the election district where the license is to operate and all contiguous election districts, sufficient to give the Commission reason to believe that a majority of the residents of the community within which the license is to operate oppose the issuance of the license; or
- b. any objection, or group of objections, presented to the Commission either individually or as a group, the content of which gives the Commission reason to believe the quality of life of the community within which the license is to operate will be adversely affected by the granting of the license.

Section 2. Within 90 days of enactment of this Act, the Commission shall prepare written examples of facts and/or circumstances that would support a conclusion that an objection constitutes a 'substantial objection' under each of the definitions of the term, for use in determining whether or not to grant a license.

Section 3. Examples of situations where an objection should be considered a 'substantial objection' include but are not limited to the following:

Under § 543(11)a., when the objections before the Commission, or a preponderance of

the evidence before the Commission, indicate that a majority of the residents of the community within which the license is to operate oppose the issuance of said license; or

Under § 543(11)b., when the objections before the Commission, or a preponderance of the evidence before the Commission, indicate that there is a history of illegal activity by patrons of licensed premises at the same location; or

Under § 543(11)b., when the objections before the Commission, or a preponderance of the evidence before the Commission, indicate that the applicant has repeatedly violated Commission rules, State law or local ordinances in one or more of other licensed establishments under the applicant's direct or indirect control.

Approved July 16, 1999

CHAPTER 158

FORMERLY

HOUSE BILL NO. 138 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO DRIVER EDUCATION.

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

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

"§ 4125. Driver education certification.

(a) A driver education teacher shall not certify that a student enrolled in a State-approved driver education course during the regular school year is qualified to be issued a Driver Education Learner's Permit or a Level One Learner's Permit by the Division of Motor Vehicles unless the student has:

(1) fulfilled the requirements of the driver education program;

(2) met the minimum credit requirements to qualify as a 10th grader as of September 30 of the school year that the student enrolled in the driver education course; and

(3) earned passing grades in 5 credits at the time of certification, with at least 2 of those credits in separate areas of English, mathematics, science, or social studies.

(b) A student who is receiving special education services and is precluded from meeting the academic requirements of subsection (a) of this section due to modifications in the grading procedure or course of study for the student shall be eligible for certification if the student's school principal determines that the student is making satisfactory progress in accordance with the requirements of his or her individualized education plan (IEP).

(c) A local school board may establish requirements higher than the minimum academic eligibility requirements set forth in this section.

(d) A student who does not meet the certification requirements of this section upon completion of a driver education course may meet the requirements during the subsequent marking period. If the student fails to meet the requirements at the end of the subsequent marking period, the student will be ineligible for certification.

(e) Any permit issued in violation of the provisions of this section shall be cancelled, all fees forfeited and the applicant must reapply as if they were a new applicant."

Section 2. This Act shall become effective on July 1, 2000.

Approved July 16, 1999

CHAPTER 159

FORMERLY

HOUSE BILL NO. 197
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PHARMACY.

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

Section 1. Amend Title 24, § 2511(a) of the Delaware Code by adding the following as a new subsection (5):

"(5). Nothing contained in this chapter or in § 3315 of Title 16 of the Delaware code shall prohibit a pharmacist licensed in this State from dispensing a valid non-controlled prescription received via electronic transmission from a practitioner's office to the prescription department.

The Board of Pharmacy may formulate such rules and regulations consistent with this act, as may be necessary to carry out the purpose of and to enforce the provisions of this section to protect patient confidentiality and electronic transmission of non-controlled prescriptions."

Approved July 16, 1999

CHAPTER 160

FORMERLY

HOUSE BILL NO. 212

AN ACT TO AMEND TITLE 2, CHAPTER 13 OF THE DELAWARE CODE RELATING TO INSURANCE COVERAGE FOR THE DELAWARE TRANSIT CORPORATION.

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

Section 1. Amend Section 1329(b), Title 2 of the Delaware Code, by deleting the last sentence thereof in its entirety, and inserting in lieu thereof the following:

"This insurance program may be provided by either (1) a combination of self-insurance and commercially procured insurance, or (2) entirely commercially procured insurance. The monetary limits of § 1329(a) of this Title shall apply to passenger rail carrier operations authorized under § 1332 of this Title. For all other operations of the Delaware Transit Corporation, the monetary limits of § 1329(a) of this Title shall not apply, and the Corporation shall instead be liable for the amount of its insurance covering the risk or loss; provided, however, that the insurance program shall provide a minimum coverage of \$300,000 for any and all claims arising out of a single occurrence."

Section 2. The provisions of this Act shall become effective July 1, 1999.

Approved July 16, 1999

CHAPTER 161

FORMERLY

HOUSE BILL NO. 218
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES.

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

Section 1. Amend Title 26, Chapter 1, Subchapter IV, Section 403 of the Delaware Code by deleting that section in its entirety and replacing it with the following:

"§ 403. Expansion of facilities and services of water companies in State.

(a) No water company doing business in this State shall expand its facilities within this State in order to service new customers or subscribers in this State, nor shall any such company supply water to any new or additional customers or subscribers in this State until the company is furnishing water to its present customers or subscribers in this State in such fashion that water pressure at every house supplied is at least 25 pounds at all times at the service connection.

(b) No water company doing business in this State shall expand its facilities in order to service new customers or subscribers unless it shall furnish water to the house or separate location of each new customer or subscriber in this State at the pressure of at least 25 pounds at each such location or house at all times at the service connection while continuing also to supply each old customer or subscriber at the pressure of at least 25 pounds at each house at all times at the service connection.

(c) No water company, which either alone or together with other water company affiliates or subsidiaries under common control or ownership serves more than 5,000 customers in this State, shall, unless it has cured any material failure found pursuant to (i) or (ii) below within thirty days of any such finding, expand its facilities within this State in order to service new customers or subscribers or supply water to any new or additional customers or subscribers in this State for so long as that company:

(i) is subject to a finding by the appropriate federal or state regulatory authority that it has materially failed to comply with applicable safe drinking water or water quality standards; or

(ii) is subject to any order issued by the Commission pursuant to this title finding that the company has materially failed to provide adequate or proper safe water services to existing customers.

(d) The appropriate agency shall report any finding that a water company has failed to materially meet the water pressure standards of Sections 403(a) or 403(b) or any order issued pursuant to Section 403(c) to DNREC in accordance with DNREC's authority to grant an expansion of a certificate of public convenience and necessity pursuant to Section 6076 of Title 7."

Approved July 16,1999

CHAPTER 162

FORMERLY

HOUSE BILL NO. 222
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO NEW CASTLE COUNTY.

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

Section 1. Amend § 1163(a)(3) of Title 9 of the Delaware Code by deleting the term "three-fourths" in the first sentence and substituting in lieu thereof the term "five-sevenths".

Section 2. Amend §1163(a)(3) of Title 9 of the Delaware Code by inserting the following between the first and second sentences of paragraph (3) as they appear therein:

"However, when County Council has more than 7 members, bonds issued pursuant to this chapter shall be authorized by an ordinance passed by the County Council with the concurrence of three-fourths of all the members elected to the County Council."

Approved July 16,1999

CHAPTER 163

FORMERLY

HOUSE BILL NO. 234

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO THE REGULATION OF CELLULAR TELEPHONE SERVICE.

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

Section 1. Amend §202(c), Title 26 of the Delaware Code by striking the phrase "domestic public land mobile radio service provided by cellular technology service" as it appears therein and by substituting in lieu thereof the phrase "telephone service provided by cellular technology or by domestic public land mobile radio service".

Approved July 16,1999

CHAPTER 164

FORMERLY

HOUSE BILL NO. 239

AN ACT TO AMEND CHAPTER 20, TITLE 2, DELAWARE CODE, RELATING TO THE PUBLIC-PRIVATE INITIATIVES PROGRAM.

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

Section 1. amend Section 2003, of Title 2, of the Delaware Code by deleting the phrase "shall constitute not less than 51% of the total projected capital cost for each demonstration project" appearing in subsection (g) thereof, and inserting in lieu thereof the following:

"participation in the total capital cost for each demonstration project shall be negotiated with the other terms of the agreement. Notwithstanding other provisions of this chapter, the amount of such participation shall be taken into

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account in determining the negotiated rate of return on the investment in the project. In addition, the projected total percentage of public capital investment, as well as the limits of the Department's financial liability for the project, shall be expressly disclosed in the agreement."

Section 2. Amend Section 2004, Title 2, Delaware Code by inserting the phrase "or subsection (c)" between the phrase "subsection (b)" and the phrase "of this section" appearing in the first sentence thereof, and by creating a new subsection "(c)" thereof, to read as follows:

"(c) An agreement for a demonstration project in which the state does not assume ownership or control of the underlying real property involved in the project may be approved, subject to the following limitations:

(1) 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 the indemnification of the owner of any such real property must be borne by the contracting party, notwithstanding the provisions of Section 2008 of this title."

Approved July 16, 1999

CHAPTER 165

FORMERLY

HOUSE BILL NO. 277

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE NEW CASTLE COUNTY BOARD OF ADJUSTMENT.

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

Section 1. Amend §1311 of Title 9 of the Delaware Code by striking the number "5" as it appears therein in the first sentence and by substituting in lieu thereof the number "7"; and by striking the second sentence of §1311 in its entirety and by substituting in lieu thereof the following:

"The County Executive, with the advice and consent of the County Council, shall appoint 6 members for terms of 4 years."

Approved July 16, 1999

CHAPTER 166

FORMERLY

HOUSE BILL NO. 335

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXATION OF CONSTRUCTION TRANSPORTATION CONTRACTORS.

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 §2501(1), Title 30, Delaware Code, by adding at the end of said subsection a new sentence to read as follows: "In addition 'contractor' shall include 'construction transportation contractors' which

shall include persons engaged in the business of contracting for transporting tangible property of other persons in connection with all or any part of the construction, alteration, repairing, dismantling or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains and every other type of structure as an improvement, alteration or development of real property but shall not include draypersons as defined in §2301(a)."

Section 2. AMEND §2501(3), Title 30, Delaware Code, by striking the phrase "construction contractor" as it appears in said subsection and substitute in lieu thereof the phrase: "construction or construction transportation contractor".

Section 3. AMEND §2501(4), Title 30, Delaware Code, by striking the phrase "construction contractor" as it appears in said subsection and substitute in lieu thereof the phrase: "construction or construction transportation contractor".

Section 4. AMEND §2501(5)c., Title 30, Delaware Code, by designating said paragraph as subdivision 1. of said paragraph and adding to said paragraph c. a new subdivision 2. to read as follows:

"2. In the case of a construction transportation contractor, all sums received for transporting tangible property of other persons as set forth in §2501 but does not include sums paid to draypersons in connection with such contracts, provided said draypersons are subject to Chapter 23 of this Title."

Section 5. This Act shall be effective for tax years commencing after December 31, 1999.

Approved July 16, 1999

CHAPTER 167

FORMERLY

HOUSE BILL NO. 404

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE ESTABLISHMENT OF THE OFFICE OF CHILD ADVOCATE.

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

Section 1. Amend Chapter 90A, Title 29 of the Delaware Code, by re-designating Chapter 90A as Chapter 90B, and by re-designating the capital "A" after each section number as capital "B".

Section 2. Amend Title 29 of the Delaware Code by creating a new Chapter 90A to read as follows:

"CHAPTER 90A. OFFICE OF CHILD ADVOCATE

§ 9001A. Intent and purpose.

The General Assembly hereby declares that the welfare of the children of this State shall be safeguarded by the establishment of an Office of Child Advocate, with a Child Advocate who shall serve as Executive Director of the Child Protection Accountability Commission. The Child Advocate shall be responsible for effectuating the purposes of the Commission. The Advocate shall also coordinate efforts on behalf of children; work with advocacy groups; promote system reform; recommend changes in law, procedure, and policy necessary to enhance the protection of Delaware's children; and to implement and coordinate a program providing contractual legal representation on behalf of a child. In order to effectuate these goals, the Child Advocate shall be an attorney duly licensed to practice law in Delaware.

§ 9002A. Definitions.

For the purposes of this Chapter, unless the context indicates differently:

(1) 'abused child' means a child who has suffered any physical injury inflicted by a person responsible for the care, custody, and control of the child through unjustified force pursuant to 11 Del. C. § 468(1), emotional abuse, torture, criminally negligent treatment, sexual abuse, exploitation, maltreatment, or mistreatment;

(2) 'adequate care' means a type and degree of personalized attention that will tend to advance a child's physical, mental, emotional, and general well-being;

(3) 'adult' means a person who has reached his or her 18th birthday;

(4) 'child' or 'children' means persons who have not reached their 18th birthday;

(5) 'Commission' means the Child Protection Accountability Commission;

(6) 'Department' means the Department of Services for Children, Youth and Their Families of the State of Delaware;

(7) 'dependent child' means a child whose physical, mental, or emotional health and well-being is threatened or impaired because of inadequate care and protection by the child's custodian, who is unable to provide adequate care for the child, whether or not caused by the child's behavior; provided, however, that for the purposes of this chapter, 'dependent child' may include a child who has been placed in a non-related home on a permanent basis without the consent and approval of the Division of Family Services or any agency licensed thereby to place a child in a non-related home, or a child who has been placed with a licensed agency which certifies it cannot complete a suitable adoption plan; and

(8) 'neglected child' means a child whose physical, mental, or emotional health and well-being is threatened or impaired because of inadequate care and protection by the child's custodian who has the ability and financial means to provide for the child but does not or will not provide adequate care, or a child who has been abused or neglected as defined by 16 Del. C. § 902. For purposes of this chapter, no child whose parent, guardian, or other person legally charged with care or custody of the child, provides the child treatment in accordance with a religious method of healing, in lieu of medical treatment, shall for that reason alone, be considered a neglected child.

§ 9003A. Appointment and Dismissal.

The Child Advocate shall be appointed by the Executive Committee of the Child Protection Accountability Commission and shall serve at its pleasure.

§ 9004A. Appropriation for expenses.

The General Assembly may annually appropriate such sums as it may deem necessary for the payment of the salary of the Child Advocate, the assistants, and the staff, and for the payment of actual expenses incurred by the Office of Child Advocate.

§ 9005A. Duties of the Child Advocate.

The Child Advocate shall perform the following duties:

(1) Take all possible actions, including programs of public education and legislative advocacy, to secure and ensure the legal, civil, and special rights of the children;

(2) Review periodically relevant policies and procedures with a view toward the rights of children;

(3) Refer any person making a complaint or report required by Chapter 9 of Title 16 of the Delaware Code to the Division of Family Services, and, if warranted, to an appropriate police agency. If a complaint or report includes an allegation of misconduct against a Department employee, the complaint or report must also be referred to the Secretary of the Department;

(4) Recommend changes in the procedures for investigating and overseeing the welfare of children;

(5) To make the public aware of the services of the Child Advocate and the Commission, its purpose, and how it can be contacted;

(6) To apply for and accept grants, gifts and bequests of funds from other state, federal and interstate agencies, as well as from private firms, individuals, and foundations, for the purpose of carrying out the Commission's lawful responsibilities. The funds must be deposited with the State Treasurer in a restricted receipt account established to permit funds to be expended in accordance with the provision of the grant, gift, or bequest;

(7) 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 courts, the medical community and law enforcement agencies;

(8) Review and make recommendations concerning investigative procedures and emergency responses pursuant to this chapter;

(9) Develop and provide quality training to Division staff, Deputy Attorneys General, law enforcement officers, the medical community, family court personnel, educators, day care providers and others on the various standards, criteria and investigative technology used in these cases;

(10) Submit an annual report analyzing the work of the office that shall be included in the Child Protection Accountability Commission's annual report; and

(11) Take whatever other actions are necessary to help the Commission accomplish its goals.

§ 9006A. Confidentiality.

All records of the Office of Child Advocate pertaining to the care and treatment of a child are confidential. Information contained in those records may not be disclosed in such a manner as to identify individuals, except for good cause shown on order of a court, or if, in the judgment of the Commission, disclosure of identifying information to an appropriate governmental agency is in the best interest of the child.

§ 9007A. Legal Representation of Children.

(1) The Child Advocate shall implement and coordinate a program providing for pro bono or contractual attorneys who shall represent the best interests as described in Section 722 of Title 13 of the Delaware Code of abused, neglected or dependent children. In determining whether to appoint or hire an attorney under this program, the Child Advocate may communicate with any child at issue and may have access to all information relating to that child held or maintained by the Division of Family Services. While the appointed attorney shall consider the wishes of the child, the attorney need not adopt such wishes in making his or her recommendations to the court unless they serve the child's best interests as described above. The appointed attorney shall also appear, when appropriate, on behalf of a child before the Victim's Compensation Board to pursue a claim for the child. When an attorney has been appointed to represent a child pursuant to this chapter, the Court shall allow the attorney to participate fully in all relevant proceedings.

(2) Notwithstanding any provision of this chapter to the contrary, the Office of Child Advocate shall in no way intervene in any pending criminal investigation or prosecution, and shall provide no legal representation or advice to any suspect, defendant or respondent in any open criminal investigation or prosecution.

§ 9008A. Indemnification from liability.

No attorney, director, investigator, social worker, or other person employed by the Office of Child Advocate shall be subject to suit directly, derivatively, or by way of contribution or indemnification for any civil damages under the laws of Delaware resulting from any act or omission performed during or in connection with the discharge of his or her duties with the Office within the scope of his or her employment or appointment, unless the act or omission was done with gross or wanton negligence, or maliciously, or in bad faith."

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 severable.

Approved July 16, 1999

CHAPTER 168

FORMERLY

SENATE BILL NO. 20
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1 and 2

AN ACT TO AMEND TITLE 16 RELATING TO CERTIFIED NURSING ASSISTANTS.

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

Section 1. Amend Title 16 of the Delaware Code by adding a new Chapter 30A, to read as follows:

"Chapter 30A. Training and Qualifications for Nursing Assistants and Certified Nursing Assistants.

§3001A. Definitions.

As used in this chapter:

(a) 'Certified Nursing Assistant' means a duly-certified individual under the supervision of a licensed nurse, who provides care that does not require the judgment and skills of a licensed nurse. The care may include, but is not limited to, the following; bathing, dressing, grooming, toileting, ambulating, transferring and feeding, observing and reporting the general well-being for the person(s) to whom they are providing care.

(b) 'Department' means the Department of Health & Social Services.

(c) 'Nursing Assistant' means an individual who has completed the requisite training to become a Certified Nursing Assistant but is awaiting certification.

(d) 'Senior Certified Nursing Assistant' means a Certified Nursing Assistant who has met the requirements of §3005A of this Title.

§3002A. Certified Nursing Assistant Training.

To obtain certification as a Certified Nursing Assistant, all trainees must complete a total of 150 hours of training, 75 of which are in the classroom and 75 of which include clinical training. For the purpose of calculating minimum levels of staffing required at a facility pursuant to statute or regulation, an individual who has completed 75 hours of classroom and 37.5 hours of clinical training in a facility sponsored training program may be considered as a member of such facility's staff while undergoing the last 37.5 hours of clinical training at such facility.

§3003A. Composition of CNA Training Course & Curriculum.

All courses in this State offering certification to individuals as Certified Nursing Assistants must have the following:

(1) A student to teacher ratio of no greater than 24 students to 1 registered nurse instructor for the classroom portion of the training;

(2) A student to teacher ratio of no greater than 8 students to 1 registered nurse instructor for all clinical phases of the program; and

(3) A curriculum complying with requirements mandated by the Department through regulations promulgated pursuant to this Chapter.

§3004A. Mandatory Orientation Period.

(a) All Nursing Assistants hired to work in a skilled care or intermediate care facility, after completing 150 hours of instruction under this Chapter, shall undergo a minimum 80 hours of orientation at least 40 of which shall be clinical. Nursing Assistants hired to work in an assisted living facility, after completing 150 hours of instruction under this Chapter, shall undergo a minimum 64 hours of

orientation, at least 24 of which shall be clinical. While undergoing orientation, Nursing Assistants shall have direct physical contact with residents only while under the visual observation of a Certified Nursing Assistant or licensed nurse employed by the facility. Any Nursing Assistant undergoing orientation may be considered a facility employee for purposes of satisfying the minimum facility staffing requirements set by the Department. A Nursing Assistant who has undergone 150 hours of training in a training program sponsored by the facility where the assistant will be employed immediately thereafter shall be required to complete additional facility specific orientation of 40 hours in a skilled nursing facility or 32 hours in an assisted living facility. The guidelines for Nursing Assistant orientation shall be promulgated by the Department.

(b) All Certified Nursing Assistants hired to work in a skilled care or intermediate care facility shall undergo a minimum 80 hours of orientation, at least 40 of which shall be clinical. Certified Nursing Assistants hired to work in an assisted living facility shall undergo a minimum 64 hours of orientation at least 24 of which shall be clinical. Any Certified Nursing Assistant undergoing orientation may be considered a facility employee for purposes of satisfying the minimum facility staffing requirements set by this Chapter and the Department. The guidelines for Certified Nursing Assistant orientation shall be promulgated by the Department.

(c) All Certified Nursing Assistants employed by temporary agencies and placed in a facility in which they have not worked within the previous 6 months shall undergo a minimum of 2 hours of orientation prior to beginning their first shift at that facility, the guidelines for which shall be promulgated by the Department. Any Certified Nursing Assistant employed by a temporary agency and undergoing orientation shall not be considered a facility employee for purposes of satisfying the minimum facility staffing requirements set by the Department.

§3005A. Senior Certified Nursing Assistant Certification.

Any Certified Nursing Assistant may pursue designation as a Senior Certified Nursing Assistant, and shall be so designated if such individual meets the following requirements:

- (1) Has been a Certified Nursing Assistant in good standing for a minimum of 3 years;
- (2) Has successfully completed an additional 50 hours of instruction in an approved program featuring a curriculum specified by the Department; and
- (3) Has passed a competency test issued pursuant to the guidelines delineated by the Department.

§3006A. Promulgation of Regulation.

The Department shall promulgate rules and regulations to implement this Chapter."

Section 2. It is the intent of the General Assembly that the costs to those entities administering these courses be offset to the fullest extent possible by the various state and federal training funds available for such matters.

Section 3. Any person who is certified as a certified nursing assistant as of the effective date of this act shall not be required to complete additional training as required under §3002A of this Act.

Section 4. This Act shall become effective 60 days after the Department's promulgation of regulation thereunder.

CHAPTER 169
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 89

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO POST-RETIREMENT LUMP SUM DEATH BENEFITS.

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

Section 1. Amend §5316, Title 29 of the Delaware Code by deleting the amount "\$5,000" as it appears therein, and inserting in lieu thereof the amount, "\$6,000". Further amend §5316, Title 29 of the Delaware Code by deleting paragraph (c) as it appears therein in its entirety.

Section 2. Amend §5546, Title 29 of the Delaware Code by deleting the amount "\$5,000" as it appears therein, and inserting in lieu thereof the amount, "\$6,000".

Section 3. This Act shall be effective for death benefits payable for decedents dying after June 30, 1999.

Approved July 16, 1999

CHAPTER 170
FORMERLY
SENATE BILL NO. 119

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE PREVAILING WAGE REQUIREMENTS.

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

Section 1. Amend 29 Del. C. §6960 by adding a new subsection (c) to read as follows:

"(c) A Prevailing Wage Advisory Council is hereby established to assist the Department in carrying out its duties under the prevailing wage law. Such advisory council shall be appointed by the Secretary of Labor, shall be convened by the Director of the Division of Industrial Affairs (who shall serve as a non-voting member), and shall consist of ten representatives from construction industry organizations/associations. The members shall be appointed for a term of three years provided, however, that the initial members may be appointed to terms shorter than three years but not less than one year to ensure staggered term expirations. The members shall receive no compensation."

Approved July 16, 1999

CHAPTER 171

FORMERLY

SENATE BILL NO. 188

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE BOARD OF MEDICAL PRACTICE.

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

Section 1. Amend Title 24 of the Delaware Code by creating a new paragraph 1770B(e)(8)d. to read as follows:

"d. The Executive Director of the Board of Medical Practice, with the concurrence of one officer of the Respiratory Care Practice Advisory Council may also grant a temporary permit to an applicant for full Delaware licensure provided the applicant has presented a completed application. Such Temporary Permit shall be valid for a period of not more than 90 days and shall not be renewed. Only one temporary permit will be issued to an individual."

Approved July 16,1999

CHAPTER 172

FORMERLY

SENATE BILL NO. 194

AS AMENDED BY HOUSE AMENDMENT NOS. 1,2 AND 3

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE PRACTICE OF OPTOMETRY.

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

Section 1. Amend §2101(a), Title 24 of the Delaware Code by inserting the words "the dispensing of" between the word "including" and the words "contact lenses" in the first clause of the third sentence of subsection (a).

Section 2. Further amend §2101(a), Title 24 of the Delaware Code by deleting the semi-colon after the words "contact lenses" and inserting the phrase "which must be dispensed in accordance with a written, current contact lens prescription from a licensed physician or optometrist, which includes such information as the Board shall specify by rule or regulation."

Section 3. Further Amend §2101(a), Title 24 of the Delaware Code by inserting before the words "the determination," the phrase "the practice of optometry also includes."

Section 4. Amend §2113(a), Title 24 of the Delaware Code by striking the word "or" at the end of subsection (11) and adding subsections (13) and (14) as follows:

"(13) has engaged in illegal, negligent, or unethical conduct in the practice of optometry; or

(14) has violated any provision of this chapter or any rule or regulation of the Board."

Section 5. Amend §2121, Title 24 of the Delaware Code by striking subsection (d) in its entirety and replacing it with a new subsection (d) as follows:

"(d) In the event that any optometrist licensed in this State fails to meet continuing education requirements, his or her license shall lapse, and not be eligible for renewal, at the end of the licensing period in which the requirements were not met. The Board may provide for hardship exceptions to the continuing education requirements in its rules and regulations. Subject to the time period for renewal established pursuant to §2112 of this title, the Board shall renew such

license upon presentation of satisfactory evidence of successful completion of continuing education requirements and upon payment of all fees due."

Section 8. Rules and regulations.

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

Approved July 16,1999

CHAPTER 173

FORMERLY

SENATE BILL NO. 201

AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 5

AN ACT TO AMEND TITLES 11, 14, AND 16 OF THE DELAWARE CODE RELATING TO THE DELAWARE CRIMINAL CODE, THE DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES, THE PUBLIC HEALTH AND SAFETY AND THE PROTECTION OF CHILDREN FROM ACTS OF ABUSE OR NEGLECT.

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

Section 1. Amend §612(a), Title 11 of the Delaware Code by adding a new paragraph designated §612(a)(10) as follows:

"(a)(10) A person who is 18 years of age or older and who recklessly or intentionally causes physical injury to another person who has not yet reached the age of six years. In any prosecution of a parent, guardian, foster parent, legal custodian, or other person similarly responsible for the general care and supervision of a child victim pursuant to this paragraph, the State shall be required to prove beyond a reasonable doubt the absence of any justification offered by §468(1) of this Title. In any prosecution of a teacher or school administrator pursuant to this paragraph, the State shall be required to prove beyond a reasonable doubt the absence of any justification offered by §468(2) of this Title."

Section 2. Amend § 612, Title 11 of the Delaware Code by redesignating the current § 612(c) as § 612(d) and by adding thereto a new §612(c) as follows:

"(c) It is no defense, for an offense under subsection (a)(10) of this section, that the accused did not know the person's age or that the accused reasonably believed the person to be six years of age or older."

Section 3. Amend §3001, Title 14 of the Delaware Code by adding thereto a new paragraph designated as §3001(e), as follows:

"(e) All public and private providers contracting with the Department of Education pursuant to this section shall ensure that each and every employee receives a minimum of one hour of training every year in the detection and reporting of child abuse. Such training, and all materials used in such training, shall be prepared by the Division of Family Services."

Section 4. Amend Title 14 of the Delaware Code by inserting as new section designated as §4123, which new section shall read as follows:

"§4123. Child Abuse Detection/Reporting Training.

(a) Each public school shall ensure that each full-time teacher receives one hour of training every year in detection and reporting of child abuse. This training, and all materials used in such training, shall be prepared by the Division of Family Services.

(b) Any in-service training required by this section shall be provided within the contracted school year as provided in §1305(e) of this Title."

Section 5. Amend §906, Title 16 of the Delaware Code by deleting subsections (b)(3) and (b)(4) in their entirety and substituting in lieu thereof the following:

- (b)(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 a person responsible for the care, custody and control of the child of 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, or 1259, or an attempt to commit any such crimes. The Division staff shall also contact the appropriate law enforcement agency upon receipt of any report 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;
- (b)(4) The assisting law enforcement agency shall promptly conduct its own criminal investigation, and keep the Division regularly apprised of the status and findings of its investigation. Law enforcement agencies and the Division shall develop protocols to ensure compliance with this subsection."

Section 6. Amend §910, Title 16, Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"(a) Whenever an investigation has been opened with the Division pursuant to Section 906 of this Title for potential abuse or neglect of a child, the Division shall have the authority to request an order from the Family Court (i) to obtain access to the child, or children, and the residence of child, or children, (ii) to compel the appearance of a person at an office of the Division in furtherance of the investigation, (iii) or to compel compliance with a treatment plan previously agreed to by a child's parent or guardian, if non-compliance with the plan endangers a child's safety. The Family Court shall issue such an order upon the showing of 'need' by the Division and shall enforce noncompliance with such an order pursuant to Section 925(3) of Title 10. Formal notice of a request under this section shall be provided to the respondent prior to the filing of the request with the Family Court provided that orders pursuant to this section may be granted on an ex parte basis if the child, or children, at issue are at risk of imminent physical danger. The Family Court shall consider all requests pursuant to this section within two business days of the request being made.

(b) For purposes of this section, 'need' shall mean:

- (1) that the Division has in good faith attempted on at least two separate prior occasions, at least one of which was by written communication sent by certified mail, return receipt requested, to contact the person in question without success; or
- (2) that a child is in danger of imminent physical injury due to the Division's inability to communicate with the person or see the child or the child's residence."

Section 7. Amend §907, Title 16 of the Delaware Code by deleting the last sentence of §907(d) in its entirety and by inserting a new paragraph "(e)" as follows:

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"(e) A Division investigator conducting an investigation pursuant to § 906 shall have the same authority as that granted to a police officer or physician in paragraph (a) of this section, subject to all the same conditions as those listed in paragraphs (a) through (d) of this section, provided that the child in question is located at a school, day care facility, or child care facility at the time that the authority is initially exercised. In no other case shall an employee of the Division exercise custody under this section.

Approved July 16, 1999

CHAPTER 174

FORMERLY

SENATE BILL NO. 211

AN ACT TO AMEND TITLE 14 AND TITLE 29 OF THE DELAWARE CODE RELATING TO ADOPTION AND BIRTH LEAVE FOR SCHOOL AND STATE EMPLOYEES.

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

Section 1. Amend Title 14 of the Delaware Code by adding thereto a new section designated as § 1333, which new section shall read as follows:

"§ 1333. Paid leave for Birth of a Child or Adoption of a Child.

"For child care purposes, a full-time or part-time employee of a reorganized school district, shall be entitled to utilize accumulated sick leave upon the birth of a child of the employee or the employee's spouse, or upon the adoption by the employee of a pre-kindergarten age child for maternity leave."

Section 2. Amend Title 29 of the Delaware Code by adding thereto a new section designated as § 5120, which new section shall read as follows:

"§ 5120. Paid Leave for Birth of a Child or Adoption of a Child.

"For child care purposes, a full-time or part-time employee shall be entitled to utilize accumulated sick leave upon the birth of a child of the employee or the employee's spouse, or upon the adoption by the employee of a pre-kindergarten age child as per the rules and regulations adopted by the Merit Employee Relations Board or State Personnel Office for maternity leave. Said regulations shall be issued within 30 days of this Bill's enactment into law."

Approved July 16, 1999

CHAPTER 175

FORMERLY

SENATE BILL NO. 213

AN ACT TO AMEND AN ACT BEING CHAPTER 170, VOLUME 57, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE CITY OF LEWES" TO REVISE CERTAIN SECTIONS THEREOF PERTAINING TO OFFICERS AND OTHER OFFICIALS AND THE APPOINTMENT AND REMOVAL PROCESS THEREFOR AND TO PROVIDE FOR OTHER CLARIFICATION THROUGHOUT.

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 3, Subsection (a), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking from the third sentence the words "the Mayor and" so that the last clause of that sentence reads as follows: "...the committee shall submit a written report containing its findings and conclusions to the City Council of the City of Lewes."

Section 3, Subsection (c), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking from the first sentence the words "the Mayor and" so that the last clause of that sentence reads as follows: "...the committee shall submit a written report containing its findings and conclusions to the City Council."

Section 3, Subsection (l), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking from the fourth sentence thereof the words "the Mayor and" so that the last clause of that sentence reads as follows: "...the committee shall submit a written report containing its findings and conclusions to the City Council."

Section 4, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by numbering the first paragraph thereof as "(a)" and by striking the last sentence thereof and substituting in lieu thereof a new subsection designated as "(b)" as follows:

"(b) The City Council shall be composed five (5) members, four (4) of whom shall be known as Council Persons, and one of whom shall be the Mayor; each of the Council Person's and the Mayor's terms shall be for a period of two (2) years commencing at the annual meeting of the City Council following his or her election and continuing until his or her successor is duly elected and qualified."

Section 4, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by adding a new subsection designated "(c)" to read as follows:

"(c) The Mayor and members of Council shall be entitled to vote in all matters."

Section 8, Subsection (a), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking from the second sentence the phrase "the Mayor and City Council" and substitute in lieu thereof the phrase "the Mayor and Council Persons."

Section 8, Subsection (b), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking said subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) At this Annual Meeting, held on the first regular meeting following the annual municipal election, the City Council shall organize and the Mayor, by and with the advice and consent of a majority of all of the members of the City Council, shall appoint a Deputy Mayor, who shall hold office for the term of one (1) year or until his successor shall be duly elected. The Mayor, by and with the advice and consent of a majority of all the members of the City Council, shall appoint a Secretary from its own number to serve until the first regular meeting after the next annual municipal election. The Mayor, by and with the advice and consent of a majority of all the members of the City Council, shall appoint and Assistant Secretary, who may or may not be a member of the City Council, to serve as aforesaid, and such other officers and employees as may be determined to be necessary."

Section 9, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by the word "other" after the word "any" in the third sentence thereof.

Section 15, titled "Duties of Mayor and President of City Council", Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking from the title the words "and President of City Council."

Section 15, Subsection (a), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking the words "the Mayor of the City of Lewes shall be President of the City Council and shall preside at all meeting thereof but shall vote only in the event of a tie" and substituting in lieu thereof the words "the Mayor of the City of Lewes shall preside at all meetings of City Council."

Section 15, Subsection (b), (c) and (d), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking said subsections in their entirety and renumbering Subsection (e) as (b), (f) as (c) and (g) as (d).

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Section 15, formerly Subsection (e) now Subsection (b), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking said section in its entirety and substituting in lieu thereof the following:

"(b) The Mayor may, be and with the consent or upon the address of a majority of all members of the Council, remove from office any person appointed by him or her or by any of the Mayor's predecessors."

Section 18, Subsection (a), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking said subsection (a) in its entirety and substituting in lieu thereof the following:

"(a) The Mayor, by and with the advice and consent of a majority of all the members of the City Council, may appoint some suitable person to act as Alderman and may appoint some suitable person to act as Assistant Alderman. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be at least twenty-one (21) years of age, shall be of good character and reputation and shall be a resident of the City of Lewes and shall not be a member of the City Council of the City of Lewes. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be appointed for a term of one (1) year or until his successor shall be duly appointed. Either the Alderman or the Assistant Alderman may be removed from office at any time, with or without cause, by the affirmative vote of a majority of all the members of the City Council of the City of Lewes."

Section 19, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking said section in its entirety and substituting in lieu thereof the following:

"Section 19.

(a) The Mayor, by and with the advice and consent of a majority of all the members of City Council, shall appoint a City Manager, who shall be the Chief Administrative Officer of the City. The City Manager shall be responsible to the Mayor and the City Council for the proper administration of the affairs of the City placed in his or her charge.

(b) The City Council shall impose such qualifications for City Manager as may be deemed necessary; provided, however, that no person holding the office of Mayor or the office of City Councilperson of the City of Lewes shall, during the term for which elected, be appointed to act as City Manager.

(c) The City Manager shall hold office for an indefinite term and may be removed by a majority vote of all the members of the City Council. At least thirty (30) days before such removal shall become effective, the City Council shall, by a majority vote of all the members thereof, adopt a preliminary resolution stating the reason for his or her removal. The City Manager, within ten (10) days after a copy of the resolution is delivered to him or her may request in writing an opportunity to be heard by the Mayor and City Council. The City Manager shall have the option to indicate whether or not he or she wishes the hearing to be public by so stating in his or her request; otherwise any hearing shall be private. This hearing shall be held no earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such hearing, if one is requested, and after full consideration, the City Council, by majority vote of all the members thereof, may adopt a final resolution of removal. By the preliminary resolution, the City Council may suspend the City Manager from duty but shall in any case cause to be paid him or her forthwith any unpaid balance of his or her salary and shall continue to pay his or her salary for the period of suspension up to three (3) calendar months following adoption of the preliminary resolution. After that period any further compensation shall be at the discretion of the City Council.

(d) In case of absence, disability, or suspension of the City Manager, the Mayor, with the concurrence of a majority of all the members of the City Council may designate some qualified person to perform the duties of the office during such absence, disability or suspension.

(e) The compensation which the City Manager shall receive for the performance of his or her duties shall be fixed by the City Council."

Section 21, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking the first paragraph of Section 21 and substituting in lieu thereof a new subsection to be designated (a) as follows:

"(a) At the first regular meeting of the City Council following the annual election in each year, the Mayor, by and with the advice and consent of the majority of all of the members of the City Council, shall appoint a Treasurer who shall be a member of the City Council for a term of one (1) year. The Treasurer may be removed from office at any time, with or without cause, by the affirmative vote of a majority of all the members of the City Council. In the event that the office of Treasurer shall become vacant by reason of death, resignation, removal or otherwise, the Mayor, by and with the advice and consent of a majority of all the members of City Council, at the

next regular meeting after said office shall have become vacant, shall appoint a proper person as defined herein to serve for the balance of the unexpired term of the said office."

Section 21, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by designating the existing second paragraph of the section as Subsection (b).

Section 22, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking said section in its entirety and substituting in lieu thereof the following:

"Section 22. At the first regular meeting following the annual election, the Mayor, by and with the advice and consent of a majority of all the members of the City Council, shall appoint a City Solicitor for a term of one (1) year. The City Solicitor shall be a member in good standing of the Bar of the State of Delaware. It shall be his or her duty to give legal advice to the Mayor and City Council and other officers of the City and to perform such other legal services as may be required by the City Council. The City Solicitor may be removed from office at any time, with or without cause, by the affirmative vote of a majority of all the members of the City Council of the City of Lewes."

Section 23, Subsection (a), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking said subsection (a) in its entirety and substituting in lieu thereof the following:

"(a) The Board of Health shall consist of four (4) members, one of whom shall be a practicing physician with an office in the City. The Mayor, by and with the advice and consent of a majority of all the members of the City Council, shall appoint the Board of Health for a term of one (1) year or until their successors are duly appointed and qualified. The members of the Board of Health may be removed from office at any time, with or without cause, by the affirmative vote of a majority of all the members of the City Council. The Board of Health shall have cognizance of and interest in the life and health of the people of the City. It shall report to the City Council, in writing, whatever is deemed by the Board to be injurious to the health of the people of the City, and shall make recommendations to the City Council concerning whatever may contribute to the health and sanitation of the people. The Board shall organize, by the election of a President and a Secretary, within thirty (30) days after the notice of their appointments and shall keep a record of their proceedings and acts. The Secretary shall be the executive officer of the Board."

Section 24, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking said section in its entirety and substituting in lieu thereof the following:

"Section 24.

(a) The Chief of Police shall be appointed for an indefinite term by the Mayor by and with the advice and consent of a majority of all the members of the City Council and may be removed for just cause by a majority vote of all the members of the City Council.

(b) The subordinate members of the police force shall each be appointed for an indefinite term by the Mayor, upon recommendation of the Chief of Police, by and with the advice and consent of majority of all the members of the City Council, and may be removed by a vote of a majority of all the members of the City Council.

(c) The police force shall preserve peace and order and shall compel obedience within the corporate limits of the City to the Ordinances of the City and the laws of the State of Delaware. The police force shall have such other duties as the City Council shall from time to time prescribe. Operational control of the daily routine of the police force shall be the responsibility of the Police Chief. The authority of the Police Chief shall be answerable to the Mayor and the City Council.

(d) Each member of the police force shall be vested, within the City limits, with all the powers and authority of a State Police Officer, and, in the case of pursuit of an offender, the power and authority shall be without territorial limitations. They shall be conservators of the peace throughout the City and they shall suppress all acts of violence and enforce all laws relating to the safety of persons and property. They shall compel the enforcement of all ordinances enacted by the Mayor and City Council and all criminal, motor vehicle laws and violations enacted by the State of Delaware.

(e) Every person sentenced to imprisonment shall be delivered by a member of the police force to the correctional institution located in Sussex County or held in appropriate holding facilities to be there imprisoned for the term of such sentence.

(f) It shall be the duty of the police force to suppress riotous, disorderly or turbulent assemblages of persons in all public ways and places of the City, and, upon view of the above or upon view of any violation of any ordinance of the City relating to the peace and good order thereof, the police force shall have the right and

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power to arrest without warrant and to take the offender before the Alderman, Assistant Alderman or before any Justice of the Peace in Sussex County for hearing thereon. In the case of an arrest at a time when the Alderman, or the Assistant Alderman or the Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Sussex County or held in appropriate holding facilities until such reasonable time thereafter as shall enable the Alderman or Assistant Alderman or the Justice of the Peace to hear and determine the charge against such person."

Section 25, Subsection (a), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking said subsection (a) in its entirety and substituting in lieu thereof the following:

"(a) At the first regular meeting following the annual municipal election, the mayor, by and with the advice and consent of a majority of all the members of City Council, shall appoint a bona fide resident being a freeholder or leaseholder as defined herein of the City to be the Assessor."

Section 25, Subsection (b), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by adding to the end thereof the following:

"The Assessor may be removed from office at any time, with or without cause, by the affirmative vote of a majority of all the members of the City Council."

Section 34, Subsection (e), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking the reference to "the Farmers Bank of the State of Delaware" in the last sentence thereof and substituting in lieu thereof "a banking institution as may be described by the City Council, which institution shall be licensed in the State of Delaware and insured by the Federal Deposit Insurance Corporation or its successor...."

Section 38, Subsection (b), Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking said subsection in its entirety and deleting the designation "(a)".

Section 40, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby repealed in its entirety.

Approved July 16, 1999

CHAPTER 176

FORMERLY

SENATE BILL NO. 216

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO COSMETOLOGY AND BARBERING.

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

Section 1. Amend § 5116(b), Title 24, of the Delaware Code by striking the term, "\$50" as it appears therein and by inserting in lieu thereof the words, "not less than \$100 nor more than \$500".

Section 2. Amend § 5116(c), Title 24, of the Delaware Code by striking the words, "increased by \$250" and by inserting in lieu thereof the words, "not less than \$500 nor more than \$1,000".

Approved July 16, 1999

CHAPTER 177

FORMERLY

SENATE BILL NO. 217

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE BOARD OF COSMETOLOGY AND BARBERING.

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

Section 1. Amend § 5104(a), Title 24, of the Delaware Code by inserting, between the first and second sentences of said subsection, the following:

"When making appointments to the Board, the Governor shall make every effort to ensure that the composition of the Board accurately reflects the various disciplines within the cosmetology and barbering industry."

Approved July 16, 1999

CHAPTER 178

FORMERLY

SENATE BILL NO. 218

AN ACT TO AMEND CHAPTER 64, VOLUME 63, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF OCEAN VIEW, IN SUSSEX COUNTY" AS IT RELATES TO THE CONDUCT OF ELECTIONS.

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

Section 1. Amend Section 2.113(a), Chapter 64, Volume 63, Laws of Delaware, by deleting from the first sentence thereof the phrase "7:00 p.m." and inserting in lieu thereof the phrase "5:00 p.m."

Approved July 16, 1999

CHAPTER 179

FORMERLY

SENATE BILL NO. 230

AN ACT TO AMEND TITLE 13 AND 16 OF THE DELAWARE CODE RELATING TO THE TERMINATION OF PARENTAL RIGHTS, AND THE REPORTING OF ABUSE OR NEGLECT.

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

Section 1. Amend §1103(a)(4)(a) of Title 13, Delaware Code, by deleting the text in that subparagraph and substituting in lieu thereof the following:

"Committed a felony level offense against the person, as described within subchapter II of Chapter 5 of Title 11, in which the victim was a child; or".

Section 2. Amend §1103(a)(4) of Title 13, Delaware Code, by adding a new subparagraph d. to read as follows:

"d. committed the felony level offense of Endangering the Welfare of a Child as set forth in §1102 of Title 11 of the Delaware Code."

Section 3. Amend Section 902, Title 16, Delaware Code, by redesignating the current subsections (7) through (12) as (8) through (13), and adding a new subsection (7) to read as follows:

"(7) 'good faith' shall be presumed in the absence of evidence of malice or willful misconduct."

Section 4. Amend Section 903, Title 16, Delaware Code, by deleting the word "reasonably" and substituting in lieu thereof the words "in good faith", and by adding a second sentence to read as follows:

"In addition to and not in lieu of reporting to the Division of Family Services, any such person may also give oral or written notification of said knowledge or suspicion to any police officer who is in the presence of such person for the purpose of rendering assistance to the child in question or investigating the cause of the child's injuries or condition."

Section 5. Amend Section 908, Title 16, Delaware Code by adding the words "or notifying police officers" after the word "report" in the first sentence thereof.

Approved July 16,1999

CHAPTER 180

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 100
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE INVASION OF PRIVACY.

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

Section 1. Amend § 1335, Title 11 of the Delaware Code, by adding a new subsection to subsection § 1335(a) as follows:

“(6) Tape records, photographs, films, videotapes, or otherwise reproduces the image of another person who is getting dressed or undressed or has his/her genitals, buttocks or her breasts exposed, without consent, in any place where persons normally disrobe including but not limited to a fitting room, dressing room, locker room or bathroom, where there is a reasonable expectation of privacy. This paragraph shall not apply to any acts done by a parent or guardian inside of his or her dwelling, or upon his or her real property, when a subject of victim of such acts is intended to be any child of such parent or guardian who has not yet reached his or her eighteenth birthday and whose primary residence is in or upon the dwelling or real property of the parent or guardian, unless the acts done by the parent or guardian are intended to produce sexual gratification for any person in which case this paragraph shall apply.”

Section 2. Amend § 1335(c), Title 11 of the Delaware Code, by adding after the word “misdemeanor” the following phrase:

“, except that any offense under § 1335(a)(6) shall be a Class G felony.”

Section 3. Amend § 1335(a)(2), Title 11 of the Delaware Code, by deleting the words “or uses any such unauthorized installation” appearing therein.

Section 4. This Act shall be effective upon enactment.

Approved July 20, 1999

CHAPTER 181

FORMERLY

HOUSE BILL NO. 162
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE REGULATION OF
MIDWIFERY IN THE STATE OF DELAWARE.

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

Section 1. AMEND § 122 (3)(h) Title 16 of the Delaware Code by deleting the phrase in its entirety and replacing it with the following: "Control the practice of non-nurse midwives including the issuance of permits and protect and promote the health of all mothers and children."

Section 2. This provision is effective January 1, 2000.

Approved July 20, 1999

CHAPTER 182

FORMERLY

HOUSE BILL NO. 180
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DELAWARE TOBACCO
SETTLEMENT ACT OF 1999.

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

Section 1. Amend Title 29, Chapter 60 C. of the Delaware Code by enacting the following as a new Chapter 60C entitled "Delaware Tobacco Settlement Act of 1999".

"Chapter 60C. Delaware Tobacco Settlement Act of 1999.

Section 6080. Findings and Purpose.

(a) Cigarette smoking presents serious public health concerns to the State and to the citizens of the State. The Surgeon General has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(b) Cigarette smoking also presents serious financial concerns for the State. Under certain health-care programs, the State may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance.

(c) Under these programs, the State pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking.

(d) It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State to the extent that such manufacturers either determine to enter into a settlement with the State or are found culpable by the courts.

(e) On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the 'Master Settlement Agreement,' with the State. The

Master Settlement Agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to the state (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

(f) It would be contrary to the policy of the State if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the State will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in the interest of the State to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise.

Section 6081. Definitions.

(a) 'Adjusted for inflation' means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(b) 'Affiliate' means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms 'owns,' 'is owned' and 'ownership' mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term 'person' means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(c) 'Allocable share' means Allocable Share as that term is defined in the Master Settlement Agreement.

(d) 'Cigarette' means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1) of this definition. The term 'cigarette' includes 'roll-your-own' (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of 'cigarette,' 0.09 ounces of 'roll-your-own' tobacco shall constitute one individual 'cigarette.'

(e) 'Master Settlement Agreement' means the settlement agreement (and related documents) entered into on November, 1998 by the State and leading United States tobacco product manufacturers.

(f) 'Qualified escrow fund' means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or direction the use of the funds' principal except as consistent with Section 6082 (b) of this Act.

(g) 'Released claims' means Released Claims as that term is defined in the Master Settlement Agreement.

(h) 'Releasing parties' means Releasing Parties as that term is defined in the Master Settlement Agreement.

(i) 'Tobacco Product Manufacturer' means an entity that after the date of enactment of this Act directly (and not exclusively through any affiliate):

(1) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through

an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of Subsection II(mmm) of the Master Settlement Agreement and that pays the taxes specified in Subsections II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(2) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(3) becomes a successor of an entity described in paragraph (1) or (2).

The term 'Tobacco Product Manufacturer' shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of (1)-(3) above.

(j) 'Units sold' means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs (or 'roll-your-own' tobacco containers) bearing the excise tax stamp of the State. The Department of Finance agency shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Section 6082. Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in Section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):

(i) 1999: \$.0094241 per unit sold after the date of enactment of this Act;

(ii) 2000: \$.0104712 per unit sold;

(iii) for each of 2001 and 2002: \$.0136125 per unit sold;

(iv) for each of 2003 through 2006: \$.0167539 per unit sold;

(v) for each of 2007 and each year thereafter: \$.0188482 per unit sold .

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

A. to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and the time necessary to make payments to required under such judgment or settlement;

B. to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to Section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in Section

IX(1)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

C. to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

A. be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the general fund of the State in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

B. in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the Delaware Health Fund of the State in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

C. in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation."

Approved July 20, 1999

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CHAPTER 183

FORMERLY

HOUSE BILL NO. 186
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 64, VOLUME 63, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF OCEAN VIEW IN SUSSEX COUNTY, DELAWARE."

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

Section 1. Amend Section 5.103, Chapter 64, Volume 63, Laws of Delaware, as amended, by deleting the phrase "Three Hundred Thousand Dollars (\$300,000.00)" appearing therein and by inserting in lieu thereof the phrase "Five Hundred Thousand Dollars (\$500,000.00)".

Approved July 20, 1999

CHAPTER 184

FORMERLY

HOUSE BILL NO. 237

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKERS' COMPENSATION.

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

Section 1. Amend § 2308(a), Title 19 of the Delaware Code, by deleting the words "as many as 4 officers who are" as the same appears in the first sentence thereof, and by substituting in lieu thereof the words "as many as 8 officers who are".

Approved July 20, 1999

CHAPTER 185

FORMERLY

HOUSE BILL NO. 238

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKERS COMPENSATION.

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

Section 1. Amend § 2301, Title 19 of the Delaware Code, by adding a new subsection as follows:

"(20) "Immediate Family" means a parent, spouse, child or sibling of a sole proprietor or partner."

Section 2. Amend § 2308, Title 19 of the Delaware Code, by deleting subsection (b) in its entirety, and by substituting in lieu thereof the following:

"(b) Sole proprietors, partners or members of their immediate family are not included within this Chapter, but such sole proprietors, partners or members of their immediate family may elect coverage in accordance with § 2306 of this Title."

Approved July 20,1999

CHAPTER 186

FORMERLY

HOUSE BILL NO. 253

AN ACT TO AMEND CHAPTER 302, VOLUME 49, LAWS OF DELAWARE, AS AMENDED, RELATING TO THE TOWN OF FENWICK ISLAND.

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(1) 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 of subsection A(1) in its entirety and substituting in lieu thereof the following:

"The Finance Administrator and Property Appraiser shall hold a meeting to be set by them during the month of July to hear appeals from said assessment, and shall increase, decrease, or abate such assessment if they deem such action just."

Approved July 20,1999

CHAPTER 187

FORMERLY

HOUSE BILL NO. 285
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 13, CHAPTER 7 OF THE DELAWARE CODE PERTAINING TO CAREGIVERS' CONSENT FOR MEDICAL TREATMENT OF MINORS.

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, § 707 of the Delaware Code by redesignating (a) as (b), (b) as (c) and (c) as (d).

Section 2. Amend Title 13, § 707 of the Delaware Code to add (a) to read as follows:

"(a) Definitions.

As used in this Section:

(1) 'Medical treatment' means developmental screening, mental health screening and treatment, ordinary and necessary medical and dental examination and treatment, including blood testing, preventive care including ordinary immunizations, tuberculin testing, and well-child care. Medical treatment also means the examination and treatment of any laceration, fracture or other traumatic injury, or any symptom, disease or pathology which may, in the judgment of the treating health care professional, if left untreated, reasonably be expected to threaten health or life.

(2) 'Blood testing' includes Early Periodic Screening, Diagnosis, and Treatment (EPSDT) testing and other blood testing deemed necessary by documented history or symptomatology but excludes HIV/AIDS testing and controlled substance testing or any other testing for which separate court order or informed consent as provided by law is required.

(3) 'Relative caregiver' or 'caregiver' means an adult person, who by blood, marriage or adoption, is the great grandparent, grandparent, step grandparent, great aunt, aunt, great uncle, uncle, step parent, brother, sister, step brother, step sister, half brother, half sister, niece, nephew, first cousin, or first cousin once removed of a minor and with whom the minor resides, but who is not the legal custodian or guardian of the minor."

Section 3. Amend Title 13, § 707(b) of the Delaware Code by inserting the word "psychological" between the words "dental" and "or osteopathic practitioners", inserting the words "or any nurse practitioner/clinical nurse specialist" between the words "osteopathic practitioners" and "or any hospital or public clinic", and replacing the words "diagnostic, therapeutic or postmortem procedure" with the words "medical treatment".

Section 4. Amend Title 13, § 707(b)(2) of the Delaware Code by removing the word "physical" before the word "disability".

Section 5. Amend § 707(a), Title 13 of the Delaware Code by adding a new paragraph (6) to read:

"(6) A relative caregiver acting pursuant to an Affidavit of Establishment of Power to Relative Caregivers to Consent to Medical Treatment of Minors."

Section 6. Amend Title 13, § 708 of the Delaware Code by redesignating it as § 709.

Section 7. Amend Title 13 of the Delaware Code by adding a new § 708 to read as follows:

"Section 708. Affidavit of Establishment of Power to Consent to Medical Treatment of Minors.

(a) There is created an Affidavit of Establishment of Power to Relative Caregivers to Consent to Medical Treatment of Minors. The Affidavit shall include, at a minimum, the name and date of birth of the minor; a statement signed by the caregiver that the caregiver is 18 years of age or older and that

the minor resides with the caregiver; the names and signatures of the parents, legal custodian, or guardian of the minor indicating their approval of the caregiver's power or, if a parent, custodian or guardian of the minor is unavailable, a statement of reasonable effort made by the caregiver to locate the parent, custodian or guardian based on criteria set forth in the regulations; the name of the caregiver; relationship of the caregiver to the minor documented by proof as defined by regulation; and the dated signature of the caregiver. The signature of the caregiver shall be notarized.

(b) The Affidavit is valid for one year unless the minor no longer resides in the caregiver's home or a parent, custodian or guardian revokes his or her approval. If a parent, custodian or guardian revokes approval, the caregiver shall notify any health care provider or health service plans with which the minor has been involved through the caregiver.

(c) A caregiver must present a completed Affidavit of Establishment of Power to Relative Caregivers to Consent to Medical Treatment of Minor when seeking medical treatment for a minor.

(d) The decision of a relative caregiver to consent to or to refuse medical treatment for a minor shall be superseded by a decision of a parent, legal custodian, or guardian of the minor.

(e) No person who relies in good faith upon a fully executed Affidavit of Establishment of Power to Relative Caregivers to Consent to Medical Treatment of Minors in providing medical treatment shall be subject to criminal or civil liability or to professional disciplinary action because of the reliance. This immunity applies even if medical treatment is provided to a minor in contravention of a decision of a parent, legal custodian or guardian of the minor who signed the affidavit if the person providing care has no actual knowledge of the decision of the parent, or legal custodian or guardian.

(f) The decision of a relative caregiver, based upon an Affidavit of Establishment Power to Relative Caregivers to Consent to Medical Treatment of Minors, shall be honored by a health care facility or practitioner unless the health care facility or practitioner has actual knowledge that a parent, legal custodian or guardian of a minor has made a contravening decision to consent to or to refuse medical treatment for the minor.

(g) A person who knowingly makes a false statement in an Affidavit under this section shall be subject to a civil penalty of \$1,000 per child. Justices of the Peace shall have jurisdiction of these cases.

(h) The Department of Health and Social Services is authorized to promulgate regulations to implement this section."

Approved July 20, 1999

CHAPTER 188

FORMERLY

HOUSE BILL NO. 292

AN ACT AMENDING CHAPTER 20 OF TITLE 30 OF THE DELAWARE CODE RELATING TO THE TRAVELINK TRAFFIC MITIGATION ACT.

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

Section 1. Amend Section 2031, Title 30 of the Delaware Code by deleting the word "place" appearing in the first sentence thereof and inserting in lieu thereof the word "site".

Section 2. Further Amend Section 2031, Title 30 of the Delaware Code by inserting the following sentence after the first sentence thereof: "Employer programs which specifically target 'welfare to work' employees are exempt from the peak period limitation."

Section 3. Further Amend Section 2031, Title 30 of the Delaware Code by deleting the phrase "generated by commuting to and from work, through an increase in average vehicle occupancy" appearing in the last sentence

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thereof, and inserting in lieu thereof the phrase "and increase the use of alternative modes of travel during the commute to and from work".

Section 4. Amend Section 2032, Title 30 of the Delaware Code by deleting the phrase "Department-certified" as it appears therein and inserting in lieu thereof the phrase "Department-approved".

Section 5. Amend Section 2032(b), Title 30 of the Delaware Code by deleting the phrase "traffic congestion during peak travel periods through consolidation" appearing therein and inserting in lieu thereof the phrase "commute trip traffic congestion during peak travel periods and also non-peak travel periods for welfare-to-work programs by supporting the use of alternative modes".

Section 6. Amend Section 2032(c)(3), Title 30 of the Delaware Code by inserting the phrase "or incentives" between the words "costs" and "in" appearing therein, and further by inserting the phrase "employees or" between the words "to" and "3rd parties" appearing therein.

Section 7. Amend Section 2032(c)(4), Title 30 of the Delaware Code, by deleting the subsection in its entirety and inserting in lieu thereof the following:

"(4) Administrative costs, such as personnel costs (salary, benefits, and training, but not overhead) and payments to 3rd parties, excluding the Department, for general administration including development, implementation, and maintenance costs directly related to the Travelink program. Administrative costs are limited to no more than four billable hours per week per fifty employees per week thereafter. The maximum billable hourly rate is \$20; and"

Section 8. Amend Section 2032(e), Title 30 of the Delaware Code by inserting the phrase ", leased, chartered" between the words "owned" and "or subsidized" appearing therein, and further by inserting the phrase "and also non-peak travel periods for welfare-to-work programs" between the words "travel periods" and the words ", provided," appearing therein.

Section 9. Amend Section 2032(f), Title 30 of the Delaware Code by deleting the phrase ", subject to compliance with the Federal Clean Air Act [42 U. S. C. Section 7401 *et seq.*], specifically 42 U. S. C. Section 7511a(d)(1)(B)" appearing therein, and inserting in lieu thereof the following:

"having no less than 100 employees reporting to a specific work-site during the peak periods. Employer programs which specifically target 'welfare-to-work' employees are exempt from the peak period limitation".

Section 10. Amend Section 2032(i), Title 30 of the Delaware Code by inserting "duly appointed" after the word "Secretary's" and before the word "delegate".

Section 11. Amend Section 2033, Title 30 of the Delaware Code by deleting the phrase "Department-certified" as it appears therein and inserting in lieu thereof the phrase "Department-approved".

Section 12. Amend Section 2033(b), Title 30 of the Delaware Code by deleting the phrase "the product of either equation described herein, whichever" appearing therein and inserting in lieu thereof the following:

"10% of the direct cost (DC) of developing, implementing, and maintaining the Travelink plan/program, or the product of either equation described below, whichever product of the equations below".

Section 13. Further Amend Section 2033(b), Title 30 of the Delaware Code by inserting the phrase "and also non-peak travel periods for welfare-to-work programs" between the phrase "peak travel periods" and the phrase "; CTR is " appearing therein, and Further Amend said subsection by deleting the number "130" appearing therein and inserting in lieu thereof the number "100".

Section 14. Amend Section 2034, Title 30 of the Delaware Code by deleting the word "certification" as it appears therein, and inserting in lieu thereof the word "approval".

Section 15. Amend Section 2034(1), Title 30 of the Delaware Code by re-designating subsection "c." and "d." respectively, and creating a new subsection "c." to read as follows:

"c. A provision giving approval authority to those employers who develop a mitigation plan targeted to welfare-to-work clients; "

Section 16. Amend Section 2035, title 30 of the Delaware Code by deleting the phrase "Department -certified" as it appears therein and inserting in lieu thereof the phrase "Department-approved".

Section 17. Amend Chapter 20, title 30 of the Delaware Code by creating a new Section 2037 to read as follows:

"Section 2037. Limitation on credits.

(a) The total amount of eligible credits allowed under this subchapter ("Travelink credits") shall not exceed one hundred thousand dollars (\$100,000) in any State of Delaware fiscal year.

(b) If the total amount of Travelink credits for which all taxpayers apply in any State of Delaware fiscal year exceeds the amount set forth in subsection (a), then the Travelink credit to be received by each applicant for that year shall be the product of the amount set forth in subsection (a) multiplied by a fraction, the numerator of which is the eligible Travelink credits applied for by the applicant and the denominator of which is the total of all eligible Travelink credits applied for by the applicants."

Approved July 20, 1999

CHAPTER 189

FORMERLY

HOUSE BILL NO. 297

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO RECORDING SATISFACTION OF MORTGAGES.

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

Section 1. Delete subsection (a) of § 2111, Title 25 of the Delaware Code, in its entirety.

Section 2. Amend § 2111, Title 25 of the Delaware Code, by redesignating subsections (b), (c), (d), (e), (f), and (g), as they appear therein as subsections (a), (b), (c), (d), (e), and (f) respectively.

Section 3. Amend new subsection (a)(1) of § 2111, Title 25 of the Delaware Code, by adding the words and punctuation ", Kent, and Sussex" in between the words "Castle" and "County" as they appear therein, and by deleting the words "subsection (c)" as they appear therein and by inserting in lieu thereof "subsection (b)".

Section 4. Amend new subsection (b) of § 2111, Title 25 of the Delaware Code, by deleting the words "subsections (a)(2) and (b)(1)" as they appear therein, and by inserting in lieu thereof "subsection (a)(1)".

Section 5. Amend new subsection (b) of § 2111, Title 25 of the Delaware Code, by deleting the number "19" as it appears at any place therein where dates are to be inserted.

Section 6. Amend new subsection (d) of § 2111, Title 25 of the Delaware Code, by deleting the words "(or (b))" as they appear in the first sentence therein.

Section 7. This bill shall become effective upon enactment.

Section 8. If any provision of this Act or the application thereof to any person or circumstances 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 declared to be severable.

Approved July 20, 1999

CHAPTER 190

FORMERLY

HOUSE BILL NO. 302

AN ACT TO AMEND TITLES 1, 10, 11 AND 29 OF THE DELAWARE CODE RELATING TO THE
DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE COURTS.

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

Section 1. Amend § 108(a)(2) of Title 1 of the Delaware Code by striking the terms "Director of the Administrative Office of the Courts" and "Director" and substituting in lieu thereof the term "State Court Administrator."

Section 2. Amend § 128 of Title 10 of the Delaware Code by striking the term "Director" wherever it appears therein and substituting in lieu thereof the term "State Court Administrator."

Section 3. Amend § 9502(a) of Title 11 of the Delaware Code by striking the term "Director of the Administrative Office of the Courts" and substituting in lieu thereof the term "State Court Administrator."

Section 4. Amend § 5812(a)(11) of Title 29 of the Delaware Code by striking the term "Director of the Administrative Office of the Courts" and substituting in lieu thereof the term "State Court Administrator."

Approved July 20,1999

CHAPTER 191

FORMERLY

HOUSE BILL NO. 312

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 §4761(a)(1), Title 16 of the Delaware Code by deleting the number "18" as it appears therein and substituting in lieu thereof the number "21".

Section 2. Amend §4761(a)(2), Title 16 of the Delaware Code by deleting the number "18" as it appears therein and substituting in lieu thereof the number "21".

Section 3. Amend §4761(b), Title 16 of the Delaware Code by deleting the phrase: "or 18" as it appears therein and adding the phrase "18 or 21".

Section 4. Amend §4761, Title 16 of the Delaware Code by deleting the word "minors" appearing in the title to the existing section and inserting in lieu thereof the phrase "Persons Under 21 Years of Age".

Approved July 20,1999

CHAPTER 192

FORMERLY

HOUSE BILL NO. 315
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE TO CREATE A NEW CHAPTER REGARDING
RIGHTS AND TITLE TO ABANDONED PERSONAL PROPERTY.

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

Section 1. Amend Title 25 of the Delaware Code by creating a new Chapter 40 as follows:

"CHAPTER 40. RIGHTS AND TITLE TO ABANDONED PERSONAL PROPERTY.

§ 4001. Definition of abandoned personal property.

For the purposes of this chapter "abandoned personal property" shall be deemed to be tangible personal property which the rightful owner has left in the care or custody of another person and has failed to maintain, pay for the storage of, exercise dominion or control over, and has failed to otherwise assert or declare the ownership rights to the tangible personal property for a period of one year. No tangible personal property which is subject to division under § 1513 of Title 13 of the Delaware Code, or which has been stolen or otherwise taken from its rightful owner in violation of Title 11 of the Delaware Code, or the possession of which has been unlawfully taken from the rightful owner by conversion or otherwise, or which is subject to the provisions of Subchapter I of Chapter 11 of Title 12, or subject to Article 4, Subchapter II of Title 12, or any intangible personal property and the tangible evidence thereof subject to Chapter 11 of Title 12, shall be deemed to be 'abandoned personal property'.

§ 4002. Right and title to abandoned personal property.

Notwithstanding any other provision of the Delaware Code, including but not limited to §1210 of Title 12 of the Delaware Code, to the contrary, upon order of the court as provided in this chapter, any person who holds, stores, safekeeps, or otherwise is left with possession of any abandoned personal property, including but not limited to automobiles, motorcycles, boats, and furnishings, which has been abandoned by the owner as defined in § 4001 of this chapter, shall be vested with complete and absolute title to said abandoned personal property and shall have all right to sell, alienate, gift or otherwise dispose of the said abandoned personal property provided such transfer does not violate preliminary injunctions in effect pursuant to §1509(a)(1) of Title 13 of the Delaware Code.

§ 4003. Procedure to obtain title.

(a) Any person who holds, stores, safekeeps, or otherwise is left with possession of any abandoned personal property may be vested with complete right and title to said abandoned personal property upon application to a court of competent jurisdiction. The petition filed pursuant to this subsection shall be executed under oath and penalty of perjury and shall include the following:

(1) a complete description of the property including all identification and registration numbers if applicable;

(2) the name and last known address of the owner or owners of the property;

(3) the names and addresses of any persons who claim to or have an interest or lien in the subject property;

(4) a statement that the petitioner has conducted a lien search concerning the subject property for any liens filed with the Delaware Secretary of State and, if applicable, that the petitioner has conducted a title and lien search with the Department of Motor Vehicles concerning any lienholders that may have an interest in any motor vehicle, and the reports of the Secretary of State and the Department of Motor Vehicles resulting from the searches shall be attached to the petition;

(5) a statement of the value of the subject property; and

(6) a statement by the petitioner that the property has been abandoned as defined by § 4001 and the owner of the property is not an infant or incompetent person, and is not a member of the military.

(b) Upon receipt of a petition which is made pursuant to subsection (b) of this section, the court shall send a notice and a copy of the petition and a Request for Information Form requesting the party who receives the notice and petition to provide all information concerning the identification and address of all other owners and/or lienholders of said abandoned property by certified mail or registered mail, return receipt requested, to the owners, secured parties of record, any known lienholder of the property, and any other persons whose names and addresses are listed in the petition. The petitioner shall further cause notice of filing of the petition to be posted in the court house and three or more public places and shall advertise the fact that the petition has been filed in a newspaper published and/or circulated in the county in which the petition was filed. The notice shall include a copy of the petition and shall include the following information:

- (1) a statement that a petition has been made with the court;
- (2) a statement that the owner or other person has a legal right to a hearing in the courts and that if a hearing is desired then the owner or other person shall file with the court an answer to the petition;
- (3) a statement that if an answer is filed a hearing will be promptly scheduled and the owners or other interested persons may appear to contest the claim;
- (4) a statement that the court will enter a judgment in favor of the petitioner unless an answer is filed within 20 days after the date on which the notice was mailed;
- (5) a statement that the person may be liable for costs if a judgment is entered in favor of the petitioner.

(c) If the court receives an answer described in subsection (b)(3) of this section, the court shall notify the petitioner and all parties of the hearing date to determine ownership of the subject property. If no answer is filed pursuant to paragraph (b)(3) of this subsection and there are no lienholders or other interested party, then the court shall issue an order declaring that the petitioner has full right, title and interest to the said abandoned property.

§ 4004. Sheriffs sale of the property when there are lienholders.

(a) If it is determined that there are lienholders or other persons with secured or other interests in the abandoned property, the court shall further order that the subject property shall be sold at sheriff's sale after notice as required in this section.

(b) Prior to any sale of the abandoned property, the petitioner shall give at least 30 days notice of the sale by handbills posted in the court house and three or more public places and by advertising in a newspaper published and/or circulated in the county in which the sale is to be held.

(c) The proceeds of the sale shall be applied to the costs of keeping and selling the property, costs of execution, and court costs. The balance, if any, of the proceeds of the sale shall be deposited not later than 10 days from the date of the sale with the court to be applied by the court to the payment of any lien or security interest to which the property may be subjected in order of their priority, with any remaining proceeds to be paid to the petitioner after all liens and other interests have been paid.

(d) In every sale authorized under this chapter, it shall be the duty of the lienholder or other interest holder to file with the court a form required by the court satisfying the judgment or indicating the disposition of the proceeds.

§ 4005. Motor vehicles.

In the case of motor vehicles, the court shall enter an order requiring the Department of Motor Vehicles to issue title to the vehicle in the name of the petitioner or other person who has purchased the vehicle through sheriff's sale, and the petitioner or other person to whom title to the vehicle is to be issued shall present to the Department of Motor Vehicles a copy of the order of the court with the court's seal affixed thereto. Upon receipt of the Certified Order, the Department of Motor Vehicles shall issue title as directed by the court.

§ 4006. Jurisdiction.

The Justice of the Peace Courts, Court of Common Pleas, and Superior Court shall have concurrent jurisdiction over actions instituted under this chapter.

§4006. Rules.

The courts may adopt appropriate and specific rules to effectuate the intent and purpose of this chapter.

Approved July 20,1999

CHAPTER 193

FORMERLY

HOUSE BILL NO. 326
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HEALTH AND SAFETY.

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

Section 1. Amend Title 16, Delaware Code, by adding thereto new chapter to read as follows:

"CHAPTER 74B. OVERHEAD HIGH-VOLTAGE LINE SAFETY.

§ 7401B. Short Title.

This Act shall be known and cited as the 'Overhead High-Voltage Line Safety Act'.

§7402B. Definitions.

(1) 'Authorized person' means:

(a) A qualified employee of a public utility which produces, transmits or delivers electricity, or a qualified employee of an approved contractor of such public utility;

(b) A qualified employee of a public utility which provides communication services to state, county or municipal agencies which have authorized circuit construction on or near the poles or structures of a public utility;

(c) A qualified employee of an industrial plant whose work relates to the electrical system of the industrial plant;

(d) A qualified employee of a cable television or communication services company or an employee of a contractor of a cable television or communication services company if specifically authorized by the owner of the poles to make cable television or communication services attachments;

(e) A qualified employee or agent of state, county or municipal agencies that have or whose work relates to overhead electrical lines or circuit construction or conductors on poles or structures of any type.

(2) 'Dangerous Proximity' means: a distance up to and including ten feet of high-voltage lines, or within such greater distances as may be set forth in the current editions and any subsequent revisions of the regulations of the United States Occupational Safety and Health Administration (29 C.F.R. § 1910 and § 1926) and the National Electrical Safety Code.

(3) 'Field Visitation' means: direct physical observation of electrical lines, facilities and/or appliances by an authorized representative of the utility operating such line, facility and/or appliance.

(4) 'High Voltage Line' or 'High Voltage Overhead Line' means:

(a) an electric line that is installed above ground; and

(b) has a voltage in excess of six hundred volts measured between conductors or between a conductors and the ground.

(5) 'Person(s)' means: any individual, firm, joint venture, partnership, corporation, association, municipality, other political subdivision, state or federal governmental unit, department or agency, state cooperative, association, joint stock association and shall include any assignee, trustee, receiver or personal representative thereof.

(6) 'Public Utility' means: every individual, partnership, association, corporation, joint stock company, agency or department of the State or any association of individuals engaged in the prosecution in common of a productive enterprise (commonly called a 'cooperative'), their lessees, trustees, or receivers appointed by any court whatsoever, that operates within this state, any steam, manufactured gas, natural gas, electric light, heat, power, water, telephone, excluding telephone service provided by cellular technology, or by domestic public land mobile radio service or heating oil) for residential consumption directly to residences by means of a pipeline) service, system, plant or equipment, for public use.

(7) 'Qualified Employee' means: An individual who has been trained in working in dangerous proximity to high voltage lines.

§7403B. Presumption.

(1) Until and unless a Field Visitation or written determination is obtained from the public utility operating an electric line that is above ground level and such visitation or writing results in a determination that states otherwise, there is a rebuttable presumption that the electric line is:

(a) To be energized at all times after installation or erection; and

(b) To have a voltage of more than 600 volts.

§7404B. Activity Near Overhead Lines; Safety Restrictions.

(1) Unless the Field Visitation or written approval described in Subsection 3 herein has been obtained and/or there is a written determination that the line is not energized pursuant to Subsection 3 herein:

(a) A person shall not, individually or through an agent or employee, require or permit any person to perform any function or activity upon any land, building, highway or other premises if at any time during the function or activity such person will be required or permitted to place himself for herself, or will be placed within dangerous proximity of any high voltage overhead line, or such person will use tools or materials which will be placed by said person within dangerous proximity of any such high voltage overhead line.

(b) A person shall not, individually or through an agent or employee, operate any mechanical equipment, hoisting equipment, load equipment or equipment of any description so that any portion of such equipment enters into dangerous proximity of any high voltage overhead line.

§7505B. Activity in Dangerous Proximity to High Voltage Overhead Lines; Clearance Arrangements, Procedures, Notice.

(1) If any person intends to carry on any function, activity, work or operation within dangerous proximity of any high voltage overhead line, the person responsible for performing the function, activity, operation or work shall promptly notify the public utility operating the high voltage line. The person may perform such task only after mutually agreeable measures to prevent contact with the applicable high voltage line(s) ('preventive measures') have been established and the public utility has given written approval to take such measures and perform the task. Thereafter, such work shall be performed only in accordance with the restrictions or conditions described in such written approval. Such preventive measures may include, but may not be limited to:

(i) coordination of the work and construction schedules between the utility and the person responsible for performing the work;

(ii) the placement of temporary mechanical barriers to separate and prevent contact between material, equipment and/or persons and the high voltage line;

(iii) temporary de-energization and grounding the high voltage lines; and/or

(iv) temporary relocation or raising of the high voltage overhead lines.

At the sole discretion of the utility, costs incurred in devising and implementing such preventive measures shall be borne by the person responsible for performing the work in dangerous proximity to the high voltage overhead line.

§7406B. Penalties and Civil Liability.

(1) Any person and/or agent of a person who violates this Act may be subject to a civil penalty in an amount not to exceed \$1,000 for each violation, to be imposed by the court in favor of the State to be deposited in the general fund.

(2) If a violation of this Act results in physical or electrical contact with any high voltage overhead line, the person violating or causing this Act to be violated is liable to the public utility for all damages to the overhead line and related facilities and all costs and expenses, including damages owing to third persons, and cost of defense incurred by the public utility or such third persons as a result of such contact.

§7407B. Exemptions.

(1) This Act does not apply to construction, reconstruction, operation or maintenance of overhead electrical or communication circuits or conductors and their supporting structures or electrical generating, transmission or distribution systems or communication systems by an authorized person or to any other acts performed within the scope of employment of an authorized person and requiring such authorized person to work in contact with or in proximity to such overhead circuits, conductors, structures and systems.

§7408B. Jurisdiction.

The Superior Court shall have jurisdiction over violations of this Act."

Section 2. The effective date of this chapter shall be January 1, 2000.

Approved July 20, 1999

CHAPTER 194

FORMERLY

HOUSE BILL NO. 368

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO EXECUTIONS.

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

Section 1. Amend § 4974, of Title 10 of the Delaware Code by striking in its entirety and by substituting in lieu thereof the following:

"§ 4974. Place for public sale of real estate.

All sales of real estate, made by a sheriff by virtue of execution process, shall be made on the premises to be sold, or at the courthouse for the county in which the premises are situated or in Sussex County, at the Sussex County Sheriff's Office."

Section 2. This bill shall become effective upon enactment.

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 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 declared to be severable.

Approved July 20, 1999

CHAPTER 195

FORMERLY

HOUSE BILL NO. 369

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO QUALIFIED DISPOSITIONS IN TRUST.

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

Section 1. Amend Title 12, Section 3572, Delaware Code, by deleting subsection (d) in its entirety and by adding thereto new subsections (d) and (e) to read as follows:

"(d) Notwithstanding any law to the contrary, a creditor, including a creditor whose claim arose before or after a qualified disposition, or any other person shall have only such rights with respect to a qualified disposition as are provided in this Section and Sections 3573 and 3574 of this title, and no such creditor nor any other person shall have any claim or cause of action against the trustee, or advisor described in Section 3570(8)c of this Title, of a trust that is the subject of a qualified disposition, or against any person involved in the counseling, drafting, preparation, execution, or funding of a trust that is the subject of a qualified disposition.

(e) Notwithstanding any other provision of law, 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 against the trustee, or advisor described in Section 3570(8)c of this Title, of a trust that is the subject of a qualified disposition, or against any person involved in the counseling, drafting, preparation, execution, or funding of a trust that is the subject of a qualified disposition, if, as of the date such action is brought, an action by a creditor with respect to such qualified disposition would be barred under this Section."

Section 2. Amend Title 12, Section 3574, Delaware Code, by adding the following new sentence to subsection (b), subdivision (2):

"For purposes of this subdivision (2), it shall be presumed that the beneficiary, including a beneficiary who is also a transferor of the trust, did not act in bad faith merely by creating the trust or by accepting a distribution made in accordance with the terms of the trust."

Section 3. This Act shall be effective upon enactment.

Approved July 20, 1999

CHAPTER 196

FORMERLY

HOUSE BILL NO. 339

AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT CREATING THE GEORGE WASHINGTON MEMORIAL SCHOLARSHIP FUND.

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

WHEREAS, December 14, 1999 is the 200th anniversary of George Washington's death; and

WHEREAS, the "father of our country" is remembered for his gallant and patriotic services to our homeland, his brilliant military strategic planning, and his superior knowledge of diplomatic relations; and

WHEREAS, George Washington, known as the "Indispensable Man," helped our young nation survive in the darkest hours of our Revolution and in the new dawn of our national democracy through his strength of character and his belief in God and in the justice of the American cause; and

WHEREAS, his magnanimity, personal sacrifice, selflessness, and rejection of personal rule some urged him to assume helped our nation solidify its republican ideals of democratic self-governance; and

WHEREAS, George Washington, the "father of our country", deserves to be revered by every American for his contributions to our nation;

NOW, THEREFORE:

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

Section 1. For Fiscal Year 2000 only, the General Assembly hereby establishes the George Washington Memorial Scholarship Fund in the Delaware Higher Education Commission. The Delaware Higher Education Commission shall administer the fund and may adopt rules and regulations as it deems necessary and reasonable to administer it. A \$500 scholarship may be awarded to one resident of each senatorial and representative district in the State. Statewide scholarship awards of \$5,000, \$2,500, and \$1,500 may also be awarded. To be eligible for an award, an applicant must be a resident of Delaware enrolled in the 12th grade for the 1999-2000 school year in a public, private, or charter school or in a home school program.

Each applicant must submit an original essay of no more than 2,000 words describing "Why George Washington Should Be Revered in America." The essay must be submitted no later than 4:30 p.m. on October 1, 1999.

A district scholarship committee shall consist of the representative or senator, or a designee, from the district; a member of the social studies faculty of a Delaware high school or a junior high school; a person designated by the president of a chapter of the Delaware Society Sons of the American Revolution; and a person designated by the regent of a chapter of the Delaware State Society Daughters of the American Revolution. Each district committee shall review the essays submitted by applicants in its district and announce the winner of the \$500 scholarship by November 1, 1999.

The committee from each district shall submit the district's winning essay to the State George Washington Memorial Scholarship Committee by November 5, 1999. The State Committee shall consist of one member appointed by the Governor; one member appointed by the Speaker of the House of Representatives; one member appointed by the President Pro Tempore of the Senate; one member designated by the president of the Delaware Society Sons of the American Revolution; and one member designated by the regent of the Delaware State Society Daughters of the American Revolution.

The State Committee shall review the winning district essays, select the top 3 essays, and award a first prize \$5,000 scholarship, a second prize \$2,500 scholarship, and a third prize \$1,500 scholarship to the writers of the top 3 essays. The State Committee shall announce the winners of the Statewide scholarships on December 14th, 1999, the 200th anniversary of George Washington's death.

Notice of the George Washington Memorial Scholarship essay contest, including details regarding deadlines, availability of applications, and locations to submit essays, shall be published by the Delaware Higher Education Commission between August 30 and September 10, 1999 at least once each week in a newspaper of general circulation in each county. In addition, notice shall be sent by the Secretary of Education to the principal of each public and charter school containing 12th graders, and to the principal of each private school and home school association or organization containing 12th graders and registered with the Department of Education, and to home-schooled 12th graders whose instruction is accomplished under the auspices of a local school district superintendent. A principal shall post the notice in a prominent location in the school where 12th graders are likely to see it. The Commission may publicize or advertise the scholarship essay contest beyond the notice requirements of this Act.

Section 2. Scholarship funds disbursed under this Act may be disbursed only to the postsecondary institution in which a recipient is enrolled, and must be used by a recipient on or before December 31, 2001.

Section 3. The Delaware Higher Education Commission shall report to the General Assembly of the State the names of the scholarship recipients, the amount received by each recipient, the institution where the scholarship was deposited, and such other information as the Commission deems useful to the members of the General Assembly.

Section 4. The Budget Director and the Controller General are authorized to transfer the sum of \$40,000 from the Office of the Budget Contingency appropriation in House Bill No. 400 of the 140th General Assembly for

Approved July 20, 1999

CHAPTER 197

FORMERLY

HOUSE BILL NO. 389

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CERTAIN CRIMES INVOLVING ABUSE OR NEGLECT.

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

Section 1. Amend Title 11 of the Delaware Code by adding a new section thereto to be designated as Section 615, which shall read as follows:

"§ 615. Assault by abuse or neglect; Class B felony.

(a) A person is guilty of assault by abuse or neglect when the person recklessly causes serious physical injury to a child:

(1) through an act of abuse and/or neglect of such child; or

(2) when the person has engaged in a previous pattern of abuse and/or neglect of such child.

(b) For the purposes of this section:

(1) 'Child' shall refer to any person who has not yet reached that person's 14th birthday.

(2) 'Abuse' and 'Neglect' shall have the same meaning as set forth in § 1103 of this title.

"(3) 'previous pattern' of abuse and/or neglect shall mean 2 or more incidents of conduct:

(a) that constitute an act of abuse and/or neglect; and

(b) are not so closely related to each other or connected in point of time and place that they constitute a single event.

(c) A conviction is not required for an act of abuse or neglect to be used in prosecution of a matter under this section, including an act used as proof of a previous pattern as defined in paragraph (b)(3) of this section. A conviction for any act of abuse or neglect, including one which may be relied upon to establish a previous pattern of abuse and/or neglect, does not preclude prosecution under this section. Prosecution under this section does not preclude prosecution under any other section of the Code."

(d) Assault by abuse or neglect is a class B felony."

Section 2. Amend Section 633, Title 11 of the Delaware Code by striking subsection (a) of that section in its entirety and substituting in lieu thereof the following:

"(a) A person is guilty of murder by abuse or neglect in the second degree when, with criminal negligence, the person causes the death of a child:

(1) through an act of abuse and/or neglect of such child; or

(2) when the person has engaged in a previous pattern of abuse and/or neglect of such child."

Section 3. Amend Section 633, Title 11 of the Delaware Code by striking subsection (c) of that section in its entirety and substituting in lieu thereof the following:

"(c) A conviction is not required for an act of abuse or neglect to be used in prosecution of a matter under this section, including an act used as proof of a previous pattern as defined in paragraph (b)(3) of this section. A conviction for any act of abuse or neglect, including one which may be relied upon to establish a previous pattern of abuse and/or neglect, does not preclude prosecution under this section. Prosecution under this section does not preclude prosecution under any other section of the Code."

Section 4. Amend Section 633(d), Title 11 of the Delaware Code by striking the phrase "and/or" as it appears in that subsection and substituting in lieu thereof the word "or".

Section 5. Amend Section 634, Title 11 of the Delaware Code by striking subsection (a) of that section in its entirety and substituting in lieu thereof the following:

"(a) A person is guilty of murder by abuse or neglect in the first degree when the person recklessly causes the death of a child:

- (1) through an act of abuse and/or neglect of such child; or
- (2) when the person has engaged in a previous pattern of abuse and/or neglect of such child."

Section 6. Amend Section 634, Title 11 of the Delaware Code by striking subsection (c) of that section in its entirety and substituting in lieu thereof the following:

"(c) A conviction is not required for an act of abuse or neglect to be used in prosecution of a matter under this section, including an act used as proof of a previous pattern as defined in paragraph (b)(3) of this section. A conviction for any act of abuse or neglect, including one which may be relied upon to establish a previous pattern of abuse and/or neglect, does not preclude prosecution under this section. Prosecution under this section does not preclude prosecution under any other section of the Code."

Section 7. Amend Section 4201(c), Title 11 of the Delaware Code by inserting between the phrases "§ 614 Assault on a Sports Official" and "§ 629 Vehicular Assault in the First Degree" the following:

"§ 615. Assault by Abuse".

Section 8. Amend Section 4214(b) of Title 11 of the Delaware Code by inserting between the phrases "§ 613 Assault in the First Degree" and "Former § 763 Rape in the Second Degree" the following:

"§ 615. Assault by Abuse".

Approved July 20, 1999

CHAPTER 198

FORMERLY

SENATE BILL NO. 8 AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NOS. 1, 4, 5, AND 6

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE REGARDING THE CREATION OF THE DELAWARE HEALTH FUND.

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

Section 1. Amend Chapter 1, Title 16, Delaware Code by inserting new §137 the following:

"§137. Delaware Health Fund

(a) This Section shall be referred to as the Delaware Health Act of 1999.

(b) A special fund of the State is hereby created in the Department of Finance to be known as the 'The Delaware Health Fund'. All annual payments received pursuant to the Master Settlement Agreement entered into by the State of Delaware and the Participating Tobacco

Manufacturers shall be deposited or transferred into the Delaware Health Fund. All other monies, including gifts, bequests, grants or other funds from private or public sources specifically designated for the Delaware Health Fund shall be deposited or transferred to the Delaware Health Fund. Monies in the Delaware Health Fund may be saved and deposited in an interest bearing savings or investment account. Interest or other income earned on the monies in the Delaware Health Fund shall be deposited or transferred into the Delaware Health Fund. The Delaware Health Fund shall not lapse or revert to the general fund.

(c) Monies from the Delaware Health Fund shall be expended for Delaware citizens in accordance with any one or more of the following:

(1) Expanding access to health care and health insurance for citizens of Delaware that lack affordable health care due to being uninsured or under insured;

(2) Making long-term investments to enhance health care infrastructure which meets a public purpose;

(3) Promoting healthy lifestyles, including the prevention and cessation of the use of tobacco, alcohol and other drugs by the citizens of Delaware;

(4) Promoting preventive care for Delawareans in order to detect and avoid adverse health conditions, particularly cancer and other tobacco-related diseases;

(5) Working with the medical community by providing funding for innovative and/or cost effective testing regimens to detect and identify lessor-known but devastating and costly illnesses, such as sarcoidosis and hemochromatosis, fibromyalgia, lupus, lyme disease and chronic fatigue immune deficiency syndrome;

(6) Promoting a payment assistance program for prescription drugs to Delaware's low income senior and disabled citizens who are ineligible for, or do not have, prescription drug benefits or coverage through federal state or private sources;

(7) Promoting a payment assistance program to Delaware's citizens who suffer from debilitating chronic illnesses, such as diabetes and kidney disease which are characterized by onerous recurring costs for equipment, tests, and therapy; and/or

(8) Such other expenditures as are deemed necessary in the best interest of the citizens of Delaware provided they shall be made for health related purposes.

(d) No monies shall be expended from the Delaware Health Fund except pursuant to an appropriation incorporated in the State's annual Appropriations Act.

(e) Expenditures from the Delaware Health Fund shall not be used to supplant any State expenditures appropriated in Fiscal Year 1999 for purposes consistent with those outlined in subsection (c) of this section.

(f) The transfer of funds appropriated from the Delaware Health Fund shall be administered as approved in the Annual Appropriation Act or Bond Bill.

(g) There is hereby established The Delaware Health Fund Advisory Committee comprised of the Secretary of the Department of Health and Social Services, two members of the Senate designated by the President Pro Tem, two members of the House of Representatives designated by the Speaker of the House of Representatives, the Chair of the Health Care Commission or the Chair may designate a board member or staff person of the Health Care Commission, three members of the public to be appointed and to serve at the pleasure of the Governor, one member of the public appointed by the President Pro Tem of the Senate to serve at the pleasure of the President Pro Tem of the Senate and one member of the public appointed by the Speaker of the House of Representatives to serve at the pleasure of the Speaker of the House of Representatives one member of the Technical Advisory Office of Legislative Council designated by the Director of the Division of Research of Legislative Council. No public member appointed to this Advisory Committee shall be directly associated with or represent any organization or entity that will be a recipient or beneficiary of the Delaware Health Fund. The Secretary of the Department of Health and Social Services shall serve as the Chairperson of the Committee. Each year, the Committee will make recommendations, consistent with the purposes outlined in subsection (c), to the Governor and the General Assembly by November 15th for appropriating

monies expected to be received in the next fiscal year. The Committee shall, in the process of developing these recommendations, seek input from the public and private agencies concerned with the intended purposes of the Delaware Health Fund as described in subsection (c) of this section and conduct public hearings as necessary to provide an opportunity for public comment. The Committee shall also utilize the Delaware Health Care Commission to provide research relating to future health care needs of Delaware citizens and data relating to past health care programs in Delaware.

(h) The Secretary of the Department of Health and Social Services shall report to the Governor and the General Assembly on the second Tuesday of every January concerning expenditures, savings and investment accounts under the Delaware Health Fund for the previous fiscal year and to what extent those expenditures accomplished their intended purpose."

Section 2. The Delaware Health Fund Advisory Committee shall hold its first meeting no later than September 30, 1999.

Approved July 20, 1999

CHAPTER 199

FORMERLY

SENATE BILL NO. 23 AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE TO ESTABLISH THE DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION.

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

Section 1. Amend § 7907 of Title 29 of the Delaware Code by deleting this section in its entirety and inserting in lieu thereof the following:

"§7907. Delaware Nursing Home Residents Quality Assurance Commission.

(a) There is established a Delaware Nursing Home Resident's Quality Assurance Commission. The Commission shall be composed of ten members, as follows:

(1) One member appointed by the Speaker of the House;

(2) One member appointed by the President Pro-Tem of the Senate;

(3) Eight members appointed by the Governor. One of the members appointed by the Governor shall be a representative of the developmental disabilities community protection and advocacy system established by Title 20 of the United States Code. The remaining members shall include representatives of the following: consumers of nursing home services, nursing home providers, health care professionals, law enforcement personnel and advocates for the elderly. One of the Governor's initial appointees shall have been a member of the Council on Long Term Care Facilities.

(b) At least five but no more than six members of the Commission shall be affiliated with one of the major political parties and at least four, but no more than five, of the members shall be affiliated with the other major political party; provided, however, there shall be no more than a bare majority representation of one major political party over the other major political party. Membership on the Commission shall be geographically distributed so that there shall be members of the Commission from each of the three counties and the City of Wilmington.

(c) The members appointed by the Speaker and the President Pro-Tem shall serve at the pleasure of their appointing authorities. Initial appointments of the members appointed by the Governor shall be as follows: 2 members for a one year term; 3 members for a two year term; and 3 members for a three year term. Each succeeding term shall be for three years. The Chairperson of the Commission shall be designated by the Governor.

(d) The Division of Long-Term Care Resident Protection shall furnish staff for the Commission and the Attorney General's office shall provide legal advice.

(e) The purpose of this Commission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities so that complaints of abuse, neglect, mistreatment, financial exploitation and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents.

(f) The Commission shall meet at a minimum, on a quarterly basis.

(g) The duties of the Commission shall include:

(1) Examination of policies and procedures and evaluation of the effectiveness of the quality assurance system for nursing home residents, including the respective roles of the Department, the Attorney General's Office and law enforcement agencies as well as health care professionals and nursing home providers.

(2) The monitoring of data and analysis of trends in the quality of care and quality of life of individuals receiving long term care in Delaware;

(3) The review and making of recommendations to the Governor, Secretary, and the General Assembly concerning the quality assurance system as well as improvements to the overall quality of life and quality of care of nursing home residents.

(4) The protection of the privacy of nursing home residents including following the guidelines for confidentiality of records to be established by the Division of Long-Term Care Resident Protection.

(h) The Commission shall prepare and publish an annual report to the Governor, the Secretary and the General Assembly. This annual report shall include aggregate data with comprehensive analysis and monitoring of trends in the quality of care and quality of life of nursing home residents."

Approved July 20, 1999

CHAPTER 200

FORMERLY

SENATE BILL NO. 48

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16, DELAWARE CODE, RELATING TO MANAGED CARE ORGANIZATIONS.

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

Section 1. Amend §9112 of Title 16 of the Delaware Code by redesignating subsection (b) as (c), (e) as (d), and (d) as (e).

Section 2. Amend §9112, Chapter 91, Title 16 of the Delaware Code by inserting a new §9112(b) to read as follows:

"(b) A Managed Care Organization shall have a Medical Director. The Medical Director, shall be licensed to practice medicine in Delaware in accordance with Title 24, Chapter 17, §1702, of the Delaware Code. The Medical Director's duties shall include, at a minimum, those specified in regulations promulgated by the Department pursuant to the authority granted in Section 9110 of Title 16 of the Delaware Code. The Medical Director may assign duties to other physicians and non-physician personnel employed by, or under contract to, the Managed Care Organization, provided, however, that the Medical Director shall retain responsibility for assigned duties. Any decision to deny a covered service shall be rendered by a physician."

Section 3. This act shall become effective on January 1, 2000.

Approved July 22, 1999

CHAPTER 201

FORMERLY

SENATE BILL NO. 120
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT AMENDING TITLE 17 RELATING TO INSPECTION REQUIREMENTS FOR BRIDGE OWNERS.

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

Section 1. Amend Chapter 5, Title 17 of the Delaware Code by creating a new Section 530, to read as follows:

"Section 530. Inspection requirements for bridge owners.

- (a) As used herein, the terms 'bridge' and 'bridge with approaches' are defined as structures, including supports, erected over a depression or an obstruction such as water, a highway, or a railway, with tracks or passageways for carrying traffic or other moving loads, and with openings measured along the center of the roadway of more than 20 feet (6.1 meters) between undercopings of abutments or spring lines of arches, or the extreme ends of openings for multiple boxes. The term 'bridge' shall also include multiple pipe structures where the clear distance between pipe openings is less than half of the smaller pipe diameter(s), and the combined structure exceeds 20 feet (6.1 meters) in total span length.
- (b) All bridges and bridges with approaches located on or over public roads must be inspected in accordance with The National Bridge Inspection Standards, as codified in 23 CFR Part 650, Subpart C, as amended, and in accordance with the following provisions:
 - (1) Such inspections shall be the responsibility of the bridge owner.
 - (2) The inspections shall be performed by qualified personnel not less frequently than every two years, based on the bridge condition and on the schedule set by the Department of Transportation.
 - (3) Inspection information must be collected, maintained, and be available for review as required by the Federal Highway Administration's Recording and Coding Guide for Structure Inventory and Appraisal of the Nation's Bridge.
 - (4) If the bridge owner does not perform the required inspection on the schedule approved by the Department of Transportation, the Department shall notify the bridge owner and give the bridge owner 60 days to produce the required inspection report.
 - (5) If the bridge owner fails to produce the required inspection report after notice pursuant to subsection (4) hereof, the Department shall be empowered to take the following enforcement actions:
 - (i) perform the inspection, the costs of which shall be borne by the bridge owner. The Department shall have the right to enter the property to perform such inspections, regardless of the ownership of the property; or
 - (ii) Close the bridge."

Section 2. The provisions of this Act shall become effective upon enactment, except that for those entities that must comply with the provisions of 49 CFR part 213, the provisions of this Act shall apply one year after enactment.

Approved July 20, 1999

CHAPTER 202

FORMERLY

SENATE BILL NO. 128

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO MANUFACTURERS.

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

Section 1. Amend §2701(5), Title 30 of the Delaware Code, by deleting said subsection in its entirety and substituting in lieu thereof a new subsection (5) to read as follows:

"(5) Whenever a person: (i) is engaged in the activity of manufacturing within this State as described in subsection (2) of this section; (ii) performs such activity exclusively on raw materials or products provided under bailment by another person engaged in manufacturing; and (iii) the product produced by such person is intended for inclusion as a part of a product manufactured by the other manufacturer, then such person shall himself be licensable as a manufacturer and his gross receipts shall include all proceeds paid to him for services rendered in this State as described in this paragraph, including the fair market value of any products produced as the result of such services and consumed by such person, where the fair market value of such products is not received. In all other cases where a person is engaged in, and receives consideration for, manufacturing as a service apart from or in addition to the sale of a product, then such person shall be licensed under Chapter 23 of this Title, and shall not to that extent be considered subject to license under this chapter."

Section 2. This Act shall be effective for tax periods commencing after December 31, 1999.

Approved July 20, 1999

CHAPTER 203

FORMERLY

SENATE BILL NO. 130
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MECHANICS' LIENS.

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

Section 1. Amend §2701, Title 25 of the Delaware Code by adding a new subsection as follows:

"(3) 'Construction management services' includes services performed pursuant to a contract with an owner of a structure, or with the agent of such owner, for the management of the erection, alteration or repair of such structure, where the person or entity providing such services does not perform or furnish labor or material for such erection, alteration or repair."

Section 2. Amend §2711, Title 25 of the Delaware Code by striking the section in its entirety and substituting in lieu thereof the following:

"§ 2711. Time for filing of statement of claim.

(a) A contractor who (1) has made his contract directly with the owner or reputed owner of any structure and (2) has furnished both labor and material in and for such structure, or has provided construction management services in connection with the furnishing of such labor and material, in order to avail himself of the benefits of this subchapter, shall file his statement of claim within 180 days after the completion of such structure. For purposes of this subsection, and without limitation, a statement of claim shall be deemed timely if it is filed within 180 days of any of the following:

(1) The date of purported completion of all the work called for by the contract as provided by the contract if such date has been agreed to in the contract itself;

(2) The date when the statute of limitations commences to run in relation to the particular phase or segment of work performed pursuant to the contract, to which phase or segment of work the statement of claim relates, where such date for such phase or segment has been specifically provided for in the contract itself;

(3) The date when the statute of limitations commences to run in relation to the contract itself where such date has been specifically provided for in the contract itself;

(4) The date when payment of 90% of the contract price, including the value of any work done pursuant to contract modifications or change orders, has been received by the contractor;

(5) The date when the contractor submits his final invoice to the owner or reputed owner of such structure;

(6) With respect to a structure for which a certificate of occupancy must be issued, the date when such certificate is issued;

(7) The date when the structure has been accepted, as provided in the contract, by the owner or reputed owner;

(8) The date when the engineer or architect retained by the owner or reputed owner, or such other representative designated by the owner or reputed owner for this purpose, issues a certificate of completion; or

(9) The date when permanent financing for the structure is completed.

(b) All other persons embraced within this chapter and entitled to avail themselves of the liens herein provided shall file a statement of their respective claims within 120 days from the date from the completion of the labor performed or from the last delivery of materials furnished by them respectively. For purposes of this subsection, and without limitation, a statement of claim on behalf of such person shall be deemed timely if it is filed within 120 days of either of the following:

(1) The date final payment, including all retainage, is due to such person; or

(2) The date final payment is made to the contractor (i) who has contracted directly with the owner or reputed owner of any structure for the erection, alteration or repair of same, and (ii) with whom such person has a contract, express or implied, for the furnishing of labor or materials, or both, in connection with such erection, alteration or repair."

Section 3. Amend §2712(b)(4), Title 25 of the Delaware Code by striking the subdivision in its entirety and substituting in lieu thereof the following:

"(4) The amount claimed to be due, and, if the amount is not fixed by the contract, a statement of the nature and kind of the labor done or materials furnished with a bill of particulars annexed, showing the kind and amount of labor done or materials furnished or construction management services provided; provided, that if the amount claimed to be due is fixed by the contract, then a true and correct copy of such contract, including all modifications or amendments thereto, shall be annexed;"

Section 4. Amend §2712(b)(6), Title 25 of the Delaware Code by striking the subdivision in its entirety and substituting in lieu thereof the following:

"(6) The time when the doing of the labor or the furnishing of the material or the providing of the construction management services was finished, except that, (i) with respect to claims on behalf of contractors covered by §2711(a) of this chapter, the date of the completion of the structure, including a specification of the act or event upon which the contractor relies for such date, and, (ii) with respect to claims on behalf of other persons covered by §2711(b) of this chapter, the date of completion of the labor performed or of the last delivery of materials furnished, or both, as the case may be, or a specification of such other act or event upon which such person relies for such date."

Section 5. Amend §2712(b)(8), Title 25 of the Delaware Code by striking the subdivision in its entirety and substituting in lieu thereof the following:

"(8) That the labor was done or the materials were furnished or the construction management services were provided on the credit of the structure;"

Section 6. Amend §2717, Title 25 of the Delaware Code by striking the section in its entirety and substituting in lieu thereof the following:

"Proof by the claimant that labor or materials, or both, was performed or furnished upon or to any structure, or immediately adjacent thereto, or that construction management services were provided in connection with the performance or furnishing of such labor or materials, shall be prima facie evidence that the same was performed or furnished or provided for and on the credit of such structure."

Section 7. Amend §2721(a), Title 25 of the Delaware Code by inserting the phrase "or construction management services provided" following the phrase "labor done or materials furnished" and before the phrase "to maintain any personal action against the owner or contractor of such structure".

Section 8. Amend §2721(b), Title 25 of the Delaware Code by inserting the phrase ", or for any construction management services provided in connection with such labor done or materials furnished," following the phrase "in the erection, alteration or repair of any structure" and before the phrase "to maintain any personal action against the owner or reputed owner of the structure".

Section 9. This Act shall become effective 180 days following its enactment into law.

Approved July 20, 1999

CHAPTER 204

FORMERLY

SENATE BILL NO. 143

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 AND TITLE 29 OF THE DELAWARE CODE RELATING TO STATE EMPLOYEE BENEFITS.

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

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

"Chapter 96. STATE EMPLOYEE BENEFITS COMMITTEE

§9601. Title.

This Chapter shall be known as the State Employee Benefits Consolidation Act.

§9602. State Employee Benefits Committee.

(a) There is hereby established a State Employee Benefits Committee ("Committee"). The Committee shall be comprised of the Insurance Commissioner, the State Treasurer, the Budget Director, the Controller General, the Secretary of Finance, and the State Personnel Director, or their designees. The State Personnel Director shall chair the Committee.

(b) The State Employee Benefits Committee shall have the following powers, duties and functions:

- (1) With the exception of Deferred Compensation pursuant to Title 29, Chapter 60A, and any other investment or retirement savings plan, control and management of all employee benefit coverages including Health Care Insurance and Blood Bank, pursuant to Title 29, Chapters 51, and 52; State Employees Group Life Insurance pursuant to Title 18, Chapter 32; and all other currently existing and future employee benefits coverages, including but not limited to all forms of flexible benefits, dental, vision, prescription, long-term care, and disability coverages.

- (2) Selection of all carriers or third-party administrators necessary to provide coverages to State employees.
 - (3) Authority to contract on an insured or self insured basis.
 - (4) Authority to adopt rules and regulations for the general administration of the employee benefit coverages.
 - (5) Authority to make and enter into any and all contracts with any agency of the State, or any outside agency, for the purpose of assisting in the general administration of this section.
- (c) All members of the Committee and all legal, actuarial and administrative personnel shall be entitled to reimbursement for those travel and other expenses made necessary by their official duties that are approved by the State Personnel Director.
- (d) The Committee shall hold regular meetings at least once every six months, which meetings shall be open to the public in accordance with §10004 of this Title.

§9603. State Employee Benefits Advisory Council.

- (a) There shall be established a State Employee Benefits Advisory Council ("Council") of the state which shall facilitate public informational hearings on proposed changes to the State Employees' Benefits Program, receive feedback from representative sectors of state employment, and communicate that feedback to the State Employee Benefits Committee.
- (b) The State Employee Benefits Advisory Council shall be composed of a maximum of 10 members who are state employees, to include representatives of labor organizations, non-union employees, educational employees and other appointees such as the Governor may deem appropriate.
- (c) Members of the Council, including the chair, shall be appointed by the Governor. The initial terms of the members shall be staggered. Four members shall serve an initial term of three years, four members shall serve an initial term of two years, and the remaining members shall serve an initial term of one year. Thereafter, all terms shall be for three years. Members shall be eligible for reappointment to not one more than one additional consecutive term.
- (d) The Council shall have the power to establish rules to govern its activities.
- (e) Members of the Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council.
- (f) The Council shall be entitled to non-confidential data and information reasonably deemed necessary for the achievement of the Council's purposes.
- (g) In the case of vacancy on the Council for any reason other than expiration of the term of office, the Governor shall fill such a vacancy for the remainder of the unexpired term.

§9604. Duties of the State Personnel Director.

The duties of the State Personnel Director under this chapter shall include:

- (a) The placement of all insurance with such carriers as the Committee deems appropriate.
- (b) The operation of the self-insurance fund, when and if a self-insurance fund shall be established by the Committee for the operation of a self-insurance program.
- (c) Centralized responsibility for the operation of the State employee benefits program vested in a single agency with an adequate staff of legal, actuarial and administrative personnel.
- (d) The establishment and operation of an open bid procedure to be maintained for purchasing new employee benefits coverage from carriers and renewing existing contracts with such carriers which will permit the free forces of market competition to operate to the benefit of the state employee benefits coverage programs.
- (e) The maintenance in a safe and secure place of all policies with commercial insurers and all records necessary and pertinent thereto.

- (f) The maintenance in a safe and secure place of all records, accounts, claims files, statistical studies and other such records and documents necessary and proper in the administration of any self-insured program, when and if the Committee deems it necessary and proper to utilize same.
- (g) Prompt notification to insurance carriers or third party administrators of the names and other necessary data related to the employees and pensioners covered by State employee benefits programs and of all changes and additions thereto, and payment of such obligations as are incurred pursuant to this section, including the cost of premium or subscription charges for insurance coverage upon the written request of any state employee or pensioner from the funds appropriated therefore and, in the event such appropriated funds are inadequate, pay such additional sums as may be required from those moneys in the General Fund not otherwise appropriated.
- (h) Communication to State employees of all State employee benefits coverages and any additions or changes of benefits affecting State employees.
- (i) Authority to act as agent of the State to enter into a contract or contracts with the carrier or carriers for benefits programs for State employees and pensioners.
- (j) Prompt notification of the health care insurance carrier or third party administrator of the names and other necessary data related to the employees and pensioners covered by the State employees health insurance program and of all changes and shall pay such obligations as are incurred pursuant to this section, including the cost of premium or subscription charges for health care insurance coverage upon the written request of any state employee or pensioner from the funds appropriated therefore and, in the event such appropriated funds are inadequate, pay such addition sums as may be required from those moneys in the General Fund not otherwise appropriated."

Section 2. Amend Section 5114(e), Chapter 51, Title 29 of the Delaware Code by deleting the words "The State Treasurer" therein and substituting in lieu thereof the words "The State Personnel Director".

Section 3. Amend Section 5201, Chapter 52, Title 29 of the Delaware Code by striking the subsection (d) in its entirety.

Section 4. Amend Section 5203(c), Chapter 52, Title 29 of the Delaware Code by striking the subsection (c) in its entirety.

Section 5. Amend Section 5204, Chapter 52, Title 29 of the Delaware Code by striking the subsection (c) in its entirety.

Section 6. Amend Section 5206, Chapter 52, Title 29 of the Delaware Code by deleting the first sentence in its entirety.

Section 7. Amend Chapter 52, Title 29 of the Delaware Code by adding a new §5210 to read as follows:

"§5210. Authority and Duties of the State Employee Benefits Committee.

- (a) The State Employee Benefits Committee established by Section 9602 of this Title shall have the following powers, duties and functions under this Chapter:
 - (1) Control and management of the State employees group health insurance program provided for in this Chapter.
 - (2) Authority to establish the State employees group health insurance program on an insured or self-insured basis.
 - (3) Selection of the carriers or third party administrators deemed to offer the best plan to satisfy the interests of the State and its employees and pensioners in carrying out the intent of this Chapter.
 - (4) Authority to adopt rules and regulations for the general administration of the State employees group health insurance program.

- (5) Authority to make and enter into any and all contracts with any agency of the State, or any outside agency, for the purpose of assisting in the general administration of this Chapter."

Section 8. Amend Section 3205, Chapter 32, Title 18 of the Delaware Code by deleting the words "State Group Life Insurance Committee" in subsections (a) and (b) and substituting in lieu thereof the words "State Employee Benefits Committee" each time these words appear.

Section 9. Amend Section 3206, Chapter 32, Title 18 of the Delaware Code by deleting Section 3206 in its entirety and substituting in lieu thereof the following to read:

"§3206. State Employee Benefits Committee.

- (a) After reviewing competitive group plans, the State Employee Benefits Committee, established by §9602 of Title 29, shall select a carrier deemed to offer the best plan to satisfy the interests of the State and of its employees in carrying out the intent of this chapter. Such contract shall be for a uniform term of at least 1 year, but may be continued automatically at the option of the State Employee Benefits Committee from term to term in accordance with recognized group life insurance practices.
- (b) The State Employee Benefits Committee shall be empowered to adopt rules and regulations which it deems necessary for the administration of the State's Group Life Insurance Plan."

Section 10. Amend Section 3207, Chapter 32, Title 18 of the Delaware Code by deleting the words "Group Life Insurance Committee" at the end of the first sentence and substituting in lieu thereof the words "the State Employee Benefits Committee."

Section 11. Amend Section 3208, Chapter 32, Title 18 of the Delaware Code by deleting the words "The State or its authorized department or agency" at the beginning of the first sentence and substituting in lieu thereof the words "The State Personnel Director".

Section 12. Amend Section 3209, Chapter 32, Title 18 of the Delaware Code by deleting the words "the Group Life Insurance Committee" at the end of the first sentence and substituting in lieu thereof the words "the State Employee Benefits Committee".

Section 13. Amend Section 3210, Chapter 32, Title 18 of the Delaware Code by deleting the words "the Group Life Insurance Committee" at the end of the first sentence and substituting in lieu thereof the words "the State Employee Benefits Committee".

Section 14. Amend Section 6057, Chapter 60, Title 29 of the Delaware Code by adding the words "National Association of Securities Dealers Automated Quotations (NASDAQ) and American Stock Exchange" after the words "New York Stock Exchange" in Subsection (5) thereof.

Section 15. Amend Section 5209, Chapter 52, Title 29 of the Delaware Code by deleting the words "Group Health Insurance Committee" wherever they appear and substituting in lieu thereof the words "State Employee Benefits Committee.

Approved July 20, 1999

CHAPTER 205
FORMERLY
SENATE SUBSTITUTE NO. 1

FOR
SENATE BILL NO. 144

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO ENVIRONMENTAL CONTROL AND ENVIRONMENTALLY SOUND MANAGEMENT OF SCRAP TIRE PILES.

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

WHEREAS at least two million scrap tires are currently piled in outdoor areas throughout the state; and

WHEREAS outdoor tire piles pose a risk to human health by providing breeding grounds for mosquitoes in rain water collected in scrap tires; and

WHEREAS tire piles pose a risk to the environment by constituting a potential fire hazard, and upon burning may release contaminants causing air pollution and may release liquid and solid pollutants causing water pollution and soil pollution; and

WHEREAS the Delaware State Fire Marshal promulgated regulations on July 1, 1997, requiring all scrap tire piles coming into existence after that date to be permitted and specifying the manner in which the tires are to be managed; and

WHEREAS the Delaware State Fire Prevention Regulations do not address the management of scrap tire piles coming into existence on or before July 1, 1997.

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):

Amend Subchapter II, Chapter 60, Title 7, Delaware Code by adding thereto a new Section 6040 to read as follows:

"§6040 Requirement for scrap tire piles; enforcement

(a) The following definitions shall apply to this section:

- (1) 'Aisle' means an easily accessible, unobstructed space between Scrap Tire Piles, to allow housekeeping operations, visual inspection, and fire-fighting operations, and to contain the spread of any fire.
- (2) 'Tire' means a covering fitting around the rim of a vehicular wheel to absorb shocks, usually of reinforced rubber or a rubberized compound, and pressurized with air or by a pneumatic inner tube, and typically weighing approximately 25 pounds. Included in this meaning is any substantial portion of such covering, and any weight tires including truck tires.
- (3) 'Scrap tire' means: 1) a tire that is no longer prudent or practical for vehicular use; or 2) a tire that has not been used on a vehicle for more than six months after the last date it was used on a vehicle.
- (4) 'Scrap tire pile' means an accumulation of 100 or more scrap tires, whether or not they are lying one upon another, that: 1) has been accumulated or located in the same general vicinity, or accumulated or located on a parcel of real property; 2) is not enclosed by a building; and 3) was in existence on or before July 1, 1997.
- (5) 'Yard' means the general area encompassing a scrap tire pile.

- (6) 'Owner' means any person or entity who has or had legal or equitable ownership interest in a scrap tire pile, or in any real property on which a scrap tire pile is located, at any time after July 1, 1997.
 - (7) 'Operator' means any person or entity who has or had a contractual or other responsibility for security, maintenance, sales or operations of a scrap tire pile, or of any real property on which a scrap tire pile is located, at any time after July 1, 1997; provided that this definition does not include a person or entity whose only ownership interest is as a mortgagee.
- (b) By September 30, 2002, all scrap tire piles shall be in compliance with the following provisions:
- (1) The scrap tires shall be stacked in orderly and stable stacks and rows on solid, level ground.
 - (2) The yard shall be completely surrounded by a secure fence at least 6 feet in height. The fence shall be designed and constructed so as to reasonably exclude all unauthorized persons and animals, and to prevent the possibility of arson.
 - (3) The distance between the fence and the outer edge of the closest scrap tire shall be at least 25 feet.
 - (4) The yard shall be maintained free of weeds, debris, and any combustible materials other than the scrap tires.
 - (5) The height of the rows shall not exceed 14 feet.
 - (6) The width and length of the rows shall not exceed 25 feet by 100 feet.
 - (7) Rows shall be separated by aisles that are at least 24 feet wide.
 - (8) The minimum distance between the fence and any residence or any other structure designed for full-time human occupancy shall be 200 feet. The minimum distance between the fence and any other building or structure shall be 25 feet.
 - (9) Scrap tires shall be either securely covered with waterproof covers, or treated with a pesticide or larvicide, at least twice in any calendar year, at times and in a manner designed to prevent breeding of mosquitoes.
- (c) Owners and operators of scrap tire piles shall be responsible and liable for compliance with all the requirements of this section beginning on September 30, 2002. An approval for recycling solid wastes into specific market applications or a solid waste resource recovery permit shall be deemed compliant with the provisions of this subchapter. Owners and operators of any scrap tire pile in violation of this section shall be subject to daily penalties in accordance with the applicable provisions of Chapter 60 of this Title, including §6005. This section shall not be construed to limit or preclude any action against or involving any scrap tire piles as a public nuisance or as illegal disposal of solid waste. This section shall not be construed to supersede or affect the permitting and other requirements for any solid waste facility or for solid waste handling and disposal."

Approved July 20, 1999

CHAPTER 206

FORMERLY

SENATE BILL NO. 150

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKER'S COMPENSATION.

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

Section 1. Amend subsection (d), §2320, Title 19 of the Delaware Code by adding the following sentence immediately following the word "thereto." and before the word "The"

as the same appears in said subsection: "Such medical examination shall not be referred to as an 'Independent Medical Examination' or 'IME' in any proceeding or on any document relating to a matter under this Chapter; nor shall any examination, required by the employer, by any other doctor, who is an employee of an insurance company, or who is paid by an insurance company, or who is under contract to an insurance company, be referred to as an 'Independent Medical Examination' or 'IME.'"

Section 2. Amend subsection (a), §2343, Title 19 of the Delaware Code by adding the following sentence immediately following the word "employer." and before the word "If" as the same appears in said subsection: "Such medical examination shall not be referred to as an 'Independent Medical Examination' or 'IME' in any proceeding or on any document relating to a matter under this Chapter; nor shall any examination, required by the employer, by any other doctor, who is an employee of an insurance company, or who is paid by an insurance company, or who is under contract to an insurance company, be referred to as an 'Independent Medical Examination' or 'IME.'"

Section 3. Amend §2346, Title 19 of the Delaware Code by adding the following sentence immediately following the last sentence of said subsection: "Such medical examination shall not be referred to as an 'Independent Medical Examination' or 'IME' in any proceeding or on any document relating to a matter under this Chapter; nor shall any examination, required by the employer, by any other doctor, who is an employee of an insurance company, or who is paid by an insurance company, or who is under contract to an insurance company, be referred to as an 'Independent Medical Examination' or 'IME.'"

Approved July 20, 1999

CHAPTER 207

FORMERLY

SENATE BILL NO. 157

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 33, TITLE 24 OF THE DELAWARE CODE RELATING TO VETERINARIANS.

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

Section 1. Amend §3300, Title 24, Delaware Code by adding the words ", both licensed and formerly licensed" immediately following the word "practitioners" and before the "." (period).

Section 2. Amend §3302, Title 24, Delaware Code by striking said section in its entirety and by substituting the following in lieu thereof:

"§3302. 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) 'Animal' shall mean any animal other than man or woman, and includes fowl, birds, fish and reptiles, wild or domestic, living or dead.

(2) 'Board' shall mean the State Board of Veterinary Medicine established in this Chapter.

(3) 'Licensed veterinary medicine school' shall mean any veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent and that conforms to the standards required for accreditation by the American Veterinary Medical Association (AVMA).

(4) 'Division' shall mean the state Division of Professional Regulation.

(5) 'Person' shall mean any individual, firm, partnership, association, joint venture, cooperative and corporation, or any other group or combination acting in concert, whether or not acting as a principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person.

(6) 'Practice of veterinary medicine' shall mean:

a. To diagnose, treat, correct, change, relieve or prevent animal disease, deformity, defect, injury or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic or other therapeutic or diagnostic substance or technique, for testing for pregnancy or for correcting sterility or infertility, or to render advice or recommendation with regard to any of the above;

b. To represent directly or indirectly, publicly or privately, an ability and willingness to do any act described in paragraph a. of this subsection;

c. To use any title, words, abbreviation or letters in a manner or under circumstances, which induce the belief that the person using them is qualified to do any act, described in paragraph a. of this subsection, except where such person is a veterinarian.

(7) 'State' shall mean the state of Delaware.

(8) 'Veterinarian' shall mean a person who has received a doctor's degree in veterinary medicine from a school of veterinary medicine.

(9) 'Veterinary medicine' shall include veterinary surgery, obstetrics, dentistry and all other branches or specialties of veterinary medicine."

Section 3. Amend subsection (9), §3303, Title 24, Delaware Code, by striking the period at the end of said subsection and substituting a semi-colon (;) in lieu thereof.

Section 4. Amend §3303, Title 24, Delaware Code by adding a new subsection (10) which new subsection shall read as follows:

"(10) Any person from performing support activities under the direct supervision, as determined by regulations adopted by the Board, of a Delaware-licensed veterinarian. The support activities shall not include diagnosing, prescribing, inducing anesthesia, performing surgery, or other support activities as defined in regulations adopted by the Board."

Section 5. Amend subsection (b), §3304, Title 24, Delaware Code, by striking the words ", and the member shall no longer be eligible to participate in Board proceedings unless lawfully appointed." and by substituting the words "; however, the Board member shall remain eligible to participate in Board proceedings unless and until replaced by the Governor."

Section 6. Amend subsection (f), §3304, Title 24, Delaware Code, by striking said subsection in its entirety, and by substituting the following in lieu thereof:

"(f) No member of the Board, while serving on the Board, shall hold elective office in any state or national professional association of veterinarians. Board members are prohibited from serving as an officer of their professional association's Political Action Committee (PAC)."

Section 7. Amend subsection (g), §3304, Title 24, Delaware Code, by striking said subsection in its entirety, and by substituting the following in lieu thereof:

"(g) The provisions set forth in Chapter 58, Title 29, Delaware Code, shall apply to all members of the Board."

Section 8. Amend subsection (h), §3304, Title 24, Delaware Code, by adding the words "according to Division of Professional Regulation policy" immediately following the word "travel" and before the ";" (semi-colon).

Section 9. Amend subsection (a), §3304, Title 24, Delaware Code, by striking the subsection designation "(a)" and by substituting the designation "(b)" in lieu thereof; and by further redesignating each succeeding subsection designation accordingly.

Section 10. Amend §3304, Title 24, Delaware Code by adding a new subsection (a), which new subsection shall read as follows:

"(a) There is created a State Board of Veterinary Medicine which shall administer and enforce this Chapter."

Section 11. Amend subsection (d), §3305, Title 24, Delaware Code, by striking the words "such hearing shall be recorded and transcribed by the Division." and by substituting the following in lieu thereof: "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."

Section 12. Amend paragraph (1), subsection (a), §3306, Title 24, Delaware Code, by adding the following words after the word "given" and before the "." (period): "; all rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act of this State".

Section 13. Amend paragraph (2), subsection (a), §3306, Title 24, Delaware Code, by adding the following words after the word "applicants" and before the ";" (semi-colon): ", and process all applications".

Section 14. Amend paragraph (3), subsection (a), §3306, Title 24, Delaware Code, by striking the words ", except applicants who qualify for licensure by reciprocity;" and by substituting the following words in lieu thereof: "; applicants who qualify for licensure by reciprocity shall have achieved the passing score on the national examination, including the Clinical Competency Test (CCT), unless the CCT was not required by this State at the time of the applicant's initial licensure;"

Section 15. Amend paragraph (4), subsection (a), §3306, Title 24, Delaware Code, by adding the following sentence immediately following the ";" (semi-colon): "the Board shall adopt the administration, grading procedures, and passing score of the National Board Examination Committee for Veterinary Medicine, or its successor, and the American Association of Veterinary State Boards (AAVSB)."

Section 16. Amend §3306, Title 24, Delaware Code, by striking present paragraphs (5) through (11) in their entirety, and by substituting the following in lieu thereof:

"(5) Evaluate the credentials of all persons applying for a license to practice veterinary medicine 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 veterinary medicine, 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 veterinarians, or concerning practices of the Board or of the profession, to the Division for investigation pursuant to §8807, Title 29, 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 Chapter 101, Title 29 of the Delaware Code.

(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."

Section 17. Amend §3307, Title 24, Delaware Code by striking said section in its entirety, and by substituting the following in lieu thereof:

"§3307. Qualifications of applicant; report to Attorney General; judicial review.

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

(1) has received a degree of 'Doctor of Veterinary Medicine,' or its equivalent, from a school or college approved by the American Veterinary Medical Association, or possesses a certificate issued by the Educational Commission for Foreign Veterinary Graduates (ECFVG), or its successor, or a Certificate of Qualification issued by the Canadian Veterinary Medical Association, or its successor.

(2) has achieved the passing score on the written standardized examination for veterinarians, including the latest clinical competency test, developed by the National Board Examination Committee for Veterinary Medicine, or its successor, and the American Association of Veterinary State Boards;

(3) shall not have been the recipient of any administrative penalties regarding his or her practice of veterinary medicine, 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/her professional conduct and practice, including any voluntary surrender of a license. The Board may, after a hearing, determine whether such administrative penalty is grounds to deny licensure; or

4) has not had his or her United States Drug Enforcement Administration (DEA) privileges restricted or revoked; or

5) shall not have any impairment related to drugs or alcohol that would limit the applicant's ability to undertake the practice of veterinary medicine in a manner consistent with the safety of a patient or the public;

6) shall not have been convicted of a felony;

7) shall not have a criminal conviction record, or pending criminal charge relating to an offense, the circumstances of which substantially relate to the practice of veterinary medicine. 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 veterinary medicine.

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

(b) In the event the applicant has not taken the national examination, including the clinical competency test, administered by the National Board Examination Committee for Veterinary Medicine (NBECVM), or its successor, the Board shall administer the latest examination at such times as are determined by the testing service. Such written examination shall be obtained from, and corrected by, the NBECVM.

(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 the applicant 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 18. Amend §3308, Title 24, Delaware Code by striking said section in its entirety and by substituting the following in lieu thereof:

"§3308. Records.

The Division of Professional Regulation shall keep a register of all approved applications for license as a veterinarian, 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."

Section 19. Amend §3309, Title 24, Delaware Code by striking subsections (a), (b), and (c), in their entirety and by substituting the following in lieu thereof:

"(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. A license in 'good standing' is defined in §3307(a)(3)(4)(5)(6)(7) and (8), Title 24 of the Delaware Code; and

(b) The applicant has passed the National Board Examination (NBE) and the Clinical Competency Test (CCT) as prepared under the authority of the National Board Examination Committee for Veterinary Medicine (NBECVM), or its predecessor organization, the National Board of Veterinary Medical Examiners, or any subsequent national licensing examination prepared under the authority of the NBEC or the American Association

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of Veterinary State Boards (AACSB), or an equivalent examination(s) as established by this State's veterinary licensing body, unless at the time the applicant became licensed in the state, District of Columbia, or territory of the United States, from which he or she is applying, the NBE and/or CCT or subsequent examinations prepared under the authority of the NBECVM was/were not required by this State (in which case the applicant need only have passed whatever national licensing examinations were required of entry level licensees in this State at that time).

(c) Applicants who are not graduates of schools of veterinary medicine accredited by the American Veterinary Medical Association (AVMA) must possess a certificate issued by the Educational Commission for Foreign Veterinary Graduates (ECFVG) or a Certificate of Qualification issued by the Canadian Veterinary Medical Association, unless at the time such applicants became licensed in the State, District of Columbia, or territory of the United States, an ECFVG certificate was not required by this State.

(d) The Board shall grant a license to an applicant, who was previously licensed as a veterinarian in this State, and who has let his or her license lapse, subject to the applicant's meeting the requirements of subsection (a) of this section, and continuing education requirements as provided for in the Board's rules and regulations.

(e) 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 veterinarians 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 20. Amend subsection (a), §3310, Title 24, Delaware Code, by striking the words "calendar year" as the same appear in said subsection and by substituting in lieu thereof the words "licensure biennium".

Section 21. Amend subsection (a), §3310, Title 24, Delaware Code, by striking the words "coming year" as the same appear in said subsection and by substituting in lieu thereof the words "licensure biennium".

Section 22. Amend subsection (b), §3310, Title 24, Delaware Code, by striking said subsection in its entirety.

Section 23. Amend subsection (a), §3310, Title 24, Delaware Code, by striking the subsection designation "(a)".

Section 24. Amend subsection (a), §3311, Title 24, Delaware Code, by striking said subsection in its entirety and by substituting the following in lieu thereof:

"(a) The Board shall issue a license to each applicant, who meets the requirements of this Chapter for licensure as a veterinarian, and who pays the fee established under §3310 of this Chapter. Prior to practicing in this State, each applicant shall file for and obtain an occupational license from the Division of Revenue in accordance with Chapter 23, Title 30, Delaware Code."

Section 25. Amend subsection (b), §3311, Title 24, Delaware Code, by striking the following sentence in its entirety: "The Board shall charge a late fee, which shall be 50% of the renewal fee."

Section 26. Amend subsection (c), §3311, Title 24, Delaware Code, by striking said subsection in its entirety and by substituting the following in lieu thereof:

"(c) 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."

Section 27. Amend subsection (d), §3311, Title 24, Delaware Code, by striking the following sentence in its entirety: "A temporary license may be renewed once."

Section 28. Amend subsection (e), §3311, Title 24, Delaware Code by striking the "." (period) at the end of said subsection and by adding the following words:

"; provided also, that applicants meet the provisions of §3309 of this Chapter for reciprocity applicants."

Section 29. Amend subsection (f), §3311, Title 24, Delaware Code, by striking said subsection in its entirety.

Section 30. Amend §3312, Title 24, Delaware Code, by striking subsections (a) and (b) in their entirety and by substituting the following in lieu thereof:

"A practitioner or member of the public desiring to file a complaint against a practitioner or licensee regulated by the Board shall file a written complaint with the Division of Professional Regulation. All complaints shall be received and investigated by the Division of Professional Regulation in accordance with §8807, Title 29 of the Delaware Code, and the Division shall be responsible for issuing a final written report at the conclusion of its investigation."

Section 31. Amend §3313, Title 24, Delaware Code, by striking subsections (a) through (e) in their entirety and by substituting the following in lieu thereof:

"(a) A practitioner licensed under this Chapter shall be subject to disciplinary actions set forth in §3314 of this Chapter, if, after a hearing, the Board finds that the veterinarian:

- (1) has been found guilty of unprofessional conduct as defined in the Board's rules and regulations;
- (2) has employed or knowingly cooperated in fraud or material deception in order to acquire a license as a veterinarian; has impersonated another person holding a license, or allowed another person to use his or her license, or aided or abetted a person not licensed as a veterinarian to represent himself or herself as a veterinarian;
- (3) has illegally, incompetently or negligently practiced veterinary medicine;
- (4) has been convicted of a felony or any offense that would limit the ability of the practitioner to carry out the practitioner's professional duties with due regard for the health and safety of animals. A copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence thereof;
- (5) has excessively used or abused drugs; 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 a veterinarian;
- (6) has engaged in an act of consumer fraud or deception; engaged in the restraint of competition; or participated in price-fixing activities;
- (7) has willfully violated any privileged communication;
- (8) has been fraudulent or dishonest in the application or reporting of any test for disease in animals;
- (9) has failed to keep his or her veterinary premises and equipment in clean and sanitary condition;
- (10) has failed to report, as required by law, or has made a false report of any contagious or infectious disease;
- (11) has been dishonest or negligent in the inspection of foodstuffs, or in the issuance of health or inspection certificates;
- (12) has been cruel to animals;
- (13) has violated a lawful provision of this Chapter, or any lawful regulation established thereunder;
- (14) has had his or her license as a veterinarian suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record; and the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute one or more of the acts defined in this Chapter. Every person licensed as a veterinarian in this State shall be deemed to have given consent to the release of this information by the Board of Veterinarians or other comparable agencies in another jurisdiction and to waive all objections to the admissibility of previously adjudicated evidence of such acts or offenses;
- (15) has failed to notify the Board that his or her license as a veterinarian in another State has been subject to discipline, or has been surrendered, suspended or revoked. A certified copy of the record of disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof.

(b) Subject to the provisions of this Chapter and Subchapter IV, Chapter 101, Title 29, Delaware Code, no license shall be restricted, suspended or revoked by the Board, and no practitioner's right to practice veterinary medicine 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."

Section 32. Amend §3315, Title 24, Delaware Code, by striking subsections (a), (b), and (c) in their entirety, and by substituting the following in lieu thereof:

"(a) If a complaint is filed with the Board pursuant to §8807, Title 29 of the Delaware Code, alleging violation of §3313 of this Title, 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, 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, the practitioner 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 the practitioner. Upon such appeal the Court shall hear the evidence on the record. Stays shall be granted in accordance with §10144, Title 29 of the Delaware Code.

Section 33. Amend §3316, Title 24, Delaware Code by striking subsections (a), (b) and (c) in their entirety and by substituting the following in lieu thereof:

"(a) Where the Board has reason to believe that a person is practicing veterinary medicine within this State without having lawfully obtained a license, or that a person previously licensed under this Chapter is engaged in a practice regulated by this Chapter, notwithstanding that 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 practice, the Board shall make a formal complaint to the Attorney General who may issue a cease and desist order. The complaint and/or order shall include all evidence known to, or in the possession of, the Board.

(b) Where the Board has placed a practitioner on probationary status under certain restrictions or conditions, and the Board has determined that such restrictions or conditions are being or have been violated by the practitioner, the Board, after a hearing on the matter, may suspend or revoke the practitioner's license.

(c) Where a person not currently licensed as a veterinarian under this Chapter is convicted of unlawfully practicing veterinary medicine in violation thereof, such offender upon the first offense, shall be fined not less than \$500.00 nor more than \$1,000 for each offense, and the offender shall pay all costs. Each day a violation continues shall constitute a separate offense. The Court shall order all fees received for unlawful service to be refunded.

(1) Justice of the Peace Court shall have jurisdiction over any violation of this Chapter.

(2) Any person convicted of any such offense before a Justice of the Peace or in any court of competent jurisdiction, other than the Superior Court, may appeal to the Superior Court in the county in which the conviction was had upon giving bond in the sum of \$200 to this State with surety satisfactory to such justice or trial court; provided, however, that the appeal is taken and bond given within seven days from the time of the conviction."

Section 34. Amend §3317, Title 24, Delaware Code, by striking said section in its entirety and by substituting the following in lieu thereof:

"§3317. 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 must pay the appropriate fees and submit documentation required by the Board as evidence that all the conditions of a suspension and/or probation have been met. Proof that the applicant has met the continuing education requirements of this Chapter may also be required, as appropriate.

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

Section 35. Amend §3318, Title 24, Delaware Code by striking said section in its entirety.

Approved July 20,1999

CHAPTER 208

FORMERLY

SENATE BILL NO. 164
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 RELATING TO FREE SCHOOLS; AGES; ATTENDANCE WITHIN SCHOOL DISTRICT; AND NONRESIDENTS OF DELAWARE AS IT PERTAINS TO RELATIVE CAREGIVERS.

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

Section 1. Amend §202, Title 14 of the Delaware Code by striking subsection (e) in its entirety and substituting in lieu thereof a new subsection (e) to read as follows:

"(e) For purposes of this section, a student shall be considered a resident of the school district in which his or her parents or legal guardian resides. If a student seeks to be considered a resident of a particular school district based on the residence of anyone other than his or her parent(s) or legal guardian, the student must have:

- (1) 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
- (2) suitable documentation certifying that the student resides within the district by action of the State of Delaware or approval by the school district to be considered the student's residence; or
- (3) a completed and notarized Establishment of Delegation of Power to Relative Caregivers to Consent for Registering Minors for School confirming a caregiver's ability to provide consent in those cases where the student is being cared for by an adult relative caregiver without legal custody or guardianship.

Students under the care or custody of the Department of Services for Children, Youth and Their Families are exempted from the provisions of this subsection. Students 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."

Section 2. Amend §202, Title 14 of the Delaware Code, to add a new subsection (f) to read as follows:

- "(f)(1) An Establishment of Delegation of Power to Relative Caregivers to Consent for Registering Minors for School shall include, at a minimum, the name and date of birth of the student, an affidavit signed by the caregiver that the caregiver is 18 years of age or older and that the student resides with the caregiver; names and signatures of mother, father, custodian and guardian when available, or a statement of reasonable effort to locate mother, father, guardian, and custodian based on criteria set forth in the regulations; name of caregiver; relationship of the caregiver to student documented by proof of relationship as defined by regulation; and the dated signature of the caregiver. The signature of the caregiver shall be notarized. Any school district that reasonably and in good faith relies on this affidavit has no obligation to make any further inquiry or investigation. This affidavit is valid for up to one year unless the minor no longer resides in the caregiver's home or if the mother, father, guardian, or custodian revokes their approval.
- (2) A relative caregiver is an adult who, by blood, marriage or adoption, is the great grandparent, grandparent, great aunt, aunt, great uncle, uncle, step grandparent, step parent, brother, sister, step brother, step sister, half brother, half sister, niece, nephew, first cousin or first cousin once removed but who does not have custody or legal guardianship of the student.

- (3) The registration of a student for school by the student's relative caregiver, based upon an Establishment of Delegation of Power to Relative Caregivers to Consent for Registering Minors for School shall be honored by any school in any school district.
- (4) Persons who knowingly make false statements in this Establishment shall be subject to a civil penalty of a maximum of \$1,000 per student. Justices of the peace shall have jurisdiction in these cases.
- (5) The Department of Health and Social Services shall be authorized to promulgate regulations to implement this law."

Approved July 20,1999

CHAPTER 209

FORMERLY

SENATE BILL NO. 173

AN ACT TO AMEND CHAPTER 31, TITLE 24 OF THE DELAWARE CODE RELATING TO THE BOARD OF FUNERAL SERVICES.

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

Section 1. Amend §3100, Title 24 of the Delaware Code by striking the words "and unlicensed" as the same appear in the last sentence of said section.

Section 2. Amend §3100, Title 24 of the Delaware Code by added the word "and" immediately following the word "licensed," and before the words "formerly licensed" as the same appear in the last sentence of said section.

Section 3. Amend subsection (h), §3102, Title 24 of the Delaware Code by striking the word "additional" as the same appears in the first sentence of said subsection, and by substituting the word "addition" in lieu thereof.

Section 4. Amend subsection (h), §3102, Title 24 of the Delaware Code by adding the words "according to Division of Professional Regulation policy," in the first sentence of said subsection immediately following the word "travel," and before the word "and".

Section 5. Amend §3104, Title 24 of the Delaware Code by adding the word "approved" immediately following the word "all" and before the word "applications".

Section 6. Amend paragraph (3), subsection (a), §3105, Title 24 of the Delaware Code by striking said paragraph in its entirety and by substituting the following in lieu thereof:

"(3) Designate the written, standardized examination on funeral services, prepared by an independent testing service, recognized by the Conference of Funeral Service Examining Boards, or its successor, and approved by the Division. The examination shall be taken by all persons applying for licensure, except those applicants who qualify for licensure by reciprocity;"

Section 7. Amend paragraph (4), subsection (a), §3105, Title 24 of the Delaware Code by striking said paragraph in its entirety and by substituting the following in lieu thereof:

"(4) Designate a written, validated examination, prepared by an independent testing service and approved by the Division, based solely on the laws of Delaware governing the professional of funeral services. The Division shall administer the state examination.

Section 8. Amend paragraph (9), subsection (a), §3105, Title 24 of the Delaware Code by striking the last sentence of said paragraph beginning with the words "License renewal" and ending with the words "on licensees..".

Section 9. Amend paragraph (5), subsection (a), §3105, Title 24 of the Delaware Code by redesignating current paragraph (5) as new paragraph (6), and by redesignating each succeeding paragraph accordingly.

Section 10. Amend §3105, Title 24 of the Delaware Code by adding thereto a new paragraph (5), which new paragraph shall read as follows:

"(5) Provide for the administration of examinations, including notice and information to applicants;"

Section 11. Amend paragraph (1), subsection (a), §3107, Title 24 of the Delaware Code by adding the words "or its equivalent" immediately following the words "Associate Degree" and before the words "in mortuary science".

Section 12. Amend paragraph (3), subsection (a), §3107, Title 24 of the Delaware Code by striking the words "and corrected" as the same appear in said paragraph.

Section 13. Amend paragraph (3), subsection (a), §3107, Title 24 of the Delaware Code by striking the words "and shall report all examination results to the Board" as the same appear in said paragraph.

Section 14. Amend paragraph (5), subsection (a), §3107, Title 24 of the Delaware Code by adding the following sentence immediately following the last sentence of said paragraph ending with the words "surrender of a license":

"The Board may determine, after a hearing, whether such administrative penalty is grounds to deny licensure."

Section 15. Amend subsection (b), §3109, Title 24 of the Delaware Code by striking said subsection in its entirety and by substituting the following in lieu thereof:

"(b) Section 3107(a)(1), (2) and (4) of this title shall not apply to persons validly licensed in another jurisdiction, who have practiced in another jurisdiction for at least three of the past five years."

Section 16. Amend subsection (c), §3111, Title 24 of the Delaware Code by striking the last sentence of said subsection in its entirety beginning with the words "Otherwise, licensure" and ending with the words "of this title."

Section 17. Amend the title of §3112 by striking said title in its entirety and by substituting the following in lieu thereof:

"§3112. Grounds for discipline."

Section 18. Amend paragraph (9), subsection (a), §3112, Title 24 of the Delaware Code by striking said paragraph in its entirety and by substituting the following in lieu thereof:

"(9) Has a physical condition such that the performance of funeral services is or may be injurious or prejudicial to the public."

Section 19. Amend paragraph (6), subsection (a), §3114, Title 24 of the Delaware Code by striking the words "in addition to suspension or revocation of a license" as the same appear in said paragraph.

Section 20. Amend paragraph (2), subsection (e), §3117, Title 24 of the Delaware Code by adding the words "of this state" in the first sentence of said paragraph immediately following the words "funeral director" and before the period (.)

Section 21. Amend subsection (a), §3120, Title 24 of the Delaware Code by striking the words "The interstate transportation of human remains form shall be designed by the Board and contain the following information:" and substituting the following in lieu thereof:

"The temporary interstate transportation of human remains form shall be designated by the Office of Vital Statistics and contain the following information:"

Section 22. Amend subsection (b), §3120, Title 24 of the Delaware Code by striking said subsection and substituting the following in lieu thereof:

"(b) The temporary interstate transportation of human remains form shall be issued to the receiving funeral director and a copy shall be retained by the issuing funeral director."

Section 23. Amend subsection (c), §3120, Title 24 of the Delaware Code by adding the word "final" immediately following the word "the" and before the word "interstate".

Approved July 20, 1999

CHAPTER 210

FORMERLY

SENATE BILL NO. 181

AN ACT TO AMEND CHAPTER 14, TITLE 24 OF THE DELAWARE CODE RELATING TO THE BOARD OF ELECTRICAL EXAMINERS

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

Section 1. Amend Title 24 of the Delaware Code by striking Chapter 14 in its entirety and by substituting the following in lieu thereof:

"CHAPTER 14. BOARD OF ELECTRICAL EXAMINERS

Subchapter 1. Board of Electrical Examiners.

§1401. Objectives.

The primary objective of the Board of Electrical 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 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 licensed practitioners.

§1402. 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 Electrical Examiners established in this Chapter.
- (2) 'Cut-in-card' shall mean the approval certificate sent to the power company by the inspection agency after an inspection has been completed, which authorizes the power company to turn on the electricity at the property.
- (3) 'Dwelling' shall mean, for purposes of this Chapter, any enclosure that affords habitable living space for a human being(s).
- (4) 'Division' shall mean the State Division of Professional Regulation.
- (5) 'Electrical inspection agency' shall mean the agency responsible for the oversight and the issuing of certificates of inspection for all electrical work performed in this State.
- (6) '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 electrician.
- (7) 'Full-time employee' shall mean an individual, who is added to the company payroll and who has on file with the employer a W-4 form authorizing the employer to withhold taxes and who receives a wage or salary and who is under the supervision of a licensed electrician.
- (8) 'Homeowner' shall mean, for purposes of this Chapter, an individual who both owns and lives in his or her home or dwelling.
- (9) 'License' shall mean the certificate issued by the Board that is evidence that the holder has met the requirements of this Chapter.
- (10) 'Limited Electrician' shall mean a person licensed by the Board to plan, estimate, layout, perform, or supervise the installation, erection, or repair of any electrical conductor, molding, duct, raceway,

conduit, machinery, apparatus, device, or fixture, for the purpose of lighting, heating, or power, in any structure which contains four or fewer dwelling units, as determined by the applicable building code.

(11) 'Limited Electrician Special' shall mean a person licensed by the Board to plan, estimate, layout, perform, or supervise the installation, erection, or repair of any electrical conductor, molding, duct, raceway, conduit, machinery, apparatus, device, or fixture, for any of the following purposes: elevators, swimming pools, air conditioning, heating, and oil burners, in any structure which contains four or fewer dwelling units, as determined by the applicable building code.

(12) 'Master Electrician' shall mean a person, licensed by the Board, to plan, estimate, layout, perform, or supervise the installation, erection, or repair of any electrical conductor, molding, duct, raceway, conduit, machinery, apparatus, device, or fixture for the purpose of lighting, heating, or power in any structure.

(13) 'Master Electrician Special' shall mean a person, licensed by the Board, to plan, estimate, layout, perform, or supervise the installation, erection, or repair of any electrical conductor, molding, duct, raceway, conduit, machinery, apparatus, device or fixture for any one of the following purposes: elevators, swimming pools, electric signs, air conditioning, heating, refrigeration, and oil burners, and overhead and underground primary distribution systems.

(14) 'Person' shall mean an individual, firm, partnership, corporation, association, joint stock company, limited partnership, limited liability company, and any other legal entity and includes a legal successor of those entities.

(15) 'Service' shall mean, for purposes of this Chapter, to repair or replace in kind.

(16) 'State' shall mean the State of Delaware.

(17) 'Supervision' shall mean that a licensed electrician shall be fully responsible for all electrical work performed under his or her license.

(18) 'Unlicensed practitioner' shall mean any person, who engages in the occupational practices as defined in subsections (10), (11), (12), or (13) of this section, and who has not been granted a license or a homeowner's permit by the Board.

§1403. Board of Electrical Examiners; appointments; composition; qualifications; term; vacancies; suspension or removal; unexcused absences; compensation.

(a) There is created a State Board of Electrical Examiners, which shall administer and enforce this Chapter.

(b) The Board shall consist of nine members, appointed by the Governor, who are residents of this state: Five shall be electricians licensed under this Chapter, one of whom may be a registered professional engineer with at least six years' experience in electrical planning and design, and four public members. The public members shall not be, nor ever have been, licensed electricians, nor members of the immediate family of a licensed electrician; shall not have been employed by an electrician or electrical contractor; shall not have a material interest in the providing of goods and services to electricians; nor have been engaged in an activity directly related to the electrical business. 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.

(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 term 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

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violation of subsection (d) of this section, unless such an amendment or revision amends this section to permit such an appointment.

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

(g) No member of the Board, while serving on the Board, shall hold elective office in any professional association of electricians; this includes a prohibition against serving as head of the professional association's Political Action Committee (PAC).

(h) The provisions set forth in Chapter 58 of 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 who 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.

§1404. 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 Board members.

(b) The Board annually shall elect a President, Vice-President, Secretary, a complaint officer and an education officer. Each officer shall serve for one year and shall not succeed himself or herself for more than two 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 at least five members of the Board.

(d) Minutes of all meetings shall be recorded and the Division shall maintain copies of the minutes. At any hearing where evidence is presented, a record from which a verbatim transcript can be prepared shall be made. The person requesting the transcript shall incur the cost of preparing any transcript.

§1405. Records.

The Division shall keep a register of all approved applications for license as a limited electrician, limited electrician special, master electrician, and master electrician special, 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.

§1406. Powers and duties.

(a) The Board of Electrical 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 process all applications;

(3) Designate the written, standardized examination, approved by the Division, and administered and graded by the testing service, to be taken by all persons applying for licensure; except applicants who qualify for licensure by reciprocity;

(4) Evaluate the credentials of all persons applying for a license as limited electrician, limited electrician special, master electrician, and master electrician special, in this State, in order to determine whether such persons meet the qualifications for licensing set forth in this Chapter.

(5) Grant licenses to and renew licenses of all persons who meet the qualifications for licensure;

(6) Delegate authority to the Division to grant homeowners' permits to persons who qualify for such permits;

(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 previously has been licensed, certified, or registered in another jurisdiction as an electrician, 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;

(9) Refer all complaints from licensees and the public concerning licensed electricians, or concerning practices of the Board, or of the profession, to the Division 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 the Administrative Procedures Act, Chapter 101 of Title 29 of the Delaware Code.

(11) Grant a license to, and renew the license of, a non-practicing licensee, as defined in the Board's rules and regulations, provided the individual does not use the license to perform electrical installations or file inspections, and who in addition, submits proof of completion of biennial continuing education requirements.

(12) Require, if necessary, that a licensed electrician take over the work done by an unlicensed practitioner, or if the work is completed, that the work be inspected by a Board-licensed inspection agency; such work shall be inspected by the inspection agency within five working days after receipt of the Board's request.

(13) Designate and impose the appropriate sanction or penalty, after time for appeal has lapsed, when the Board determined after a hearing, that penalties or sanctions should be imposed.

Subchapter II. License.

§1407. License required.

(a) No person shall engage in the practice of providing electrical services or hold himself or herself out to the public in this State as being qualified to act as a licensed electrician; 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 act as a licensed electrician, unless such person has been duly licensed under this Chapter.

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

§1408. Qualifications of applicant.

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

(1) For master electrician shall have:

a. Six years' full-time experience under the supervision of a licensed master electrician; or

b. Eight thousand (8,000) hours of full-time experience under the supervision of a licensed master electrician, plus 576 hours of related instruction, or other approved training verified by a certificate of completion of apprenticeship from any bona fide, registered apprenticeship program of another state; or

- c. Four years' full-time experience under the supervision of a licensed master electrician and two years' of technical training.
- (2) For licensure as limited electrician shall have knowledge of electricity in the residential area, and in addition shall have:
 - a. Three years' full-time experience under the supervision of a licensed electrician, master or limited; or
 - b. Four thousand (4,000) hours of full-time experience under the supervision of a licensed electrician, master or limited, plus 288 hours of related instruction, or other approved training verified by a certificate of completion of apprenticeship from any bona fide, registered apprenticeship program of another state.
- (3) For licensure as master electrician special shall have knowledge of electricity as it relates to the particular type(s) of specialty, and in addition shall have:
 - a. Six years' full-time experience under the supervision of a licensed master electrician, or master electrician special in the applicable specialty; or
 - b. Eight thousand (8,000) hours of full-time experience under the supervision of a licensed master electrician or master electrician, or other approved training in the applicable specialty verified by a certificate of completion of apprenticeship from any bona fide, registered apprenticeship program of another state.
- (4) For licensure as limited electrician special shall have knowledge of electricity as it relates to the particular type(s) of specialty, and in addition shall have:
 - a. Three years' full-time experience under the supervision of a licensed master electrician special or limited electrician special in the applicable specialty; or
 - b. Four thousand (4,000) hours of full-time experience under the supervision of a licensed master electrician or limited electrician in the applicable specialty, plus successful completion of 288 hours of related instruction, or other approved training in a specialty verified by a certificate of completion of apprenticeship from any bona fide, registered apprenticeship program of another state.
- (5) After fulfilling the applicable experience and/or training requirements of this section, shall have achieved the passing score on the written, standardized examination for licensure, with a passing score as determined by the Board in rules and regulations, and which is approved by the Division;
- (6) Shall not have been the recipient of any administrative penalties regarding his or her practice as an electrician, 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. The Board may determine after a hearing whether such administrative penalty is grounds to deny licensure.
- (7) Shall not have any impairment related to drugs or alcohol that would limit the applicant's ability to act as an electrician in a manner consistent with the safety of the public;
- (8) Shall not have been convicted of a felony;
- (9) Shall not have a criminal conviction record, nor pending criminal charge relating to an offense, the circumstances of which substantially relate to providing electrical services. Applicants who have criminal conviction records or pending criminal charges shall request 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 providing electrical services.
- (10) Shall have no disciplinary proceedings or unresolved complaints pending against him or her in any jurisdiction where the applicant has previously been or currently is licensed or registered.

(b) All evidence of experience shall be submitted on written affidavit forms provided by the Board.

(c) All evidence of education shall be submitted by written certification from the educational institution attended.

(d) 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.

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

(f) An applicant may elect to postpone submitting his or her licensure fee and proof of general liability insurance after successfully completing the examination for licensure; but such postponement shall not exceed 12 months. If the applicant fails to activate his or her license within 12 months of passing the examination, the Board shall require that the applicant retake the examination.

§1409. 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, whose standards for licensure are substantially similar to those of this State. A license in 'good standing' is defined in §1408(a) (6), (7), (8), (9), and (10) of this Chapter.

(b) An applicant, who is licensed in a state whose standards are not substantially similar to those of this state, shall have practiced for a minimum of five years after licensure; provided however, that he or she meets all other qualifications for reciprocity in this section.

§1410. 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 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, or any other state agency acting in its behalf, shall compute, for each separate service or activity, the appropriate Board fees for the licensure biennium.

§1411. Issuance and renewal of licenses.

(a) The Board shall issue a license to each applicant, who meets all of the requirements of this Chapter for licensure as an electrician, in the category applied for, and who pays the fee established under §1410 of this Chapter, and submits proof of general liability insurance as required by the Board.

(b) Each license shall be renewed biennially, in such manner as is determined by the Division, and upon payment of the appropriate fee and submission of a renewal form provided by the Division, proof of general liability insurance as required by the Board, and proof that the licensee has met the continuing education requirements established by the Board.

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

(d) A licensee, upon written request, may be placed in an inactive status in accordance with the Board's rules and regulations. The renewal fee of such person shall be prorated according to the amount of time such person was inactive. Such person may reenter practice upon written request to the Board of the intent to do so, and completion of continuing education, as required in the Board's rules and regulations.

§1412. Grounds for discipline.

(a) A practitioner licensed under this Chapter shall be subject to disciplinary actions set forth in §1414 of this Chapter, if, after a hearing, the Board finds that the practitioner:

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

(2) Has illegally, incompetently or negligently provided electrical services;

(3) Has performed electrical work in a category for which he or she is not licensed;

(4) Has been convicted of a felony;

(5) Has been convicted of any offense, the circumstances of which substantially relate to the performance of electrical work. A copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefor;

(6) Has excessively used or abused drugs;

(7) Has engaged in an act of consumer fraud or deception of the public;

(8) Has violated a lawful provision of this Chapter, or any lawful rule or regulation established thereunder;

(9) Has had his or her license as an electrician 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 electrician in this State shall be deemed to have given consent to the release of this information by the Board, or other comparable agencies in another jurisdiction, and to waive all objections to the admissibility of previously adjudicated evidence of such acts or offenses;

(10) Has failed to notify the Board that his or her license as an electrician 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; or

(b) Subject to the provisions of 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 as an electrician 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.

§1413. Complaints.

(a) All complaints shall be received and investigated by the Division 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.

(b) When it is determined that an individual, not currently licensed by the Board, is engaging, or has engaged, in providing electrical services to the public, or is using the title 'master electrician', 'master electrician special', 'limited electrician', 'limited electrician special', or other title implying that he or she is competent to provide electrical services, the Board shall apply to the Office of the Attorney General to issue a cease and desist order.

§1414. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that one of the conditions or violations set forth in §1412 of this Chapter applies to a practitioner or licensee 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) By a decision of five members, the Board may suspend any license, prior to a hearing, simultaneously with the scheduling of a hearing if it finds that the electrician continuing the practice, which warrants this action, is an imminent danger to the public health and safety. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof unless sooner withdrawn by the Board or stayed by the Superior Court. The hearing shall be held no later than 30 days from the date of service of the suspension order unless continued at the request of the licensee.

§1415. Hearing procedures.

(a) If a complaint is filed with the Board pursuant to §8807 of Title 29 of the Delaware Code, alleging violation of §1412 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 shall be 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.

§1416. 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 must pay the appropriate fees and submit documentation required by the Board as evidence that all the conditions of a suspension and/or probation have been met. Proof that the applicant has met the continuing education requirements of this Chapter may also be required, as appropriate.

(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.

Subchapter III. Other Provisions

§1417. Homeowner's Permits.

(a) Any person, who plans to install his or her own internal wiring, electrical work, or equipment, including the main breaker or fuse, in or about his or her own home, that is not for sale nor any part for rent, excluding swimming pools and hot tubs, shall obtain a homeowner's permit. Permits shall be valid for one year. Failure of the homeowner to obtain a final inspection of his or her work shall be cause for the Board to cancel the homeowner's permit.

(b) Persons applying for a homeowner's permit shall submit a photo identification, copy of the deed to the home, and title or contract of sale for the mobile home (if applicable).

(c) Application for a homeowner's permit shall be available at the Board office in Dover, or by mail. The Division shall issue the permit only to those persons who fulfill the requirements of this section.

§1418. Partnership, firm or corporation; loss of license holder.

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(a) If a partnership, firm, or corporation suffers a loss of a license holder, the partnership, firm or corporation shall notify the Board in writing with supporting documentation within seven days of the loss of a license holder.

(b) The Board shall schedule an emergency meeting within ten days during which time the partnership, firm, or corporation may continue to operate without a license holder provided the partnership, firm, or corporation continues to employ the same personnel with the exception of the license holder.

(c) A person associated with the partnership, firm, or corporation shall submit an application for a license to the Board, before the emergency meeting, for consideration by the Board at such meeting. At the emergency meeting the Board may issue a temporary license valid for 100 days dated from the date of notification by the partnership, firm, or corporation.

(d) If approved at the emergency meeting, the applicant shall be scheduled for the next available examination.

(e) Regardless of the provisions of subsection (c) of this section, a temporary license shall expire when the Board receives notification of the results of the examination.

(f) If the partnership, firm, or corporation allows the 100-day temporary license to expire without having a person obtain a license or having in their employ a person with a license, then said partnership, firm or corporation shall cease and desist immediately from all electrical work for which a license is required under this Chapter.

§1419. Exceptions.

(a) Nothing in this Chapter shall be construed to prevent the performing of electrical work by:

(1) Persons working under the supervision of a Delaware-licensed master or limited electrician; such licensed electrician shall be responsible for the activities of the unlicensed person performing electrical work in this State.

(2) Any employee of any person engaged in the performance of electrical work while under the supervision of any electrician licensed under this Chapter, who is either the owner or a full-time employee of the company performing the work.

(3) A professional engineer registered under Chapter 28 of this Title to practice electrical engineering, employed by any manufacturing or industrial establishment, who has at least six years' experience in electrical planning and design. Such engineer may inspect the establishment's repairs, maintenance, and electrical additions if he or she is responsible for, and in continuing charge of, such work at the site; in addition such engineer shall be registered with the Board as the responsible person for such work, and shall file with the Board at least annually a certificate of inspection, authorized by a certified inspection agency; such engineer shall file a letter with the Board stating that all repairs, maintenance, and additions for which he or she is responsible meet the minimum standards of the National Electrical Code, or any revision thereof;

(4) The Department of Transportation, its agencies, offices, and divisions, for all work performed by the Department, or under its supervision, and which is approved by the Department, for the installation, erection, construction, reconstruction, and/or maintenance of drawbridges and traffic-control devices, including traffic signals, traffic signs and highway lighting;

(5) Persons working beyond the main breaker or fuse of 200 amps or less on structures used exclusively for agricultural purposes, except that the provisions of §1420 of this Chapter regarding certificates of inspection shall apply where new installations are involved.

(6) Any electric light or power company, electric railway company, steam railway company, diesel railway company, telegraph or telephone company, or any person performing the electrical work of such company, when such work is a part of the plant or services used by the company in rendering its authorized service to the public, as further defined in rules and regulations of the Board.

(7) Any homeowner(s) who complies with the mandates of §1417 of this Chapter.

(b) Nothing in this chapter shall restrict any person from servicing equipment in the fields of heating, air conditioning, refrigeration or appliances.

§1420. Certificate of Inspection required; 'cut-in-card'.

(a) All electrical work performed in this state, unless specifically exempt, shall receive a certificate of inspection issued by a Board-licensed inspection agency.

(b) All applications for inspections shall be filed with the inspection agency within five working days of the commencement of electrical work.

(c) Inspection agencies shall make all inspections within five working days of receipt of the application for inspection.

(d) No power company shall connect any current, light, or power, to any property without first obtaining from an inspection agency a permanent or temporary 'cut-in-card,' except in case of emergency when service may be restored by a licensed electrician prior to obtaining a 'cut-in-card.' The inspection agency shall issue a 'cut-in-card' only for electrical work performed by a licensed electrician, except for work being done or which has been done by persons who are not required to obtain licenses under this Chapter.

§1421. Electrical Inspection Agencies.

(a) All agencies, who intend to conduct electrical inspections in this State, shall apply for a license as an approved electrical inspection agency, complete a Board-approved application, and submit to the Board proof of the following:

(1) Name(s), address(es), and telephone number(s) for all office facilities located in this State, at least one office of which shall service all three counties;

(2) For all electrical inspectors employed by the inspection agency, proof of at least seven years of experience in residential, commercial, or industrial wiring;

(3) The passing grade obtained by each inspector on the following examinations, administered by a nationally recognized testing agency and approved by the Division: Electrical one- and two-family dwelling; Electrical General administered within 18 months of employment as an inspector, and Electrical Plan Review, administered within 24 months of such employment.

(b) The Board may grant conditional approval of the inspection agency, not to exceed six months, after reviewing the credentials of the agency, evidence of general liability insurance and errors and omission insurance, as required by the Board's rules and regulations, and payment of the fee established by the Division. No electrical inspection agency shall conduct any electrical inspection in this State until it has at least one full-time, nationally-certified inspector on its payroll, who will conduct electrical inspections in this State.

(c) The Board may deny an application for licensure as an inspection agency; such denial shall be in writing and state the reason(s) for such denial; and shall be provided by the Board to the inspection agency within 10 days of the decision. The inspection agency may appeal all denials of licensure to the Superior Court.

(d) After the Board has granted a conditional approval for the inspection agency and such approval has been in effect for at least three months, the Board may grant a license to the inspection agency, upon submission of certified proof of the following:

(1) All employees, officers, or stockholders of the inspection agency shall not have any proprietary or pecuniary interest in any electrical contracting business located in this State;

(2) All employees, officers, or stockholders of the inspection agency shall not have any proprietary or pecuniary interest in any manufacturer or seller of electrical appliances, machinery, wiring, electrical hardware, or other electrical apparatus.

(3) All employees, officers, or stockholders of the inspection agency shall not have any proprietary or pecuniary interest in any electric utility or company, municipal electrical department, or other utility or company, which supplies electrical energy for industrial, residential, or commercial use.

(e) All licensed electrical inspection agencies in this State shall file, and keep up to date, with the Board and keep open to public inspection at all times during normal business hours, and in each office, the addresses and telephone numbers of all offices, time of regular business hours for all offices, and a schedule with all rates and charges for services rendered by the agency.

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(f) All licensed electrical inspection agencies in this State shall make inspections within five days of receipt of an application for inspection and shall issue a certificate of approval within 15 days after final inspection.

(g) All violations noted during an inspection shall be corrected within 15 days and reinspected by the same inspection agency. If not corrected, the inspection agency shall notify the utility concerned and the Board of such violations. The utility shall not provide service to the premises until the violation is corrected.

(h) All records of the licensed electrical inspection agencies shall be available for examination by the Division's investigators; the agency shall inform the Division of the location of all records.

(i) All licensed electrical inspection agencies in this State shall carry general liability insurance and errors and omission insurance of at least \$1,000,000 each for claims of property damage or personal injury arising from faulty electrical work approved by the agency, or any of its employees, or other acts or omissions performed by the agency or any of its employees.

(j) All employees of all licensed electrical inspection agencies in this State shall be remunerated on a salary basis only and shall not be given commissions or other bonus incentives for volume of work performed.

§1422. Penalty.

A person, not currently licensed as an electrician or exempt from licensure under this Chapter, when guilty of performing electrical work, 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 perform electrical work, such offender shall be guilty of a misdemeanor. Upon the first offense, he or she shall be fined not less than \$500.00 nor more than \$1,000.00 for each offense. For a second or subsequent conviction, the fine shall be not less than \$1,000.00 nor more than \$2,000.00 for each offense. Justice of the Peace Courts 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. Current Board members.

Members who are currently serving on the Board shall complete their terms of office.

Approved July 20, 1999

CHAPTER 211

FORMERLY

SENATE BILL NO. 191

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE CRIMINAL CODE AND WITNESSES.

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

Section 1. Amend §9401 of Title 11 of the Delaware Code by adding to said section a new subsection, to be designated as subsection eight "(8)", to read as follows:

"(8) 'Witness' means any person other than a law enforcement officer or probation officer who has knowledge of the existence or nonexistence of any fact related to any crime, or any person who has reported any crime to any law enforcement officer or probation officer, or any person other than a law enforcement officer or probation officer who has been designated for service with a subpoena issued by any court or by the Attorney General, or any person other than a law enforcement officer or probation officer who would be believed by any reasonable person to be an individual described by this subsection."

Section 2. Amend §9402(a) of Title 11 of the Delaware Code by inserting between the phrases "§9401(1) of this title" and "and to qualifying" as they appear in the first sentence of said subsection, the phrase ", and to witnesses to such crimes, as specified in §9403 of this title," and by striking the phrase "and members of victims' families" as it appears therein, and by substituting in lieu thereof the following: ", witnesses and members of their families."

Section 3. Amend §9403(a) of Title 11 of the Delaware Code by inserting between the phrases "Unless a victim" and "waives confidentiality" as it appears in said subsection the phrase "or witness", and by inserting between the phrases "members of the victim's family," and "except to the extent" as they appear in said subsection the phrase "or the identity, residential address, telephone number or place of employment of a witness or a member of the witness's family,".

Section 4. Amend §9403(b) of Title 11 of the Delaware Code by inserting between the phrases "compel a victim" and "or a member" as they appear in said subsection the phrase "or witness", and by striking the phrase "victim's family" as it appears in said subsection, and by inserting in lieu thereof the phrase "victim's or witness's family."

Section 5. Amend §9403(c) of Title 11 of the Delaware Code by inserting between the phrases "telephone number" and "maintained by a court" as they appear in said section the phrase, "and any witness's identity, address, place of employment and telephone number,".

Approved July 20, 1999

CHAPTER 212

FORMERLY

SENATE BILL NO. 192

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CHILD VICTIMS AND WITNESSES.

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

Section 1. Amend §3513 of Title 11 of the Delaware Code by striking the word "victim's" as it appears in the catchline thereof, and by substituting in lieu thereof the phrase "victim or witness's".

Section 2. Amend §3513(a) of Title 11 of the Delaware Code by adding between the phrases "by a child" and "under 11 years" as they appear in said subsection the following:

" , victim, or witness who is".

Section 3. Amend §3513(a) of Title 11 of the Delaware Code by striking the phrase "or physical abuse as delineated in §§765, 766, 768, 769, 770, 771, 772, 773, 775, 783, 783A, 832, 611, 612, 613, 1108, 1109, and 1112A of this title" as it appears therein, and by substituting in lieu thereof the following:

"physical injury, serious physical injury, death, abuse or neglect as described in any felony delineated in subparts A, B, or D of subchapter 11 of chapter 5 of this Title, or in any of the felonies delineated in §§782, 783, 783A, 1102, 1108, 1109, 1111, or 1112A of this title or in any attempt to commit any felony delineated in this paragraph".

Section 4. Amend §3514(a) of Title 11 of the Delaware Code by striking the phrase "involving sexual or physical abuse as defined in §§763-775, 611-613, and 1108", and by substituting in lieu thereof the following:

"In any prosecution involving any offense set forth in §3513(a)".

Section 5. Amend §3514(a) of Title 11 of the Delaware Code, and the catchline thereto, by striking the word "victim" as it appears variously therein, and by substituting in lieu thereof the following:

"victim or witness".

Approved July 20, 1999

CHAPTER 213

FORMERLY

SENATE BILL NO. 195

AN ACT TO AMEND CHAPTER 5, TITLE 24 OF THE DELAWARE CODE RELATING TO PODIATRY.

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

Section 1. Amend Chapter 5, Title 24 of the Delaware Code by striking said Chapter in its entirety and by substituting the following in lieu thereof:

"CHAPTER 5. PODIATRY

Subchapter 1. Board of Podiatry.

§501. Objectives.

The primary objective of the Board of Podiatry, 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 licensed practitioners.

§502. Definitions.

(a) 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 Podiatry established in this Chapter.
- (2) 'Diagnosis' shall mean the ascertainment of a disease or ailment by its general symptoms.
- (3) 'Division' shall mean the State of Delaware Division of Professional Regulation.
- (4) 'Electrical treatment' shall mean the administration of electricity to the foot and ankle by means of electrodes, machinery, rays and the like.
- (5) 'Excessive use or abuse of drugs' shall mean any use of narcotics, controlled substances, or illegal drugs without a prescription from a licensed physician, or the abuse of alcoholic beverage such that it impairs his or her ability to perform the work of a podiatrist.
- (6) 'Manipulative treatment' shall mean the use of the hand or machinery in the operation or working upon the foot and its articulations.
- (7) 'Mechanical treatment' shall mean the application of any mechanical appliance made of steel, leather, felt or any material to the foot or in the shoe for the purpose of treating any disease, deformity or ailment.
- (8) 'Medical treatment' shall mean the application to or prescription for the foot and ankle of medicine, pads, adhesives, felt, plasters or any medicinal agency.
- (9) 'Podiatrist' shall mean a person who is qualified to practice podiatry and is licensed under this Chapter.
- (10) 'Practice of podiatry' shall mean the diagnosis and the medical, surgical, mechanical, manipulative and electrical treatment of all ailments of the foot and ankle. Amputation of the foot shall be restricted to the State licensed podiatrist, who has completed an American Podiatric Medical Association accredited surgical residency program acceptable to the Board and has current amputation privileges, or has fulfilled the credentialing criteria of the surgical committee of the Joint Committee on Accreditation of Hospitals accredited hospital where the amputation is to be performed.
- (11) 'State' shall mean the state of Delaware.
- (12) 'Surgical treatment' shall mean the use of any cutting instrument to treat a disease, ailment or condition.

§503. Board of Podiatry; appointments; composition; qualifications; term; vacancies; suspension or removal; unexcused absences; compensation.

- (a) There is created a State Board of Podiatry that 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 shall be podiatrists licensed under this Chapter and two public members. The public members shall not be, nor ever have been, podiatrists, nor members of the immediate family of a podiatrist; shall not have been employed by a podiatrist or a company engaged in the practice of podiatry; shall not have a material interest in the providing of goods and services to podiatrists; nor have been engaged in an activity directly related to podiatry. 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 or until replaced by the Governor. Persons who are members of the Board on the effective date of this Act shall complete their terms.

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(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 term has expired since such person last served.

(e) Any act or vote by a person appointed in violation of this section shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (d) of this section, unless such an amendment or revision amends this section to permit such an appointment.

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

(g) No member of the Board, while serving on the Board, shall hold elective office in any professional association of podiatrists; this includes a prohibition against serving as head of the professional association's Political Action Committee (PAC).

(h) The provisions set forth in Chapter 58 of 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 of Professional Regulation 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.

§504. 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 one year, and shall not succeed himself or herself for more than two consecutive terms.

(c) A majority of the members shall constitute a quorum for the purpose of transacting business; and, no disciplinary action shall be taken without the affirmative vote of at least three members.

(d) Minutes of all meetings shall be recorded, and the Division of Professional Regulation shall maintain copies. 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.

§505. Records.

The Division of Professional Regulation shall keep a register of all approved applications for license as a podiatrist, 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.

§506. Powers and duties; immunity.

(a) The Board of Podiatry 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 on podiatry, administered by the National Board of Podiatric Medical Examiners (NBPME) and the Podiatric Medical Licensing Examination for States (PMLEXIS), to be taken by all persons applying for licensure.

(4) Evaluate the credentials of all persons applying for a license to practice podiatry in this State, 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, including those persons who apply for temporary licensure.

(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 previously has been licensed, certified, 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.

(9) Refer all complaints from licensees and the public concerning licensed podiatrists, or concerning practices of the Board or of the profession, to the Division 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 Chapter 101 of Title 29 of the Delaware Code.

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

(b) The members of the Board shall not be subject to, and shall be immune from, claims, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken, or performed, or recommendation made, so long as such member of the Board acted in good faith and without malice in carrying out the responsibilities, authority, duties, powers and privileges of the offices conferred by law upon them under this Chapter, or any other provisions of the Delaware or federal law or rules or regulations or duly adopted rule or regulation of the Board. Good faith is presumed unless otherwise proven and malice is required to be proven by the complainant.

(c) No member of the Board shall in any manner whatsoever discriminate against any applicant or person holding or applying for a certificate to practice podiatric medicine by reason of sex, race, color, creed or national origin.

(d) No member shall participate in any action of the Board involving directly or indirectly any person related in any way by blood or marriage to said member.

Subchapter II. License.

§507. License required.

(a) No person shall engage in the practice of podiatry or hold himself or herself out to the public in this State as being qualified to practice podiatry; 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 podiatry, unless such person has been duly licensed under this Chapter.

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

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

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

(1) has received a degree of 'Doctor of Podiatric Medicine' or its equivalent from a college or school approved by the Council on Podiatric Education of the American Podiatric Medical Association, or the successor of such Council.

(2) has satisfactorily completed a hospital residency program approved by the American Podiatric Medical Association (APMA) or a preceptorship in the office of a licensed podiatrist in this State, for a period of one year.

(3) has satisfactorily completed the Podiatric Medical Licensing Examination for States (PMLEXIS); the minimum passing score shall be that score recommended by the testing service providing the examination.

(4) shall not have been the recipient of any administrative penalties regarding his or her practice of podiatry, 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. The Board may determine, after a hearing, whether such administrative penalty is grounds to deny licensure.

(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 podiatry 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 podiatry. Applicants who have criminal conviction records or pending criminal charges shall request 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 podiatry.

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

(b) Where the Board has found to its satisfaction that an applicant has been intentionally fraudulent, or that the applicant has supplied false information, the Board 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.

§509. Examination.

In the event an applicant for licensure has not successfully completed the PMLEXIS examination, or its successor, required by this Chapter, the Board shall administer or authorize the administration of such examination provided the applicant has received a degree of 'Doctor of Podiatric Medicine' as described in §508(a)(1) of this title. All examinations shall be graded by the testing service providing the examinations. The passing score shall be established by the testing agency.

§510. 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, whose standards for licensure are substantially similar to those of this State. A license in 'good standing' is defined in §508(a)(4), (5), (6), (7) and (8), of this Chapter.

(b) An applicant, who is licensed or registered in a state whose standards are not substantially similar to those of this State, shall have practiced for a minimum of five years after licensure, provided however that he or she meets all other qualifications for reciprocity in this section.

(c) An applicant, who has received a degree of 'Doctor of Podiatric Medicine' or its equivalent from a foreign school, college or university, shall submit a certified copy of his or her school, college or university record for evaluation by the Board.

(d) 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 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.

(e) Each application for licensure shall be accompanied by payment of the application fee.

§511. 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 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, or any other State agency acting in its behalf, shall compute, for each separate service or activity, the appropriate Board fees for the licensure biennium.

§512. Issuance and renewal of licenses.

(a) The Board shall issue a license to each applicant, who meets the requirements of this Chapter for licensure as a podiatrist and who pays the fee established under §511 of this Chapter.

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

(c) The Board, in its rules and regulations, shall determine the period of time within which a licensed podiatrist may still renew his or her license, notwithstanding the fact that such licensee has failed to renew on or before the renewal date, provided however that such period shall not exceed one year.

(d) A licensee, upon written request, may be placed in an inactive status for no more than five years. Such person who desires to reactivate his or her license shall complete a Board-approved application form, submit a renewal fee set by the Division, and submit proof of fulfillment of continuing education requirements in accordance with the Board's rules and regulations.

§513. Temporary license.

(a) The Board, at its discretion, may issue a temporary license to practice podiatry in this State to a podiatrist, who is licensed or otherwise legally qualified to practice podiatry in any state of the United States or other jurisdiction, and who meets the following conditions:

(1) The applicant is entering this State for the purpose of taking charge of the practice of a person licensed to practice podiatry in this State during such licensee's temporary illness or absence from this State; and

(2) the applicant shall complete an application, pay the appropriate fee established by the Division, and shall present proof of current licensure in 'good standing' in the state or states where he or she currently is and/or has been licensed. A license in 'good standing' is defined in §508(a)(4), (5), (6), (7) and (8), of this Chapter, and such applicant shall comply with the provisions of §510(d) of this Chapter.

(b) The person licensed to practice medicine in this State shall make his or her request to the Board in writing and shall submit a certified statement that the purpose of the temporary license is to take charge of his or her practice of podiatry in this State during a temporary illness or absence from this State.

(c) Such temporary license shall be effective for not less than two weeks nor for more than three months from date of issuance.

(d) The Board may issue a temporary license to practice podiatry to an applicant, who is a qualified applicant for licensure in this State, who is completing a residency or preceptorship in this State, and who will take the next scheduled Podiatric Medical Licensing Examination for States (PMLEXIS). If the applicant has received notification that he or she has passed the PMLEXIS, the temporary license will not expire until the Board next meets and grants licensure to the applicant. If the applicant has received notification that he or she has not passed the PMLEXIS, the temporary license will expire immediately.

(e) A temporary license issued to an applicant, who is waiting to take the PMLEXIS, may be renewed only once.

§514. Complaints.

(a) All complaints shall be received and investigated by the Division in accordance with §8807, 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 is engaging, or has engaged, in the practice of podiatry, or is using the title 'podiatrist' 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.

§515. Grounds for discipline.

(a) A practitioner licensed under this Chapter shall be subject to disciplinary actions set forth in §516 of this Chapter, if, after a hearing, the Board finds that the podiatrist:

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

(2) has illegally, incompetently or negligently practiced podiatry.

(3) has been convicted of a felony.

(4) has been convicted of any offense, the circumstances of which substantially relate to the practice of podiatry. A copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefor.

(5) has excessively used or abused drugs either in the past three years or currently.

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

(7) has violated a lawful provision of this Chapter, or any lawful regulation established thereunder.

(8) has had his or her license as a podiatrist suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record; and the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute one or more of the acts defined in this Chapter. Every person licensed as a podiatrist in this State shall be deemed to have given consent to the release of this information by the Board of Podiatry, or other comparable agencies in another jurisdiction and to waive all objections to the admissibility of previously adjudicated evidence of such acts or offenses.

(9) has failed to notify the Board that his or her license as a podiatrist 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; or,

(10) has a physical condition such that the performance of podiatry is or may be injurious or prejudicial to the public.

(b) 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 podiatry 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.

§516. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that one of the conditions or violations set forth in §515 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.

§517. Hearing procedures.

(a) If a complaint is filed with the Board pursuant to §8807 of Title 29 of the Delaware Code, alleging violation of §515 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 shall be 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 Chapter 101 of Title 29 of the Delaware Code.

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

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

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

Subchapter III. Other Provisions

§519. Exemptions.

(a) Nothing in this Chapter shall be construed to prevent:

(1) persons who are licensed to practice podiatry in any other state, district or foreign country from entering this State, as practicing podiatrists, to consult with a podiatrist of this State. Such consultation shall be limited to examination, recommendation, and testimony in litigation.

(2) any student of an accredited school or college of podiatry from receiving practical training under the personal supervision of a licensed podiatrist in this State.

(3) any person completing an American Podiatric Medical Association-approved hospital residency program in this State or any person serving a preceptorship in the office of a licensed podiatrist in this State for the purpose of fulfilling the licensure requirement.

(4) any podiatrist or surgeon, commissioned by any of the armed forces of the United States or by the United States Public Health Service, from practicing podiatry on his or her designated facility in this State.

(5) any physician licensed in this State from practicing podiatry in this State.

(b) This Chapter shall not prohibit the fitting, recommending or sale of corrective shoes, arch supports or similar mechanical appliances by retail dealers or manufacturers. However, no representative of a dealer or manufacturer shall be permitted to medically diagnose, treat or prescribe for any foot or ankle ailment, disease or deformity, unless such person is licensed to practice podiatry in this State.

§520. Penalty.

A person not currently licensed as a podiatrist under this Chapter, when engaging in the practice of podiatry, 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 podiatry, 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 \$1,000 dollars for each offense. For a second or subsequent conviction, the fine shall be not less than \$1,000.00 nor more than \$2,000.00 for each offense. Justice of the Peace Court shall have jurisdiction over all violations of this Chapter.

Section 2. Terms of office.

Persons who are members of the Board on the effective date of this Act shall complete their terms of office unless replaced by the Governor.

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.

Approved July 20, 1999

CHAPTER 214

FORMERLY

SENATE BILL NO. 207
AS AMENDED BY SENATE AMENDMENT NO. 1

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

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

Section 1. Amend §6097, Title 7, Delaware Code by deleting the existing section in its entirety and inserting in lieu thereof the following:

"(a) The Department shall collect an annual fee from sources that are required to obtain a Title V Operating permit pursuant to the Title V Program, and from sources who voluntarily limit their potential to emit to below Title V applicability thresholds as set forth in §6095 (i.e. a Synthetic Minor facility). The annual fees shall be utilized solely to pay for all direct and indirect costs required to develop, administer and implement the Program.

(b) The fee schedule must result in the collection and retention of revenues sufficient to cover the permit program costs. These costs include, but are not limited to, the costs of the following activities as they relate to the operating permit program for stationary sources: preparing generally applicable regulations or guidance documents regarding the permit program or its implementation or enforcement; reviewing and acting on any application for a permit, permit revision or permit renewal, including the development of an applicable requirement as part of the processing of a permit or permit revision, or renewal; general administrative costs of implementing the permit program, including the supporting and tracking of data; implementing and enforcing the terms of any Title V operating permit (not including any court costs or other costs associated with an enforcement action), including

adequate resources to determine which sources are subject to the program; emissions and ambient monitoring; modeling; preparing inventories and tracking emissions; and supporting the Ombudsman established pursuant to the Small business Stationary Source Technical and Environmental Compliance Program ("SBTCP") to assist sources covered by the SBTCP, in determining and meeting their obligations under the Title V Operating Permit Program.

- (c) The Department shall collect annual fees, payable annually or in quarterly installments, during calendar years 2000, 2001, and 2002, from each source that is required to pay the annual fee as set forth in (a) above. The annual fee for each subject source will be determined by the sum of two component fees: a Base Fee and a User Fee. For sources that are identified in the 1996 Delaware Point Source Emission Inventory of Estimated Actual Air contaminants, the Base Fee and the User Fee shall be calculated as set forth in (d) and (e), respectively, below. For all other sources the Base Fee and User Fee shall be calculated as set forth in (f) below. The Department shall publish each source name, Base Fee information, and User Fee information in the Delaware Register of Regulations.
- (d) Base Fee. The Base Fee relates to services which are common to all sources subject to the Program. These services include activities such as permit issuance and renewals; stationary source regulation development; ambient monitoring; emission inventory; control strategy development; and development, administration and implementation of two additional programs: the SBTCP, and a portion of the accidental release prevention program. The Department will place each subject source into one of the following four categories, either as a voluntarily requested Synthetic Minor, or as determined from estimated hours spent performing services:
- (1) Synthetic Minor: \$3,000;
 - (2) Routine, up to 400 hours spent: \$7,500;
 - (3) Complex, from 401 to 625 hours spent: \$18,000; and
 - (4) Very Complex, over 625 hours spent; \$39,500.

Beginning January 1, 2000 the Department will track the actual hours spent processing Title V permits and performing other related services under the Title V program. This information may be used in the evaluation of the Title V program associated with the expiration of this statute on December 31, 2002.

- (e) User Fee. The User Fee relates to activities not identified in (d) above for the Program, such as: development, administration, and implementation of a compliance and enforcement program; implementation and enforcement of the terms of any Title V operating permit or synthetic Minor permit; permit revisions or amendments, including the development of an applicable requirement as part of the processing of the permit issuance, revision or amendment; the supporting and tracking of data; modeling; and adequate resources to determine which sources are subject to the Program. Such fees shall be based on the emissions of each air contaminant, in whole tons and in the aggregate, excluding carbon monoxide, as listed in the 1996 Delaware Point Source Emission Inventory of Estimated Actual Air Contaminants. The User Fees are as follows:
- (1) Emissions between 0 – 25 tons: \$1,000;
 - (2) Emissions between 26 – 100 tons: \$2,000;
 - (3) Emissions between 101 – 300 tons: \$5,000;
 - (4) Emissions between 301 – 1000 tons: \$10,000;
 - (5) Emissions between 1001 – 2500 tons: \$40,000;
 - (6) Emissions between 2501 – 10,000 tons: \$100,000;
 - (7) Emissions greater than 10,000 tons: \$225,000.
- (f) Sources not included in the 1996 Delaware Point Source Emission Inventory of Estimated Actual Regulated Air Contaminants, shall be assessed a Base Fee that is consistent with the categories and amounts specified in (d) above. The estimated hours on which the Base Fee assessment is calculated shall include an evaluation of specific regulatory applicability to the source. This shall include, but is not limited to, the following: New Source Review; New Source performance Standards; Toxic Requirements, to include Maximum Achievable Control Technology, and National Emission

Standards for Hazardous Air Pollutants; and Continuous Emission Monitoring requirements. Such sources shall also be assessed a User Fee based upon allowable emissions specified in its permit application that is consistent with the categories and amounts specified in (e) above.

- (g) These fees may be increased on an annual basis by no more than the Federal Consumer Price Index for the previous calendar year. Any increases in fees are subject to review and approval by the committee established pursuant to §6098 of this title. After December 31, 2002, no fees shall be collected pursuant to this section unless authorized by a further act of the General Assembly.
- (h) In determining the amount of tons of actual emissions, the Department shall not be required to include any amount of air contaminant emitted by any source in excess of 4,000 tons per year of that air contaminant. The determination of common control or common ownership shall be consistent with the requirements of 40 C.F.R. Part 70.
- (i) Any funds collected under this section shall be deposited in the account as described in §6096 of this title and shall be used solely to develop, administer and implement the Program."
- (j) The Air Quality Management Section will publish, by April 15 and October 15 of each year, for the preceding six (6) months the overall program costs, the fees collected, current staffing levels and program accomplishments. The Division of Air and Waste Management shall publish a notice, in a paper of general circulation throughout the State, the availability of the report. Additionally, the Division shall mail a copy of said notice to the personnel on the Air Quality Management's mailing lists."

Section 2. Amend §6098, Title 7, Delaware Code by deleting the section number "6098", and inserting in lieu thereof "§6099".

Section 3. Amend Chapter 60, Title 7, Delaware Code by inserting the following renumbered section:

"§6098. Permit Shield.

Except for sources required to have a permit before construction or modification under the applicable requirements of this subchapter, if an applicant has submitted a timely and complete application for a permit required by this title (including renewals), but final action has not been taken on such application, the source's failure to have a permit shall not be a violation of this subchapter, unless the delay in final action was due to the failure of the applicant to timely submit information required or requested to process the application."

Section 4. Amend the renumbered §6099, Title 7, Delaware Code by deleting the last sentence of the section, and inserting in lieu thereof the following:

"The Committee shall submit its final report on or before February 1, 2003, and shall cease to exist on that date absent a further act of the General Assembly."

Approved July 20, 1999

CHAPTER 215

FORMERLY

SENATE BILL NO. 238

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE PROVIDING FOR LEAVES OF ABSENCE AND TEACHING PARTNERS.

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

Section 1. Amend Title 14, Section 1318(k) of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"(k) A duly-elected president of the Delaware State Education Association as defined in Chapter 40 of this Title who requests a leave of absence without pay from a school board shall be granted a leave of absence by said

school board from service for the duration of the elected term. Said employee shall be eligible to purchase health insurance for him/herself and eligible dependents and other state benefits at his/her cost during said leave of absence. Other duly elected officers of the Delaware State Education Association shall be granted 30 release days by the employing board to represent the Association for education-related business. The Association shall be responsible for the costs of substitute teachers when utilized to provide coverage for the elected officer. In addition, when the Association determines the need and makes a request for the hiring of a Teaching Partner, the duly elected officer shall be granted no less than 60 or more than 100 release days by the employing school board to represent the Association for education-related business. The Teaching Partner will be hired on a full time and annual basis to ensure continuity of instruction during periods of time when the Association officer is engaging in education-related business as a representative of the Association. Release time granted pursuant to this section shall be in addition to other leaves granted the employee by this section. The Association shall be responsible for the cost incurred related to the hiring of the teaching partner."

Approved July 20, 1999

CHAPTER 216

FORMERLY

HOUSE BILL NO. 364

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO AGGRESSIVE DRIVING.

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

Section 1. Amend Title 21, Delaware Code, by inserting as a new § 4175A the following:

"§ 4175A. Aggressive Driving.

(a) No person shall drive any vehicle in an aggressive manner as defined by this section and such offense shall be known as aggressive driving.

(b) For purposes of this section, 'aggressive manner' shall mean that an individual engages in continuous conduct which violates three or more of the following sections:

- (1) Section 4107 of this title relating to obedience to traffic-control devices;
- (2) Section 4117 of this title relating to overtaking on the right;
- (3) Section 4122 of this title relating to driving within a traffic lane;
- (4) Section 4123 of this title relating to following too closely;
- (5) Section 4132 of this title relating to yielding to the right-of-way;
- (6) Section 4133 of this title relating to vehicles entering the roadway;
- (7) Section 4155 of this title relating to use of turn signals;
- (8) Section 4164 of this title relating to stop signs and yield signs;
- (9) Section 4166(d) of this title relating to overtaking and passing school buses;
- (10) Section 4168 of this title relating to speed restrictions; and
- (11) Section 4169 relating to specific speed limits.

(c) Whoever violates this section shall for the first offense be fined not less than \$100 nor more than \$300, or be imprisoned not less than 10 nor more than 30 days, or both. For each subsequent like offense occurring within 3 years of a former offense, the person shall be fined not less than \$300 nor more than \$1,000, or be imprisoned not less than 30 nor more than 60 days, or both and would have their driving privileges suspended for a period of 30 days. No person who violates subsection (a) of this section shall receive a suspended sentence.

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(d) In addition to the penalties imposed pursuant to subsection (c), whoever violates this section shall be ordered to complete a course of instruction established by the Secretary to address behavioral modification or attitudinal driving. The Secretary shall administer such courses and programs and adopt rules and regulations therefor, and shall establish a schedule of fees for enrollment in such courses and programs which shall not exceed the maximum fine imposed pursuant to subsection (c).

(e) Nothing in this section shall be construed to preclude or otherwise limit a prosecution of or conviction for a violation of this chapter or any other provision of law. A person may be prosecuted and convicted of both the offense of aggressive driving and one or more underlying offenses as defined elsewhere by the laws of the State."

Approved July 22,1999

CHAPTER 217

FORMERLY

HOUSE BILL NO. 175
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE30 OF THE DELAWARE CODE RELATING TO REALTY TRANSFER TAX.

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

Section 1. Amend § 5401(1), Title 30 of the Delaware Code, by adding thereto a new subparagraph to read as follows:

"v. Any conveyance to or from an organization exempt from tax under § 501(c)(3) of the federal Internal Revenue Code [26 USC §501(c)(3)] when the purpose of said conveyance is to provide owner-occupied housing to low and moderate income households by rehabilitating residential properties and reselling said properties without profit."

Approved July 23,1999

CHAPTER 218

FORMERLY

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

AN ACT TO AMEND TITLE 5 AND TITLE 30 OF THE DELAWARE CODE RELATING TO THE RETAIL
INSTALLMENT SALE OF MOTOR VEHICLES AND SURETY FOR MOTOR VEHICLE DEALERS.

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

Section 1. Amend §2901(4) of Title 5 of the Delaware Code by striking the phrase ", if any," as it appears therein between the phrases "finance charge" and "shall together" in the last sentence, and by adding the following sentence at the end of §2901(4):

"A transaction is not a retail installment transaction if no interest is charged by the retail seller."

Section 2. Amend §3005, Title 30 of the Delaware Code by redesignating subsection (b) as subsection (c), and by adding to §3005 a new subsection (b) to read:

"(b) A motor vehicle dealer who is not required to provide a surety bond to the Banking Commissioner pursuant to Chapter 29 of Title 5 of this Code, and who, as a retail seller, self-finances any sale of a motor vehicle to a retail buyer without charging interest to the buyer shall, as a prerequisite to obtaining an annual license, file with the Department of Finance an original surety bond in the principal sum of \$25,000, payable to the State, with surety provided by a corporation authorized to transact business in this State.

(1) The term of the bond shall be continuous or commensurate with the license period, with the expiration date of the bond not earlier than midnight of the date on which the license expires.

(2) The bond is for the benefit of consumers injured by any wrongful act, omission, default, fraud, or misrepresentation by the licensed retail seller in the course of activity as a licensed retail seller. Compensation under the bond shall be for amounts which represent actual losses, including reasonable attorney fees accrued by the consumer in pursuing a claim against the licensee. Compensation shall not be payable for claims made by business creditors, third-party service providers, agents, or persons otherwise in the employ of the licensed retail seller. A consumer claim may be submitted to the Department of Finance in the form of a final judgment from a court of competent jurisdiction, a written settlement agreement, an admission, a binding arbitration decision, or a binding order entered pursuant to any other method of voluntary alternative dispute resolution. Surety claims shall be paid to the Department of Finance 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 the bond.

(3) If the licensed retail seller changes the surety company or the bond is otherwise amended, the licensed retail seller shall immediately provide the Secretary of the Department of Finance with an original copy of the new or amended 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 Secretary at least 30 days before the date upon which the cancellation is to take effect.

(4) The Secretary of the Department of Finance may require potential claimants to provide documentation and affirmations as the Secretary determines necessary and appropriate. In the event the Secretary determines that multiple consumers have been injured by a licensed retail seller, the Secretary 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 licensed retail seller, it shall immediately notify the Secretary and shall not pay any claim unless and until it receives notice to do so from the Secretary.

(6) The Secretary shall have a period of 2 calendar years after the effective date of cancellation or termination of a surety bond by the insurer to submit a claim to the insurer."

Approved July 23, 1999

CHAPTER 219

FORMERLY

HOUSE BILL NO. 228
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO INSURANCE ON MOTOR VEHICLES.

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

Section 1. Amend § 2118(p), Title 21 of the Delaware Code, by striking the fifth sentence thereof in its entirety and substituting therefore the following:

"However, an operator shall not be convicted under this subsection if, prior to conviction, the operator shall produce to the court in which the offense is to be tried the insurance identification card or in lieu thereof other sufficient proof, including but not limited to an automobile, garagekeepers or other commercial or personal insurance policy, showing that there was insurance in full force and effect at all pertinent times covering or which would cover the said motor vehicle or the operation of the said motor vehicle by the operator charged under this subsection.

Where an individual is charged with violating this section and, at the time of the alleged offense, the individual was operating a vehicle owned or leased by the individual's employer in the course and scope of the individual's employment, the individual shall not be convicted of violating this section unless the individual knew or should have known that the employer's vehicle failed to meet the requirement of this section."

Approved July 23, 1999

CHAPTER 220

FORMERLY

HOUSE BILL NO. 231

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO PENALTIES FOR FAILURE TO OBTAIN BUSINESS LICENSES.

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 § 534, Title 30 of the Delaware Code, by adding to said section a new subsection (1) to read as follows:

"(1) In the case of failure of any person to obtain or renew a business license required under the provisions of Part III of Title 30 of the Delaware Code, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of the business license fee required to be paid a penalty in the amount of \$200. Whenever a penalty has been proposed for assessment under this subsection, the Director shall not be required to issue a business license to the taxpayer to whom such assessment has been proposed unless and until the taxpayer has paid any license fee necessary for issuance of such license and has either: (1) paid the assessment provided under this subsection (subject to any claim for refund); or (2) filed a written protest regarding such assessment of penalty pursuant to § 523. The penalty described in this subsection shall not be assessed in the instance of self-disclosure by a taxpayer of

delinquency in meeting the licensing requirements of Part III. The penalty described in this subsection shall, only with respect to the same failure to obtain or renew a license and not with respect to failure to pay taxes on gross receipts or any other acts or omissions, be in lieu of the penalty described in subsection (a) of this section, except where such penalty determined under subsection (a) shall exceed the penalty determined under this subsection, in which event subsection (a) shall apply, and this subsection shall not apply."

Section 2. This Act shall be effective July 1, 1999, or thirty days after its enactment into law, whichever shall be later.

Approved July 23, 1999

CHAPTER 221

FORMERLY

HOUSE BILL NO. 233

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATED TO SUBSTANTIVE CHANGES IN LICENSES OR THE PREMISES TO WHICH THEY APPLY.

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

Section 1. Amend Chapter 5, Title 4, of the Delaware Code by adding a new section, designated as § 526, thereto as follows:

"§ 526. Substantive changes to licenses or licensed property.

- (a) Except as provided for in subsection (b) of this section, the Commission shall not authorize any substantive change in any license previously granted pursuant to this subchapter or to the property to which the license applies.
- (b) Any person holding a license pursuant to this subchapter who wishes to make any substantive change as defined in this section in the license or to the property to which the license applies shall, prior to implementing any such change, complete all notice procedures established by § 524 of this subchapter or by Commission rules.
- (c) For the purposes of this section, 'substantive change' means any temporary change, which will last longer than sixty days, or permanent change which will increase the square footage of the licensed area of the premises, or other change that would require a variance in commission rules or suspension in the application thereof."

Section 2. Amend § 524(c)(2)a., Title 4 of the Delaware Code by striking the words "of the location" as they appear therein and by substituting in lieu thereof the words "from any point on the property boundary line".

Section 3. Amend § 524(c)(2)b., Title 4 of the Delaware Code by striking the words "of the location" as they appear therein and by substituting in lieu thereof the words "from any point on the property boundary line".

Section 4. Amend § 524(c)(2)c., Title 4 of the Delaware Code by striking the words "of the location" as they appear therein and by substituting in lieu thereof the words "from any point on the property boundary line".

Approved July 23, 1999

CHAPTER 222

FORMERLY

HOUSE BILL NO. 301
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO OFFENSES FOR
SHOPLIFTING AND POSSESSION OF TOOLS FOR SHOPLIFTING.

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

Section 1. Amend § 840, Chapter 5, Subchapter III, Title 11 of the Delaware Code, by striking the second paragraph of subsection (d) of § 840, and substituting in lieu thereof the following:

"Shoplifting is a Class G felony when the goods, wares, or merchandise shoplifted are of the value of \$1,000 or more, or when the goods, wares, or merchandise shoplifted are from three or more separate mercantile establishments and were shoplifted in the same or continuing course of conduct and the aggregate value of the goods is \$1,000.00 or more. When the goods, wares, or merchandise shoplifted are of the value of less than \$1,000 then it is a Class A misdemeanor."

Section 2. Amend Subpart (D), Subchapter III, Chapter 5, Title 11 of the Delaware Code by adding thereto a new section designated as § 860, which new section shall read as follows:

"§ 860. Possession of Shoplifters Tools or Instruments Facilitating Theft; Class F Felony.

- (a) A person is guilty of possession of shoplifters tools or instruments facilitating theft when the person possesses any tool, instrument, or other thing adapted, designed, or commonly used for committing or facilitating:
 - (1) Offenses involving shoplifting;
 - (2) Offenses involving the overriding, disabling, or evading of a security device without authorization.
 - (3) Offenses involving shoplifting under circumstances evincing an attempt to use or knowledge that some other person intends to use the same in the commission of an offense of such character.
- (b) "Security device" includes any lock, whether mechanical or electronic, or any warning device designed to alert a person or the general public of a possible attempt to shoplift any goods, wares, or merchandise which are displayed for sale. "Security device" specifically includes and is not limited to any electronic or other device which is attached or affixed to any goods, wares, or merchandise on display for sale in a mercantile establishment.
- (c) A person possesses shoplifting tools or instruments facilitating theft "under circumstances evincing an attempt to use or knowledge that some other person intends to use such" when the person possesses the tools or instruments at a time and a place proximate to the commission or attempt to commit a shoplifting offense or otherwise under circumstances not manifestly appropriate for what lawful uses the tools or instruments may have.
- (d) Possession or shoplifters tools or instruments facilitating theft is a Class F felony."

Approved July 23, 1999

CHAPTER 223

FORMERLY

HOUSE BILL NO. 306

AN ACT AUTHORIZING THE CONVEYANCE OF THE STATE OF DELAWARE'S INTEREST, IF ANY, IN CERTAIN LANDS LOCATED IN SUSSEX COUNTY, DELAWARE RECEIVED BY QUIT-CLAIM CONVEYANCE FROM THE UNITED STATES OF AMERICA.

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

Section 1. The State of Delaware is hereby authorized and directed to convey by quit-claim deed the following lands located in Sussex County, Delaware to Hazell M. Smith and Gills Neck Realty Co.:

"ALL THAT CERTAIN piece, parcel and tract of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County and State of Delaware, being more fully described as follows, to wit:

BEGINNING at a point at the intersection of these lands, lands of J. G. Townsend, Jr. & Co. and lands of Otis H. Smith, being on the southerly side of the proposed Lewes and Rehoboth Canal; thence proceeding with said southerly side of the Canal and with lands of Otis H. Smith and lands of Gill's Neck Realty Company the following three courses and distances: (1) deflecting right along a 7739.49 foot radius curve, the chord of which bears North 34 degrees 25 minutes 40 seconds West 145.51 feet, an arc distance of 145.51 feet to a point of tangency; (2) North 33 degrees 53 minutes 21 seconds West 1336.15 feet to a point of curvature, and (3) deflecting left along a 3270.00 foot radius curve, the chord of which bears North 39 degrees 50 minutes 21 seconds West 677.94 feet, an arc distance of 679.16 feet to a point at the intersection of the proposed Canal right of way with the existing Canal right of way; thence running through said Canal, North 44 degrees 12 minutes 34 seconds East 184.50 feet; thence continuing through said Canal, South 75 degrees 49 minutes 21 seconds East 220.56 feet to a point on the northerly side of the proposed Canal; thence running with said northerly side, lands of Otis H. Smith and lands of Gill's Neck Realty Co., the following three courses and distances: (1) deflecting right along a 3570.00 foot radius curve, the chord of which bears South 38 degrees 18 minutes 22 seconds East 549.89 feet, an arc distance of 550.44 feet to a point of tangency; (2) South 33 degrees 53 minutes 21 seconds East 1336.15 feet to a point of curvature; and (3) deflecting left along a 7439.49 foot radius curve, the chord of which bears South 34 degrees 07 minutes 32 seconds East 61.40 feet, an arc distance of 61.40 feet to a corner for lands of the aforementioned J. G. Townsend, Jr. & Co. and lands of Otis H. Smith, thence finally, running through said Canal and with lands of Townsend and Smith, South 40 degrees 2 minutes 43 seconds West 310.49 feet to the place of beginning, containing 14.54 acres of land, more or less.

AND BEING depicted upon a certain plat prepared by Vandermark & Lynch, Inc. entitled "Property & Placement, Lands of Gill's Neck Realty, Co. & Otis H. Smith, lying between Gill's Neck Road and the Lewes and Rehoboth Canal" dated June 20, 1994.

That portion of the aforescribed property lying to the North of the line dividing the lands of Gill's Neck Realty Co. (Sussex County Tax Map 3-35-9, Parcels I and II) and the lands of Otis H. Smith (now Hazell M. Smith; Sussex County Tax Map 3-35-9, Parcels I.1 and II.1) is hereby granted unto Gills Neck Realty Co.; and that portion of the aforescribed property lying to the South of the line dividing the aforesaid lands is hereby granted unto Hazell M. Smith.

BEING a part of the lands described in a certain Quit-Claim Deed between the United States of America, acting by and through the Regional Director, National Park Service, South Eastern Region, Grantor and The State of Delaware, Grantee, dated November 24, 1993 and recorded November 30, 1993 in the Office of the Recorder of Deeds, in and for Sussex County at Georgetown, Delaware in Deed Book 1947, Page 263 and described as "Tract B", therein. Reference is hereby made to a certain Release and Transfer of Covenants and Restrictions, by and between the State of Delaware and the United States of America acting by and through the National Park Service, dated April 23, 1999 and recorded in the Office of the Recorder of Deeds, aforesaid, in Deed Book 2383, Page 175, wherein the terms, conditions, covenants and restrictions imposed by the United States on the lands conveyed under the aforesaid Quit-Claim Deed dated November 24, 1993 and recorded in Deed Book 1947, Page 263, are fully released as to the property conveyed hereunder.

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It is the intention of this Quit-Claim Deed to convey any and all right, title and interest that the State of Delaware may have in that portion of the lands originally intended or proposed as an inland waterway (originally described in a certain document recorded June 27, 1892, in the Office of the Recorder of Deeds, aforesaid in Deed Book 118, Page 67 &c., and originally depicted upon a map entitled "U.S. Reservation for a Canal between Rehoboth Bay and Delaware Bay...", recorded in the Office of the Recorder of Deeds, aforesaid in File Case 1, Pages 54(a), (b), (c) and (d)), which are located within or adjacent to other lands currently owned by Gills Neck Realty Co. and Hazell M. Smith (formerly the lands of Otis H. Smith) lying on either side of the abandoned inland waterway, sometimes referred to as the abandoned Lewes and Rehoboth Canal, wherever or however such lands are described and/or depicted in any deed, survey, plot or other document."

Section 2. The conveyance of the above-described lands shall be exempt from the provisions of Title 29, Chapter 94, and Title 7, Chapter 45.

Section 3. The Governor or Secretary of the Department of Natural Resources and Environmental Control is authorized to execute and deliver a quit-claim deed to the above-described property.

Approved July 23, 1999

CHAPTER 224

FORMERLY

HOUSE BILL NO. 307

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE POWERS OF THE SECRETARY OF THE DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES.

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

Section 1. Amend § 9005, Title 29 of the Delaware Code, by redesignating the existing subsection (13) as subsection (14), and by adding a new subsection (13) as follows:

"(13) Devise and adopt a plan to provide use of weapons training to probation and parole officers participating in the Operation Safe Streets Program. Such plan shall require such officer to carry a firearm during work in the field, after successful completion of a course in weapons and a psychological evaluation. Said course or training shall meet or exceed the standards established by the Council on Police Training."

Section 2. The plan required by Section 1 shall be in operation no later than 60 days after enactment.

Section 3. The provisions of Section 1 shall expire unless re-enacted on or before July 30, 2001.

Approved July 23, 1999

CHAPTER 225

FORMERLY

HOUSE BILL NO. 311

AN ACT TO AMEND CHAPTER 27, TITLE 21 OF THE DELAWARE CODE RELATING TO LICENSE FEES FOR CERTAIN TWO-WHEELED MOTOR VEHICLES.

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

Section 1. Amend §2703, Chapter 27, Title 21 of the Delaware Code by striking the figure "\$5" as the same appears twice in subsection (b), and substituting the figure "\$8" in lieu thereof.

Section 2. Amend §2703, Chapter 27, Title 21 of the Delaware Code by striking the figure "\$2" as the same appears in subsection (c), and substituting the figure "\$5" in lieu thereof.

Approved July 23,1999

CHAPTER 226

FORMERLY

HOUSE BILL NO. 370

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO RESTRICTIONS ON FRAUDULENT TRANSFERS.

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

Section 1. Amend Section 1307, Title 6, of the Delaware Code by adding at the end thereof a new subsection (c) to read as follows:

"(c) Notwithstanding any other provision of law or equity, a creditor shall have no right to relief against any trustee, attorney or other advisor who has not acted in bad faith on account of any transfer. For purposes of this subsection, it shall be presumed that the trustee, attorney, or other advisor did not act in bad faith merely by counseling or effecting a transfer."

Section 2. This act shall be effective upon enactment.

Approved July 23,1999

CHAPTER 227

FORMERLY

HOUSE BILL NO. 376

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 (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 100, Title 3 of the Delaware Code by striking subsection (b) from Section 10012 and substituting in lieu thereof the following:

"(b) Any person required by the Commission to be licensed to participate in pari-mutuel harness racing during any calendar year shall, at the time of making application for such license, pay the Commission a fee as follows: for each owner, trainer, driver, or groom, or a combination thereof, \$50; provided, however, that the fee for applying for only a groom's license shall be \$20."

Section 2. Further amend Chapter 100, Title 3 of the Delaware Code by striking from Section 10013 the figure "\$25" where it appears in subsection (b)(1) and substituting in lieu thereof the figure "\$125".

Section 3. Further amend Chapter 100, Title 3 of the Delaware Code by striking from Section 10013 the figure "\$20" where it appears in subsections (b)(2) and (b)(7) and substituting in lieu thereof the figure "\$100".

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Section 4. Further amend Chapter 100, Title 3 of the Delaware Code by striking from Section 10013 the figure "\$15" where it appears in subsection (b)(3) and substituting in lieu thereof the figure "\$75".

Section 5. Further amend Chapter 100, Title 3 of the Delaware Code by striking from Section 10013 the figure "\$10" where it appears in subsections (b)(4), (b)(5), (b)(6), (b)(8), (b)(9) and (b)(10), and substituting in lieu thereof the figure "\$50".

Section 6. Further amend Chapter 100, Title 3 of the Delaware Code by striking from Section 10014 the figure "\$15" where it appears in subsections (b)(1) and (b)(2), and substituting in lieu thereof the figure "\$50".

Section 7. Further amend Chapter 100, Title 3 of the Delaware Code by striking from Section 10014 the figure "\$5" where it appears in subsections (b)(3) and (b)(4), and substituting in lieu thereof the figure "\$20".

Section 8. Further amend Chapter 100, Title 3 of the Delaware Code by striking from Section 10024 the figure "\$500" where it appears in subsection (a) and substituting in lieu thereof the figure "\$2,000".

Section 9. Further amend Chapter 100, Title 3 of the Delaware Code by striking from Section 10024 the figure "\$250" where it appears in subsection (b) and substituting in lieu thereof the figure "\$1,000".

Section 10. This Act shall become effective on August 1, 1999.

Approved July 23, 1999

CHAPTER 228

FORMERLY

SENATE BILL NO. 136

AN ACT TO AMEND 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 deleting subsection (15), by adding in its proper numerical order a new subsection (7) reading as follows: "(7) 'Limited liability limited partnership' means a limited partnership complying with §17-214 of this chapter", and by renumbering the subsections of §17-101 which follow the new subsection (7) in their proper numerical order.

Section 2. Amend §17-214, Chapter 17, Title 6 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following new section:

§17-214. Limited partnerships as limited liability limited partnerships.

(a) To become and to continue as a limited liability limited partnership, a limited partnership shall, in addition to complying with the requirements of this chapter:

(1) file a statement of qualification as provided in §15-1001 and thereafter an annual report as provided in §15-1003 of the Delaware Revised Uniform Partnership Act, as permitted by the limited partnership's partnership agreement or, if the limited partnership's partnership agreement does not provide for the limited partnership's becoming a limited liability limited partnership, with the approval (i) by all general partners, and (ii) by the limited partners or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate; and

(2) have as the last words or letters of its name the words "Limited Partnership" or the abbreviation "L.P." or the designation "LP" followed by the words "Limited Liability Limited Partnership", or the abbreviation "L.L.L.P.", or the designation "LLLP".

(b) In applying the Delaware Revised Uniform Partnership Act to a limited liability limited partnership:

(i) any certificate or statement shall be executed by at least one general partner of the limited partnership; and

(ii) all references to partners mean general partners only.

(c) If a limited partnership is a limited liability limited partnership, its partners who are liable for the debts, liabilities and other obligations of the limited partnership shall have the limitation on liability afforded to partners of limited liability partnerships under the Delaware Revised Uniform Partnership Act.

Section 3. This Act shall become effective January 1, 2000.

Approved July 23, 1999

CHAPTER 229

FORMERLY

SENATE BILL NO. 162

AN ACT TO AMEND TITLE 29, DELAWARE CODE, RELATING TO THE DEPARTMENT OF TRANSPORTATION AND TRANSPORTATION PRIORITY PLANNING.

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

Section 1. Amend Section 8419(2)a., Title 29, Delaware Code, by deleting the word "priority" appearing in the first sentence of this section.

Section 2. Further amend Section 8419(2)a., Title 29, Delaware Code, by deleting the language, "which if further contained in the authorization act would be categorized as corridor/noncorridor" appearing therein.

Section 3. Further amend Section 8419(2)a., Title 29, Delaware Code, by deleting the phrase, "regional variations; seasonality of traffic" appearing therein, and inserting in lieu thereof the phrase "long range transportation plans and comprehensive land use plans".

Section 4. Further Amend Section 8419(2)a., Title 29, Delaware Code, by deleting the clauses "availability of federal and state funds; and ability to utilize these fund for projects and programs" appearing therein.

Section 5. Amend Section 8419(2), Title 29, Delaware Code, by deleting subsection (b) in its entirety and inserting in lieu thereof the following:

"(b) The formula based process shall not be utilized for setting priorities for dirt roads, suburban street and projects, municipal street aid projects, or system preservation projects. System preservation projects will be prioritized based upon performance measures established in the Department for pavement management, bridge management, and safety management projects."

Section 6. amend Section 8419(3), Title 29, Delaware Code, by deleting the first sentence of this section in its entirety, and inserting in lieu thereof the following:

"Review and approve the Long Range Transportation Plan, to be used in connection with the Department's internal review process for transportation projects."

Section 7. Amend Section 8419(4), Title 29, Delaware Code, by deleting this subsection in its entirety and inserting in lieu thereof the following:

"(4) Update and prepare annually a statewide capital Improvement Program for submission to the Council of Transportation. The first year of the Program shall consist of transportation programs and projects to be advanced in that year based upon the prioritization ranking process specified in subsection (2) of this section. No program or project will be funded for implementation except those that can with reasonable certainty be advertised for bid that year. Proposed projects or programs for the remaining years of the six year Capital Improvement Program shall be pursued in accordance with the prioritization ranking process

specified in subsection (2) of this Section. The estimated cost of the Program for each year shall not exceed the estimated federal and state funds available for transportation purposes during that year. The estimated federal and state fund availability will be developed annually by the Department of Transportation based upon the dollar amount of funds available and the ability to use the funds for a specific program or project."

Section 8. Amend Section 8419(5), Title 29, Delaware Code, by deleting the phrase "priority formula-based" as it appears therein and insert in lieu the phrase "formula-based".

Approved July 23, 1999

CHAPTER 230

FORMERLY

SENATE BILL NO. 175
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO SHIPMENT OF ALCOHOLIC LIQUORS.

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

Section 1. Amend Chapter 5, Title 4, Delaware Code by adding thereto the following:

"§526. Direct Purchasing of Wine and Beer

(a) Notwithstanding any other provision in this Title, a natural person who is a Delaware resident may purchase sparkling wine, still wine and beer that is not readily available to consumers throughout the State directly from a manufacturer or retailer of such beverages domiciled outside of Delaware provided that the following apply:

- (1) The resident is twenty-one years of age or older;
- (2) The sparkling wine, still wine or beer is for the resident's personal consumption and not for resale;
- (3) The total amount of sparkling wine or still wine purchased in one calendar year by the resident may not exceed sixty (60) seven hundred fifty-milliliter bottles per calendar year;
- (4) The total amount of beer purchased in one calendar year by the resident may not exceed six (6) cases of twelve ounce bottles or the equivalent, but may not exceed 1,728 ounces;
- (5) The manufacturer or retailer engaging in such direct sales holds a valid manufacturer's or retailer's license issued by the state of its domicile;
- (6) The package in which the sparkling wine, still wine or beer is shipped is prominently labeled as containing alcoholic beverages;
- (7) The package in which such sparkling wine, still wine or beer is shipped is received by a person twenty-one years of age or older;
- (8) The package in which such sparkling wine, still wine or beer is shipped contains an invoice indicating the date of the shipment, providing a full and complete description of all items included in the shipment, and stating the price thereof.

(b) A person who is licensed in its state of domicile as an alcoholic beverage manufacturer, importer, wholesaler, or licensee and who may legally ship alcoholic beverages out of state may apply to the Commission for a direct shipper license. Only a person holding a direct shipper license may accept an order for the purchase of sparkling wine, still wine, and/or beer from a natural person who is a Delaware resident. The license fee for a direct shipper shall be determined by the Commission. The amount of the fee must approximate and

reasonably reflect the costs necessary to defray the expenses of the Commission's service and activities in connection with this section.

(c) All persons licensed under this section to ship wine and beer shall pay a tax on all wine and beer sold to residents in this State at the rates set forth in §581(d) of this Chapter. Taxes levied by §581(d) of this Chapter shall be collected, as far as practical, from the direct shipper in the manner set forth by the Commission. If for any reason the direct shipper who first handles the taxable beer and wine to be shipped to Delaware has escaped payment of taxes, those taxes shall be collected from any person in whose hands the taxable beer and wine is found. In no case, however, shall there be a duplication.

(d) Direct shippers shall file invoices for each shipment with the Commission showing the retail price of the product, the quantity shipped, the customer's name and address, and the tax collected and paid to the State. Such filings shall be quarterly and arrive at the Commission no later than the tenth of March, June, September and December. Direct shippers shall maintain the records for at least three years.

(e) Under no circumstance may the wine or beer be shipped directly to the resident. Direct shippers must deliver the wine and beer by common carrier to a Delaware wholesaler, who will in turn deliver the shipment to a holder of a Delaware off-premises retail license. The retail licensee must then deliver the wine or beer to the resident in a manner consistent with this title and as set forth by Commission rules. The direct shipper shall pay a handling fee in the amount of four dollars per case or partial case of wine and two dollars per case or partial case of beer to the wholesaler who receives the shipment on behalf of the Delaware resident. The wholesaler shall then remit to the retail licensee one-half of the total handling fee."

Section 2. This Act shall take effect on June 1, 2000.

Approved July 23, 1999

CHAPTER 231

FORMERLY

SENATE BILL NO. 200

AN ACT TO AMEND SECTION 2756 OF TITLE 21 OF THE DELAWARE CODE RELATING TO PENALTIES FOR DRIVING WHILE LICENSE IS SUSPENDED OR REVOKED.

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

Section 1. Amend Title 21, Section 2756 of the Delaware Code by adding the following at the end of the section:

"(d) Notwithstanding the foregoing, if the judge determines that the sole reason that an individual's license was suspended is failure to pay a fine for a traffic offense which is eligible for voluntary assessment (whether or not the voluntary assessment procedure was offered or used): the provisions of subsections (a) - (c) of this section shall not apply and the penalties of section 2701(e) of this Title shall apply, which penalties may be suspended."

Approved July 23, 1999

CHAPTER 232

FORMERLY

SENATE BILL NO. 208
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO WIRETAPPING, ELECTRONIC SURVEILLANCE, AND INTERCEPTION OF COMMUNICATIONS.

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

Section 1. Amend Title 11 of the Delaware Code striking Section 1336 in its entirety and substituting in lieu thereof a new chapter in Title 11 of the Delaware Code designated as "Chapter 24" to read as follows:

" CHAPTER 24 - WIRETAPPING, ELECTRONIC SURVEILLANCE AND INTERCEPTION OF COMMUNICATIONS.

Section 2402. Wiretapping, Electronic Surveillance and Interception of Communications; definitions.

When used in this chapter:

(1) 'Aural transfer' means a transfer containing the human voice at any point between and including the point of origin and the point of reception.

(2) 'Aggrieved person' means a person who was a party to any intercepted wire, oral, or electronic communication or a person against whom the interception was directed.

(3) 'Communication common carrier' means any person engaged as a common carrier for hire in the transmission of wire or electronic communications.

(4) 'Contents', when used with respect to any wire, oral, or electronic communication, includes any information concerning the identity of the parties to the communication or the existence or substance of that communication.

(5) 'Electronic communication' means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any electromagnetic, photoelectric, or photooptical system. However, 'electronic communication' does not include: (a) any wire or oral communication, (b) any communication made through a tone-only paging device; or, (c) any communication from a tracking device.

(6) 'Electronic communication service' means any service that provides to users of the service the ability to send or receive wire, oral or electronic communications.

(7) 'Electronic communications system' means any wire, oral, radio, electromagnetic, photooptical, or photoelectric facilities for the transmission of wire, oral or electronic communications, and any computer facilities or related electronic equipment for the wire, oral or electronic storage of electronic communications.

(8) 'Electronic, mechanical, or other device' means any device or electronic communication instrument other than:

(a) Any telephone or telegraph instrument, equipment or other facility for the transmission of electronic communications, or any component thereof, which is furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and is being used by the subscriber or user in the ordinary course of its business or furnished by the subscriber or user for connection to the facilities of the service and used in the ordinary course of its business or which is being used by a communications common carrier in the ordinary course of its business or which is being used by an investigative or law enforcement officer in the ordinary course of that officer's duties; or,

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(9) 'Electronic storage' means any temporary, intermediate storage of a wire, oral or electronic communication incidental to the electronic transmission of the communication. 'Electronic storage' includes any

storage of a wire, oral or electronic communication by an electronic communication service for purposes of backup protection of the communication.

(10) 'Intercept' means the aural or other acquisition of the contents of any wire, oral or electronic communication through the use of any electronic, mechanical, or other device.

(11) 'Investigative or law enforcement officer' means any officer of this State or a political subdivision of this State, who is empowered by law to conduct investigations or to make arrests for offenses enumerated in this title, any sworn law enforcement officer of the federal government or of any other state or a political subdivision of another state, working with and under the direction of an investigative or law enforcement officer of this State or a political subdivision of this State, or, any attorney authorized by law to prosecute or participate in the prosecution of such offenses.

(12) 'Judge', when referring to a judge authorized to receive applications for and to enter orders authorizing interception of wire, oral or electronic communications, means 1 or more of the several Judges of the Superior Court to be designated from time to time by the President Judge of the Superior Court to receive applications for and to enter orders authorizing interception of wire, oral or electronic communications pursuant to this chapter.

(13) 'Oral communication' means any oral communication uttered by a person made while exhibiting an expectation that such communication is not subject to interception and under circumstances justifying such expectation, but such term does not include any electronic communication.

(14) 'Pen register' means a device that records and decodes electronic or other impulses that identify the numbers dialed or otherwise transmitted on the telephone line to which the device is attached. 'Pen register' does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by the provider or any device used by a provider or customer of a wire communication service for cost accounting or other similar purposes in the ordinary course of its business.

(15) 'Person' means any employee or agent of this State or a political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation.

(16) 'Readily accessible to the general public' means, with respect to a radio communication, that the communication is not:

- (a) Scrambled or encrypted;
- (b) Transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of the communication; or
- (c) Except for tone-only paging device communications, transmitted over frequencies reserved for private use and licensed for private use under federal or State law.

(17) 'Remote computing service' means the provision to the public of computer storage or processing services by means of an electronic communications system.

(18) 'Trap and trace device' means a device that captures the incoming electronic or other impulses that identify the originating number of an instrument or device from which a wire or electronic communication was transmitted.

(19) 'User' means any person or entity that uses an electronic communication service and is duly authorized by the provider of the service to engage in that use.

(20) 'Wire communication' means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of a connection in a switching station) furnished or operated by any person licensed to engage in providing or operating such facilities for the transmission of communications.

Section 2403. Same -- Interception of communications generally; divulging contents of communications, violations of chapter.

- (a) Prohibited acts. Except as specifically provided in this chapter or elsewhere in this Code no person shall:

(1) Intentionally intercept, endeavor to intercept, or procure any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

(2) Intentionally disclose, or endeavor to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this chapter; or

(3) Intentionally use, or endeavor to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this chapter.

(b) Penalties for violation of subsection (a). Any person who violates subsection (a) of this section shall be guilty of a Class E felony and be fined not more than \$10,000.

(c) Lawful acts. It is lawful:

(1) For an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communication service, whose facilities are used in the transmission of wire or electronic communication to intercept, disclose, or use such communication in the normal course of employment while engaged in any activity which is necessarily incident to the rendition of his service or to the protection of the rights or property of the provider of that service, except that a provider of wire communications service to the public may not utilize service observing or random monitoring except for mechanical or service quality control checks.

(2) For a provider of wire or electronic communication service, its officers, employees, and agents, landlords, custodians or other persons to provide information, facilities, or technical assistance to persons authorized by federal or State law to intercept wire, oral, or electronic communications or to conduct electronic surveillance, if the provider, its officers, employees, or agents, landlord, custodian, or other specified person has been provided with a court order signed by an authorizing judge directing the provision of information, facilities, or technical assistance.

a. An order as prescribed by this paragraph shall set forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specify the information, facilities, or technical assistance required. A provider of wire or electronic communication service, its officers, employees, or agents, or landlord, custodian, or other specified person may not disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished an order under this paragraph, except as may otherwise be required by legal process and then only after prior notification to the judge who granted the order, if appropriate, or the Attorney General of this State or the Attorney General's designee. Any unauthorized disclosure, shall render the person liable for compensatory damages. No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, or agents, or landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of a court order issued pursuant to this chapter.

(3) For an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer in such investigation, pursuant to a court order issued by the Superior Court pursuant to §2408 of this title, to intercept a wire, oral, or electronic communication in order to provide evidence of the commission of the offenses including racketeering, murder, kidnapping, gambling, robbery, bribery, extortion, dealing in narcotic drugs or dangerous drugs, dealing in central nervous system depressant or stimulant drugs, controlled substances or counterfeit controlled substances, prison escape, jury tampering, stalking, any felony involving risk of physical injury to a victim or any conspiracy or solicitation to commit any of the foregoing offenses or which may provide evidence aiding in the apprehension of the perpetrator of any of the foregoing offenses.

(4) For a person to intercept a wire, oral, or electronic communication where the person is a party to the communication or where one of the parties to the communication has given prior consent to the interception unless the communication is intercepted for the purpose of committing any criminal or tortious act in violation of the constitutions or laws of the United States, this State, or any other state or any political subdivision of the United States or this or any other state.

(5) For a law enforcement officer in the course of the officer's regular duty to intercept an oral communication, if:

- conversation;
- a. The law enforcement officer initially detained one of the parties and overhears a
 - b. The law enforcement officer is a party to the oral communication;
 - c. Both parties to the oral communication are present in a law enforcement facility where there is notice to occupants that such communications are monitored;
 - d. The law enforcement officer has been identified as a law enforcement officer to the other party to the oral communication prior to any interception; or
 - e. The oral interception is being made as part of a video tape recording.

(6) For an officer, employee, or agent of a government emergency communications center to intercept a wire, oral, or electronic communication where the officer, agent or employee is a party to a conversation concerning an emergency.

(7) For law enforcement personnel or those acting under their direction to utilize body wires to intercept oral communications in the course of a criminal investigation when the law enforcement personnel or a person acting under their direction is a party to the communication. Communications intercepted by such means may be recorded and may be used against the defendant in a criminal proceeding.

(8) For a person:

- a. To intercept or access an electronic communication made through an electronic communication system that is configured so that the electronic communication is readily accessible to the general public;
- b. To intercept any radio communication that is transmitted:
 1. By any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;
 2. By any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;
 3. By a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or
 4. By any marine or aeronautical communications system;
- c. To intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of the interference; or,
- d. For other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of the system, if the communication is not scrambled or encrypted.

(9) To use a pen register or trap and trace device.

(10) For a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful, or abusive use of the service.

(11) For a person acting under color of law, and employed for such purpose by the Department of Correction, to intercept an electronic or oral communication of any individual confined to a State Correctional facility. At the direction of the Commissioner of Correction or his designee, a person performing an official investigation into suspected criminal activity may monitor and intercept the incoming and outgoing electronic communication of any individual incarcerated in a State Correctional facility. The Department may also employ devices to monitor all incarcerated individual's incoming and outgoing electronic communication for words or phrases which would justify further investigation. The Department shall not monitor or intercept any communication between an individual confined in a State Correctional facility and his/her attorney.

(d) Divulging contents of communications. Except as provided in this subsection, a person or entity providing an electronic communication service to the public may not intentionally divulge the contents of any communication (other than one to the person or entity providing the service, or an agent of the person or entity) while in transmission on that service to any person or entity other than an addressee or intended recipient of the communication or an agent of the addressee or intended recipient.

(1) A person or entity providing electronic communication service to the public may divulge the contents of a communication:

- a. As otherwise authorized by federal or State law;
- b. To a person employed or authorized, or whose facilities are used, to forward the communication to its destination; or
- c. That were inadvertently obtained by the service provider and that appear to pertain to the commission of a crime, if the divulgence is made to a law enforcement agency.

(2) Unless the conduct is for the purpose of direct or indirect commercial advantage or private financial gain, conduct which would otherwise be an offense under this subsection is not an offense, if the conduct consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted:

- a. To a broadcasting station for purposes of retransmission to the general public; or
- b. As an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls.

(e) Penalties for divulging contents of communications. Whoever violates subsection (d) of this section shall:

(1) Except as otherwise provided in this subsection, be guilty of a Class F felony and fined not more than \$10,000.

(2) For any offense which is a first offense:

- a. which was not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; and,
 - b. which involved a wire or electronic communication which was a radio communication that was not scrambled or encrypted; and,
 - c. which involved a communication which was not the radio portion of a cellular telephone communication, a public land mobile radio service communication, or a paging service communication;
- be guilty of a Class A misdemeanor.

(3) For any offense which is a first offense:

- a. which was not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; and,
- b. which involved a wire or electronic communication which was a radio communication that was not scrambled or encrypted; and,
- c. which involved a communication which was the radio portion of a cellular telephone communication, a public land mobile radio service communication, or a paging service communication; be guilty of an unclassified misdemeanor.

(f) Civil Liability for Violations of §§2403 or 2404. A person who engages in conduct in violation of §§2403 or 2404 of this title is subject to suit by the federal government or by the State in a court of competent jurisdiction, if the communication is:

(1) A private satellite video communication that is not scrambled or encrypted and the conduct in violation of §§2403 or 2404 of this title is the private viewing of that communication, and is not for a tortious or illegal purpose, or for purposes of direct or indirect commercial advantage, or private commercial gain; or,

(2) A radio communication that is transmitted on frequencies allocated under Subpart D of Part 74 of the Rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct in violation of §§2403 or 2404 of this title is not for a tortious or illegal purpose or for purpose of direct or indirect commercial advantage or private commercial gain.

(g) **Injunctive Relief - Civil Penalties.** The State is entitled to appropriate injunctive relief in an action under this subsection if the violation is the person's first offense under subsection (e) (1) of this section and the person has not been found liable in a prior civil action under §2410 of this title. However, in any action under this subsection, if the violation is a second or subsequent offense under subsection (e) (1) of this section or if the person has been found liable in a prior civil action under §2410 of this title, the person is subject to a mandatory civil fine of not less than \$400. The Court may use any means within its authority to enforce an injunction issued under this subsection, and shall impose a civil fine of not less than \$500 for each violation of an injunction issued under this subsection.

Section 2404. Same -- Manufacture, possession, or sale of intercepting device.

(a) **Prohibited acts.** Except as otherwise specifically provided by this chapter, any person who manufactures, assembles, possesses, or sells any electronic, mechanical, or other device, knowing or having reason to know that the design of the device is primarily for the purpose of the surreptitious interception of wire, oral, or electronic communications, shall be guilty of a Class F felony and be fined of not more than \$10,000.

(b) **Lawful acts.** It is lawful under this section for:

A provider of wire or electronic communication service or an officer, agent, or employee of, or person under contract with, a service provider, in the normal course of the business of providing that wire or electronic communication service to manufacture, assemble, possess, or sell any electronic, mechanical, or other device knowing or having reason to know that the design of the device is primarily for the purpose of the surreptitious interception of wire, oral, or electronic communications.

(2) A person under contract with the United States, a state, a political subdivision of a state, or the District of Columbia, in the normal course of the duties of the United States, a state, a political subdivision thereof, or the District of Columbia, to manufacture, assemble, possess, or sell any electronic, mechanical, or other device knowing or having reason to know that the design of the device is primarily for the purpose of the surreptitious interception of wire, oral, or electronic communications.

(3) An officer, agent, or employee of the United States in the normal course of his lawful duties to manufacture, assemble, possess or sell any electronic, mechanical, or other device knowing or having reason to know that the design of the device is primarily for the purpose of the surreptitious interception of wire, oral, or electronic communications. However, any sale made under the authority of this paragraph may only be for the purpose of disposing of obsolete or surplus devices.

(4) An officer, agent, or employee of a law enforcement agency of this State or a political subdivision of this State in the normal course of his lawful duties to manufacture, assemble, possess or sell any electronic, mechanical, or other device knowing or having reason to know that the design of the device is primarily for the purpose of the surreptitious interception of wire, oral, or electronic communications, provided, however, that the particular officer, agent, or employee is specifically authorized by the chief administrator of such law enforcement agency to manufacture, assemble or possess the device for a particular law enforcement purpose. However, any sale made under the authority of this paragraph may only be for the purpose of disposing of obsolete or surplus devices.

Section 2405. Same -- Admissibility of evidence.

Whenever any wire or oral communication has been intercepted, no part of the contents of the communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this State, or a political subdivision thereof if the disclosure of that information would be in violation of this chapter.

Section 2406. Same -- Authorities permitted to apply for order authorizing interception.

The Attorney General, Chief Deputy Attorney General, State Prosecutor or Chief Prosecutor of any county may apply to a judge authorized to receive intercept applications and the judge, in accordance with the provisions of §2408 of this title, may grant an order authorizing the interception by investigative or law enforcement officers of wire, oral, or electronic communications when the interception may provide evidence:

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(a) of the commission of the offense of racketeering, murder, kidnaping, gambling, robbery, bribery, extortion, dealing in narcotic drugs or dangerous drugs, dealing in central nervous system depressant or stimulant drugs, dealing in controlled substances or counterfeit controlled substances, prison escape, jury tampering, stalking;

(b) of the commission of any felony creating a risk of physical injury to a person;

(c) of any conspiracy or solicitation to commit any of the offenses set forth in subsections (a) or (b) of this section; or,

(b) aiding in the apprehension of the perpetrator of any of the offenses set forth in this section.

No application or order shall be required if the interception is lawful under the provisions of § 2407(c) of this title.

Section 2407. Same -- Lawful disclosure or use of contents of communication

(a) Disclosure by investigative or law enforcement officer. Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose the contents to another investigative or law enforcement officer of any state, any political subdivision of a state, the United States, or any territory, protectorate, or possession of the United States, including the District of Columbia, to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(b) Use of contents by officer. Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication or evidence derived therefrom or an investigative or law enforcement officer of any state or any political subdivision of a state, the United States or any territory, protectorate, or possession of the United States, including the District of Columbia who obtains such knowledge by lawful disclosure may use the contents to the extent that the use is appropriate to the proper performance of his official duties.

(c) Disclosure while giving testimony. Any person who has received, by any means authorized by this chapter, any information concerning a wire, oral, or electronic communication, or evidence derived therefrom intercepted in accordance with the provisions of this chapter, may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of any state or any political subdivision of a state, the United States or any territory, protectorate, or possession of the United States including the District of Columbia.

(d) Privileged character of communication not lost. Any contents of wire, oral or electronic communication intercepted in accordance with or in violation of the provisions of this chapter which would otherwise be considered privileged under the law, do not lose their privileged character through such interception.

(e) Communications relating to offenses not specified in order. When an investigative or law enforcement officer, while engaged in intercepting wire, oral, or electronic communications in the manner authorized herein, intercepts wire, oral, or electronic communications relating to offenses other than those specified in the order of authorization, the contents thereof, and evidence derived therefrom, may be disclosed or used consistent with subsections (a), (b) or (c) of this section. The contents and any evidence derived therefrom may be used under subsection(c) of this section when authorized or approved by a judge authorized to receive intercept applications where the judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this chapter. Such application should be made forthwith.

(f) Disclosure by law enforcement officers of other jurisdictions. Any investigative or law enforcement officer of any state or political subdivision of a state, the United States, or any territory, protectorate, or possession of the United States, including the District of Columbia, who has lawfully received any information concerning a wire, oral, or electronic communication or evidence lawfully derived therefrom, which would have been lawful for a law enforcement officer of this State to receive pursuant to this chapter, may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of this State or any political subdivision of this State.

Section 2408. Same -- Ex parte order authorizing interception.

(a) Application. Any application for an order authorizing the interception of a wire, oral, or electronic communication shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make the application. Each application shall include the following information:

(1) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(2) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including:

(a) details as to the particular offense that has been, is being, or is about to be committed;

(b) a description of the nature and location of the facilities from which or the place where the communication is to be intercepted;

(c) a description of the type of communication sought to be intercepted; and,

(d) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

(3) A full and complete statement as to whether or not other investigative procedures have been tried and failed or why such procedures reasonably appear to be unlikely to succeed if tried or would be too dangerous if tried;

(4) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a description of facts establishing probable cause to believe additional communications of the same type will occur thereafter;

(5) A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, which had been made to a judge for authorization to intercept wire, oral, or electronic communications involving any of the same persons, facilities or places specified in the application, and the action taken on each application; and

(6) When the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain the results.

(b) Additional evidence in support of applications. The judge may require the applicant to furnish additional testimony or documentary evidence in support of an application.

(c) Issuance of order. (1) Upon the application a judge may enter an ex parte order, as requested or as modified, authorizing interception of wire, oral, or electronic communications within the territorial jurisdiction permitted under paragraphs (2) or (3) of this subsection, if the judge determines on the basis of the facts submitted by the applicant that:

a. There is probable cause for belief that an individual is committing, has committed, or is about to commit an offense enumerated in §2406 of this chapter;

b. There is probable cause for belief that particular communications concerning that offense will be obtained through the interception;

c. Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

d. There is probable cause for belief that the facilities from which, or the place where, the wire, oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by an individual engaged in criminal activity described.

(2) Except as provided in paragraph (3) of this subsection, an ex parte order issued under paragraph (1) of this subsection may authorize the interception of wire, oral, or electronic communications only within the territorial jurisdiction of the court in which the application was filed.

(3) If an application for an ex parte order is made by the Attorney General or other designee, an order issued under paragraph (1) of this subsection may authorize the interception of communications sent or received by a mobile telephone anywhere within the State so as to permit the interception of the communications

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regardless of whether the mobile telephone is physically located within the jurisdiction of the court in which the application was filed at the time of the interception, however, the application must allege that the offense being investigated may transpire in the jurisdiction of the court in which the application is filed.

(d) Contents of order. (1) Each order authorizing the interception of any wire, oral, or electronic communication shall specify:

- a. The identity of the person, if known, whose communications are to be intercepted;
- b. The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;
- c. A description of the type of communication sought to be intercepted, and a statement of the offense to which it relates.
- d. The identity of the agency authorized to intercept the communications, and of the person authorizing the application; and
- e. The period of time during which the interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

(2) An order authorizing the interception of a wire, oral, or electronic communication, upon request of the applicant, shall direct that a provider of wire or electronic communication service, landlord, custodian or other person furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that the service provider, landlord, custodian, or person ordered by the court accords the person whose communications are to be intercepted. Any provider of wire or electronic communication service, landlord, custodian or other person furnishing the facilities or technical assistance shall be compensated by the applicant for reasonable expenses incurred in providing facilities or assistance.

(c) Extensions. (1) An order entered under this section may not authorize the interception of any wire, oral or electronic communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than 30 days. The 30-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or 10 days after the order is entered.

(2) Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (a) of this section and upon the court making the findings required by subsection (c) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than 30 days.

(3) Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event in 30 days.

(4) In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after the interception. An interception under this chapter may be conducted in whole or in part by federal, State, or local government personnel, or by an individual operating under a contract with the State or a political subdivision of the State, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

(5) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General or designee, who reasonably determines that:

- a. an emergency situation exists that involves:
 1. immediate danger of death or serious physical injury to any person;
- (4) activities related to escape or attempted escape from custody;
3. conspiratorial activities threatening the national security interest; or,

4. conspiratorial activities characteristic of organized crime, that requires a wire, oral, or electronic communication to be intercepted before an order authorizing such interception can, with due diligence be obtained; and,

b. there are grounds upon which an order could be entered under this chapter to authorize such interception;

may intercept such wire, oral, or electronic communication if an application for an order approving the interception is made in accordance with this section within 48 hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, the contents of any wire, oral, or electronic communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in subsection (g) of this section on the person named in the application.

(f) Reports to issuing judge. Whenever an order authorizing interception is entered pursuant to this section, the order shall require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. The reports shall be made at the time and place required by the issuing judge.

(g) Recordings of contents of intercepted communications; sealing applications and orders; notice to parties. (1) The contents of any wire, oral, or electronic communication intercepted by any means authorized by this section, if possible, shall be recorded on tape or wire or other comparable device. The recording of the contents of any wire, oral, or electronic communication under this subsection shall be done in a way as will protect the recording from editing or other alternations as may be practicable. Upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions. Custody of the recordings shall be wherever ordered by the issuing judge. The recordings may not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for 10 years. Duplicate recordings may be made for lawful use or disclosure pursuant to the provisions of this chapter. The presence of the seal provided by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use of disclosure of the contents of any wire, oral, or electronic communication or evidence derived therefrom under this chapter.

(2) Applications made and orders granted under this subsection shall be sealed by the issuing or denying judge. Custody of the applications and orders shall be as ordered by that judge. The applications and orders shall be disclosed only upon a showing of good cause before that judge and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for 10 years.

(3) Any violation of the provisions of this subsection may be punished as criminal contempt in violation of §1271 of this title by the issuing or denying judge.

(4) Within a reasonable time but not later than 90 days after the termination of the period of an order or extensions thereof, the issuing judge shall cause to be served, on the persons named in the order, and the other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice, an inventory which shall include notice of:

- a. The fact of the entry of the order;
 - b. The date of the entry of the order and the period of authorized interception; and,
 - c. The fact that during the period, wire, oral, or electronic communications were or
- were not intercepted.

The judge, upon the filing of a motion, shall make available to the person or his counsel for inspection, portions of the intercepted communications, applications and orders pertaining to that person and the alleged crime.

(5) Upon an ex parte motion showing of good cause to the judge, the serving of any inventory required by this section may be delayed. The periods of delay may not be longer than the authorizing judge deems necessary to achieve the purposes for which such delay was granted and in no event for longer than 30 days. No more than three periods of delay may be granted. Any order issued extending the time in which the inventory notice is to be served must be under seal of the court and treated in the same manner as the order authorizing interception.

(h) Prerequisites to use of contents of communication as evidence. The contents of any intercepted wire, oral, or electronic communication or evidence derived therefrom may not be received in evidence or otherwise

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disclosed in any a trial, hearing, or other proceeding in the courts of this State unless each party, not less than 10 days before the trial, hearing, or proceeding, has been furnished with a copy of the court order and accompanying application under which the interception was authorized. Where no application or order was required for the interception under the provisions of this chapter, each party, not less than 10 days before the trial, hearing or proceeding, shall be furnished with information concerning when, where and how the interception took place and why no application or order was required. This 10-day period may be waived by the judge if he or she finds that it was not possible to furnish the party with the above information 10 days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving the information.

(i) Suppression of contents of communication; appeal from denial of application for order of approval.

(1) Any aggrieved person in any trial, hearing, or proceeding in or before any

court, department, officer, agency, regulatory body, or other authority of this State or a political subdivision thereof, may move to suppress the contents of any intercepted wire, oral, or electronic communication, or evidence derived therefrom, on the grounds that:

a. The communication was unlawfully intercepted;

b. The order of authorization under which it was intercepted is insufficient under

this chapter; or

c. The interception was not made in conformity with the order of authorization

granted under this chapter.

(2) This motion shall be made at least 10 days before the trial, hearing, or proceeding except upon good cause shown. If the motion is granted, the contents of the intercepted wire, oral, or electronic communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter. The judge, upon the filing of the motion by the aggrieved person, in his discretion may make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

(3) In addition to any other right to appeal, the State shall have the right to appeal from the denial of an application for an order of approval, if the Attorney General or Deputy Attorney General shall certify to the judge denying the application that the appeal is not taken for the purposes of delay. The appeal shall be taken within 30 days after the date the order was entered.

Section 2409. Same -- Reports to President Judge.

(a) Report by Judge. Within 30 days after the expiration of an order or an extension or renewal thereof entered under this chapter or the denial of an order confirming verbal approval of interception, the issuing or denying Judge shall make a report to the President Judge of the Superior Court stating that:

(1) An order, extension or renewal for which application was made;

(2) The type of order for which application was made;

(3) The order was granted as applied for, was modified or was denied;

(4) The period of the interceptions authorized by the order, and the number and duration of any extensions or renewals of the order;

(5) The offense specified in the order or extension or renewal of an order;

(6) The identity of the person authorizing the application and of the investigative or law enforcement officer and agency for whom it was made; and,

(7) The character of the facilities from which or the place where the communications were to be intercepted.

(b) Reports by Attorney General. The Attorney General or Deputy Attorney General specifically designated by the Attorney General shall make and file all reports required by federal law.

Section 2410. Same -- Civil liability; defense to civil or criminal action.

(a) Civil liability. Any person whose wire, oral, or electronic communication is intercepted, disclosed, or used in violation of this chapter shall have a civil cause of action against any person who intercepts,

discloses, or uses, or procures any other person to intercept, disclose, or use the communications, and be entitled to recover from any person:

- (1) Actual damages but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;
- (2) Punitive damages; and,
- (3) A reasonable attorney's fee and other litigation costs reasonably incurred.

(b) Defense. A good faith reliance on a court order or legislative authorization shall constitute a complete defense to any civil or criminal action brought under this chapter or under any other law.

Section 2411. Same -- Breaking and entering, etc., to place or remove equipment.

Any person who breaks and enters, enters under false pretenses, or trespasses, upon any premises with the intent to place, adjust or remove wiretapping or electronic surveillance or eavesdropping equipment without a court order shall be guilty of a Class C felony.

Section 2412. Same -- Hostage and barricade situations.

(a) The Superintendent of the Delaware State Police or the commander of the law enforcement agency of any political subdivision of this State may designate one or more law enforcement officers as a hostage and barricade communications specialist.

(b) Each communication common carrier providing service to Delaware residents shall designate one or more individuals to provide liaison with law enforcement agencies for the purposes of this section.

(c) The supervising law enforcement officer, who has jurisdiction in any situation in which there is probable cause to believe that a criminal enterprise involving hostage holding is occurring or that a person has barricaded himself within a structure and poses an immediate threat of physical injury to others, may order a communication common carrier, or a communication common carrier's employee, officer, or director, or a hostage and barricade communications specialist to interrupt, reroute, divert, or otherwise control any wire, oral or electronic communications service involved in the hostage or barricade situation for the purpose of preventing wire, oral or electronic communication by a hostage holder or barricaded person with any person other than a law enforcement officer or a person authorized by the officer or for the purpose of otherwise monitoring communications in the hostage or barricade situation.

(d) A hostage and barricade communications specialist shall be ordered to act under subsection (c) only if the communication common carrier providing service in the area has been contacted and requested to act under subsection (c) and:

- (1) Declines to respond to the officer's request because of a threat of physical injury to its employees; or
- (2) Indicates when contacted that it will be unable to respond appropriately to the officer's request within a reasonable time from the receipt of the request.

(e) The supervising law enforcement officer may give an order under subsection (c) only after that supervising law enforcement officer has given written or oral representation of the hostage or barricade situation to the communication common carrier providing service to the area in which it is occurring. If an order is given based on an oral representation, the oral representation shall be followed by a written confirmation of that representation within 48 hours of the order.

(f) Good faith reliance on an order by a supervising law enforcement officer who has the real or apparent authority to issue an order under this section shall constitute a complete defense to any action against a communication common carrier or a communication common carrier's employee, officer, or director that arises out of attempts by the communication common carrier or the employee, officer, or director of the communication common carrier to comply with such an order.

(g) For the purposes of this section, 'supervising law enforcement officer' means an officer having a rank equivalent to or greater than a lieutenant of any law enforcement agency of the state or any political subdivision of the state.

Section 2413. Same -- Obstruction, impediment or prevention of interception.

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(a) Giving notice of interception. A person who has knowledge that an investigative or law enforcement officer has been authorized or has applied for authorization under this chapter to intercept wire, oral, or electronic communications, may not give notice or attempt to give notice of an authorized interception or pending application for authorization for interception to any other person in order to obstruct, impede or prevent such interception.

(b) Penalties. A person who violates the provisions of subsection (a) of this section shall be guilty of a Class F felony and be fined not more than \$10,000.

Section 2421. Stored Wire and Electronic Communications and Transactional Records Access --Obtaining, altering or preventing authorized access.

(a) General Provisions. Except as provided in subsection (c) of this section, a person may not obtain, alter, or prevent authorized access to a wire or electronic communication while it is in electronic storage in an electronic communications system by:

(1) Intentionally accessing with authorization a facility through which an electronic communication service is provided; or

(2) Intentionally exceeding an authorization to access a facility through which an electronic communication service is provided.

(b) Penalties. A person who violates the provisions of subsection (a) of this section is subject to the following penalties:

(1) If the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain:

a. For a first offense, the person shall be guilty of a Class B misdemeanor and be fined not more than \$250,000; and

b. For a second or subsequent offense, the person shall be guilty of a Class A misdemeanor and be fined not more than \$250,000.

(2) In all other circumstances, the person shall be guilty of a Class B misdemeanor and be fined not more than \$5,000.

(c) Applicability of section. Subsection (a) of this section does not apply to conduct authorized:

(1) By the person or entity providing a wire or electronic communications service;

(2) By a user of a wire or electronic communications service with respect to a communication of or intended for that user; or

(3) Under the provisions of this chapter.

Section 2422. Same -- Divulging contents of communications generally.

(a) Prohibited acts. (1) Except as provided in subsection (b) of this section, a person or entity providing an electronic communications service to the public may not knowingly divulge to any other person or entity the contents of a communication while the communication is in electronic storage by that service.

(2) Except as provided in subsection (b) of this section, a person or entity providing remote computing service to the public may not knowingly divulge to any other person or entity the contents of any communication which is carried or maintained on that service which it has received:

a. On behalf of, and by means of computer processing of communication or by means of electronic transmission from, a subscriber or customer of the service; and,

b. Solely for the purpose of providing storage or computer processing services to a subscriber or customer, if the provider is not authorized to access the contents of any communications for purposes of providing any services other than storage or computer processing.

(b) Lawful acts. A person or entity may divulge the contents of a communication:

(1) To an addressee or intended recipient of the communication or an agent of the addressee or intended recipient; or,

(2) With the lawful consent of the originator or an addressee or intended recipient of the communication, or the subscriber, in the case of remote computing service; or,

(3) To a person employed or authorized by facilities or services used to forward the communication to its destination;

(4) If necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

(5) To a law enforcement agency, if the contents were inadvertently obtained by the service provider and appear to pertain to the commission of a crime; or,

(6) If otherwise authorized under the provisions of this chapter.

Section 2423. Same -- Disclosure of information.

(a) Disclosure of contents of communications to investigative or law enforcement officers by electronic communication service or remote computing service.

(1) An investigative or law enforcement officer may require a provider of electronic communication service or remote computing service to disclose the contents of an electronic communication that is in electronic storage in an electronic communications system or remote computing service for 180 days or less, only in accordance with a search warrant issued by a court of competent jurisdiction.

(2) An investigative or law enforcement officer may require a provider of electronic communication service or remote computing service to disclose the contents of an electronic communication that is in electronic storage in an electronic communications system or remote computing service for more than 180 days in accordance with the procedures provided under subsection (b) of this section.

(b) Procedures. (1) An investigative or law enforcement officer may require a provider of remote computing service to disclose the contents of an electronic communication to which this section applies:

a. Without notice to the subscriber or customer, if the officer obtains a search warrant issued by a court of competent jurisdiction; or

b. With prior notice to the subscriber or customer, if the officer:

1. Obtains a subpoena issued by a court of competent jurisdiction, a grand jury or authorized by Chapter 25 of Title 29 of this code; or

2. Obtains a court order requiring the disclosure under subsection (d) of this section.

(2) The procedures set forth in this subsection apply to any electronic communication that is held or maintained on a remote computer service which it has received;

a. On behalf of, and by means of electronic transmission from, or created by means of computer processing of communications received by means of electronic transmission from, a subscriber or customer of the remote computing service; and,

b. Solely for the purpose of providing storage or computer processing services to the subscriber or customer, if the provider is not authorized to access the contents of any communication for purposes of providing any services other than storage or computer processing.

(c) Definition of 'record or other information'. (1) For the purposes of this subsection, 'record or other information' does not include the contents of communications to which subsections (a) and (b) of this section apply.

(2) Except as provided in subparagraph (a) of this paragraph, a provider of electronic communications service or remote computing service may not disclose a record or other information pertaining to a subscriber or customer of the service to any person other than an investigative or law enforcement officer.

a. A provider of electronic communications service or remote computing service shall disclose a record or other information pertaining to a subscriber to or a customer of the service to an investigative or law enforcement officer only if the officer:

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1. Obtains a subpoena issued by a court of competent jurisdiction, a grand jury, or authorized by Chapter 25 of Title 29 of this code; or.
2. Obtains a search warrant from a court of competent jurisdiction;
3. Obtains a court order requiring the disclosure under subsection (d) of this section; or
4. Has the consent of the subscriber or customer to the disclosure.

(3) An investigative or law enforcement officer receiving records or information under this subsection is not required to provide notice to a subscriber or customer.

(d) Court orders. (1) A court of competent jurisdiction may issue an order requiring disclosure under subsection (b) or (c) of this section only if the investigative or law enforcement officer shows that there is reason to believe the contents of an electronic communication that is in an electronic communications system or remote computing service, or the record or other information sought, are relevant to a legitimate law enforcement inquiry.

(2) A court issuing an order under this section may quash or modify the order, on a motion made promptly by the service provider, if the information or records requested are unusually voluminous in nature or if compliance with the order otherwise would cause an undue burden on the provider.

(e) Causes of action. Nothing in this chapter may be construed as creating a cause of action against any provider of electronic communication service or remote computing service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, or certification under this chapter.

Section 2424. Same -- Backup copies of communications.

- (a) Required by subpoena or court order; creation; notice to subscriber; destruction

(1) A subpoena or court order issued under §2423 of this title may include a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of the subpoena or court order, the service provider shall create a backup copy as soon as practicable consistent with the provider's regular business practices and shall confirm to the investigative or law enforcement agency that the backup copy has been made. The service provider shall create a backup copy under this subsection within 2 business days after the day on which the service provider received the subpoena or court order.

(2) Except as provided in §2425 of this title, the investigative or law enforcement officer shall give notice to the subscriber or customer within 3 days after the day on which the governmental entity receives confirmation that a backup copy has been made under paragraph (1) of this subsection.

- (3) The service provider may not destroy the backup copy until the later of:

- a. The date delivery of the information; or
- b. The resolution of any proceedings based upon the information provided, including appeals, or any proceedings concerning a subpoena or court order issued under §2423 of this title.

(4) The service provider shall release the backup copy to the requesting investigative or law enforcement officer no sooner than 14 days after the day on which the officer gives notice to the subscriber or customer, if the service provider:

- a. Has not received notice from the subscriber or customer that the subscriber or customer has challenged the officer's request; or,
- b. Has not initiated proceedings to challenge the officer's request.

(5) An investigative or law enforcement officer may seek to require the creation of a backup copy under subsection (a) (1) of this section if the officer determines that there is reason to believe that notification to the subscriber or customer under §2423 of this title of the existence of the subpoena or court order will result in destruction of or tampering with evidence. Such a determination under this paragraph is not subject to challenge by the subscriber or customer or service provider.

(b) Quashing subpoena; vacating court order. (1) Within 14 days after a subscriber or customer receives notice from an investigative or law enforcement officer under subsection (a) (2) of this section, the subscriber or customer may file a motion to quash the subpoena or vacate the court order. The subscriber or customer shall serve a copy of the motion on the investigative or law enforcement officer and give written notice of the challenge to the service provider. A motion to vacate a court order shall be filed in the court that issued the order. Any motion to quash a subpoena shall be filed in the Superior Court. Any motion or application under this subsection shall contain an affidavit or sworn statement averring:

a. That the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for the applicant have been sought; and,

b. The applicant's reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

(2) The applicant shall serve a copy of the motion or application on the investigative or law enforcement officer in accordance with the Rules of the Superior Court.

(3) If the court finds that the applicant has complied with paragraphs (1) and (2) of this subsection, the court shall order the investigative or law enforcement officer to file a sworn response, which may be filed in camera if the investigative or law enforcement officer includes in the response the reasons which make an in camera review appropriate.

a. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct additional proceedings as it deems appropriate.

b. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the investigative or law enforcement officer's response.

(4) Findings of the court on application to quash.

1. If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the investigative or law enforcement officer are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, the court shall deny the motion or application and order the subpoena or court order to be enforced.

(b). If the court finds that the applicant is the subscriber or customer for whom the communications sought by the investigative or law enforcement officer are maintained, and that there is no reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this chapter, the court shall order the subpoena to be quashed or the court order to be vacated.

(5) Nature of order; no interlocutory appeal. A court order denying a motion or application under this subsection is not a final order and no interlocutory appeal may be taken by the customer.

Section 2425. Same -- Delay in giving notices.

(a) Definitions. When used in section:

(1) 'Supervisory official' means:

- a. The Superintendent or Deputy Superintendent of the Delaware State Police;
- b. The chief of police, deputy chief of police, or equivalent official of a law enforcement agency of any political subdivision of the state; or,
- c. The Attorney General of the State, Chief Deputy Attorney General, State Prosecutor, Chief Prosecutor of any County, or a Deputy Attorney General.

(2) 'Adverse result' means:

- a. Endangering the life or physical safety of an individual;
- b. Flight from prosecution;

- c. Destruction of or tampering with evidence;
- d. Intimidation of potential witnesses; or
- e. Otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(b) **Delaying Required Notices.** An investigative or law enforcement officer acting under §2423 of this title, may:

(1) If a court order is sought, include in the application a request for an order delaying the notification required under §2424 of this title for a period not to exceed 90 days, which the court shall grant, if the court determines that there is reason to believe that notification of the existence of the court order may have an adverse result; or

(2) If a subpoena issued by a court of competent jurisdiction or a grand jury or the Attorney General is obtained, delay the notification required under §2424 of this title for a period not to exceed 90 days, upon the execution of a written certification to a court of competent jurisdiction by a supervisory official that there is reason to believe that notification of the existence of the subpoena may have an adverse result.

(c) The investigative or law enforcement officer shall maintain a true copy of a certification executed under subsection (b) (2) of this section.

(d) Extensions of a delay in notification may be granted by the court upon application or by certification by a supervisory official under the same procedures prescribed in subsection (b) of this section. An extension may not exceed 90 days.

(e) Upon expiration of the period of a delay of notification under subsections (b) or (d) of this section, the investigative or law enforcement officer shall serve upon by hand, or deliver by registered or first class mail to, the customer or subscriber a copy of the process or request together with a notice that:

- (1) States with reasonable specificity the nature of the law enforcement inquiry; and
- (2) Informs the customer or subscriber:

a. That information maintained for the customer or subscriber by the service provider named in the process or request was supplied to or requested by that investigative or law enforcement officer and the date on which the information was supplied or the request was made;

b. That notification of the customer or subscriber was delayed;

c. Of the identity of the investigative or law enforcement officer or court that made the certification or determination authorizing the delay; and

d. Of the statutory authority for the delay.

(f) Notices not required or previously delayed. If notice to the subscriber is not required under §2423(b)(1) of this title or if notice is delayed under subsection (b) or (d) of this section, an investigative or law enforcement officer acting under §2423 of this title may apply to a court for an order requiring a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter an order under this subsection if the court determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will have an adverse result.

Section 2426. Same -- Reimbursement of costs.

(a) **General Provision.** Except as otherwise provided in subsection (c) of this section, an investigative or law enforcement officer obtaining the contents of communications, records, or other information under §§ 2422, 2423 or 2424 of this title shall pay to the person or entity assembling or providing the information a fee for reimbursement for costs that are reasonably necessary and that have been directly incurred in searching for, assembling, reproducing, or otherwise providing the information. Reimbursable costs shall include any costs due to necessary disruption of normal operations of an electronic communications service or remote computing service in which the information may be stored.

(b) **Amount of fee.** The amount of the fee authorized under subsection (a) of this section shall be mutually agreed upon by the investigative or law enforcement officer and the person or entity providing the information, or, in the absence of agreement, shall be determined by the court which issued the order for production

of the information or the court in which a criminal prosecution relating to the information would be brought, if no court order was issued for production of the information.

(c) **Exceptions.** The requirement of subsection (a) of this section does not apply with

respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under §2423 of this title. The court may, however, order a payment described in subsection (a) of this section if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

Section 2427. Same -- Civil actions.

(a) **Right to relief.** Except as provided in subsection (e) of this section, a provider of electronic communication service, a subscriber or customer aggrieved by a knowing or intentional violation of §§2421-2425 of this title may recover appropriate relief in a civil action against the person or entity that engaged in the violation.

(b) **Appropriate relief.** In a civil action under this section, appropriate relief includes:

- (1) Appropriate preliminary and other equitable or declaratory relief;
- (2) Damages under subsection (c) of this section; and
- (3) A reasonable attorney's fee and other litigation costs reasonably incurred.

(c) **Damages.** The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than \$1,000.

(d) **Defenses.** A good faith reliance on any of the following is a complete defense to any civil or criminal action brought under this section or any other law of this state:

- (1) A court warrant or order, a grand jury or Attorney General's subpoena, a legislative authorization, or a statutory authorization; or
- (2) A good faith determination that §§2404 or 2423 of this title permitted the conduct that is the subject of the action.

(e) **Limitations period.** A civil action under this section shall be filed within 2 years after the day on which the claimant first discovered or had a reasonable opportunity to discover the violation.

Section 2430. Pen Registers and Trap and Trace Devices. -- Definition of 'court of competent jurisdiction'.

When used in §§2431, 2432, 2433 or 2434, 'court of competent jurisdiction' means the Superior Court of this State.

Section 2431. Same -- Installation and use generally.

(a) **Court order required.** Except as provided in subsection (b) of this section, a person may not install or use a pen register or a trap and trace device without first obtaining a court order under Section §2433 of this title.

(b) **Exceptions.** Subsection (a) of this section does not apply to the use of a pen register or a trap and trace device by a provider of wire or electronic communication service:

(1) Relating to the operation, maintenance and testing of a wire or electronic service or to the protection of the rights or property of the provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

(2) To record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful, or abusive use of this service, or with the consent of the user of that service.

(c) **Penalties.** A person who violates subsection (a) of this section shall be guilty of a Class A misdemeanor and be fined not more than \$5,000.

Section 2432. Same -- Application for order to install and use.

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(a) **General Provisions.** An investigative or law enforcement officer may make application for an order or an extension of an order under §2433 of this title authorizing or approving the installation and use of a pen register or a trap and trace device, in writing, under oath or equivalent affirmation, to a court of competent jurisdiction of this State.

(b) **Contents of Application.** An application under subsection (a) of this section shall include:

(1) The identity of the law enforcement or investigative officer making the application and the identity of the law enforcement agency conducting the investigation; and

(2) A statement under oath by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

Section 2433. Same -- Order authorizing installation and use.

(a) **General Provisions.** Upon an application made under §2432 of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds that the information likely to be obtained by the installation and use is relevant to an ongoing criminal investigation.

(b) **Contents of Order.** An order issued under this section shall:

(1) Specify the identity, if known, of the person to whom is leased or in whose name is listed the electronic communication service to which the pen register or trap and trace device is to be attached;

(2) Specify the identity, if known, of the person who is the subject of the criminal investigation;

(3) Specify the number and, if known, physical location of the electronic communication service to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order;

(4) Contain a description of the offense to which the information likely to be obtained by the pen register or trap and trace device relates; and

(5) Direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device under §2434 of this title.

(c) **Duration.** (1) An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed 60 days.

(2) Extensions of an order issued under this section may be granted upon an application for an order as prescribed by §2432 of this title and upon the judicial finding required under subsection (a) of this section. An extension may not exceed 60 days.

(d) **Restrictions.** An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that:

(1) The order be sealed until further order of the court; and

(2) The person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

Section 2434. Same -- Assistance to investigative or law enforcement officer or agency.

(a) **Installation and use.** Upon the request of an investigative or law enforcement officer authorized to install and use a pen register under this chapter, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish the investigative or law enforcement officer with all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order under §2433 of this title.

(b) **Receipt of results.** Upon the request of an officer of law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of a wire or electronic communication service,

landlord, custodian, or other person shall install the device on the appropriate line and shall furnish the investigative or law enforcement officer all additional information, facilities and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person ordered by the court accords the party with respect to whom the installation and use is to take place, if the installation and assistance is directed by a court order under §2433 of this title. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court order, at reasonable intervals during regular business hours for the duration of the order.

(c) Compensation. A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance under this section shall be compensated for reasonable expenses incurred in providing the facilities and assistance.

(d) Causes of action. Nothing in this chapter may be construed as creating a cause of action against any provider of a wire or electronic communication service, its officers, employees, agents or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under §§2431, 2432, 2433 or 2434 of this title.

(e) Defenses. A good faith reliance on a court order, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under §§ 2431, 2432, 2433 or 2434 of this title or under any other law."

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. Any action, case, prosecution, trial or any 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 July 23, 1999

CHAPTER 233

FORMERLY

SENATE BILL NO. 72

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO REGULATION OF SALE AND USE OF PESTICIDES AND DEVICES.

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 §1203(a), Chapter 12, Title 3 of the Delaware Code, by deleting the last sentence of the subsection in its entirety and substituting in lieu thereof the following:

"The Department shall require a biennial registration fee, not to exceed \$70, for each pesticide or device registered."

Section 2. Amend §1207(b), Chapter 12, Title 3 of the Delaware Code, by deleting it in its entirety and substituting in lieu thereof the following:

"(b) The Department shall require a fee of \$50 for an annual license or \$100 for a biennial license."

Section 3. Amend §1210, Chapter 12, Title 3 of the Delaware Code, by deleting it in its entirety and substituting in lieu thereof the following:

"All licenses shall continue in effect until December 31st of the year in which the license expires whereupon they shall become invalid unless renewed, except that a license for which a renewal application has been submitted to the Department by November 30th shall remain in full force and effect until such time as the Department gives written notice to the license holder of renewal or denial. Forms for renewal shall be mailed to all holders of current licenses by the Department by October 1st of the year in which they expire."

Section 4. Amend §1229(a), Chapter 12, Title 3 of the Delaware Code, by amending the first sentence by striking the word "3" and substituting in lieu thereof the word "four", and by inserting the words, ",I qualified for turf and ornamental pest control" between the word "equipment" and the word "and".

Approved July 29, 1999

CHAPTER 234

FORMERLY

SENATE BILL NO. 55

AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 4

AN ACT TO AMEND TITLE 3 RELATING TO PESTICIDES.

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

Section 1. Amend Title 3 of the Delaware Code by deleting the current §1206, as found therein and substituting in lieu thereof the following:

"§1206 Licensing-Required; classification.

- (a) No person shall engage in the business of applying pesticides to the lands or personal property of another unless such person has been duly licensed by the Department. Further, no license shall be issued to any person, nor shall it remain valid, unless such person is certified or has a certified applicator in his employ at all times. At least one person designated as a certified applicator under the license shall meet the experience requirement specified in Section 1207(c) of this Title. No license shall be required of any private applicator.
- (b) The Department shall classify or subclassify licenses to be issued under this Chapter. Such classifications may include, but are not limited to, pest control operators, ornamental, agricultural or right-of-way pesticide applicators. Separate subclassifications may be specified as to ground, aerial or manual methods used by any licensee to apply pesticides or to the use of pesticides to control pests (provided, that no person shall be required to pay an additional license fee if such person desires to be licensed in 1 or all of the license classifications provided for by the Department under the authority of this Chapter)."

Section 2. Amend §1207 of Title 3, by deleting the existing subsections (c) and (d) as found therein and by substituting in lieu thereof the following:

"(c). The Department shall issue a license limited to the classifications of pesticide use for which an applicant is qualified. To qualify for a license, the following conditions shall be met:

- (1) The applicant must provide evidence that at least one applicator in his or her employ is certified to apply pesticides in the classification(s) of pest control for which he or she is applying. At least one of these certified applicators must have a minimum of two years practical experience under the supervision of a certified applicator. This experience shall have been acquired during the previous three year period, and shall be related to the license classification at issue.
- (2) The applicant files the proper proof of financial responsibility as required under Section 1208(a) of this Title.
- (3) If the applicant is applying for a license to engage in the aerial application of pesticides, he or she shall have met all the requirements of the Federal Aviation

Administration and any other applicable federal or state laws or regulations to operate the equipment described in the application.

- (d) The Department may limit the license of the applicant to the use of certain pesticides, or to certain areas or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the department shall inform the applicant in writing of the reasons therefor.
- (e) If the application for renewal of any license provided for in this chapter is not filed prior to the 1st day of January in any year, a penalty of 20 percent of the yearly fee shall be assessed and added to the renewal fee and shall be paid by the applicant before the renewal license shall be issued."

Section 3. Amend Title 3 of the Delaware Code by deleting the existing sections 1208 and 1209 and substituting in lieu thereof the following:

"§1208. Same-Denial of license.

- (a) The Department shall refuse to grant a license until the applicant has furnished evidence of financial responsibility with the Department consisting either of a surety bond or a liability insurance policy or certification thereof, or other evidence of financial responsibility acceptable to the Department within the financial capabilities of the industries involved. The Department may determine the insurance and surety requirements after due notice and a hearing.
- (b) The Department may refuse to grant a license to any person who has committed any unlawful acts pursuant to §1224 of this Title.

§1209. Same-Suspension; modification; revocation.

- (a) The Department may, after notice and opportunity for a hearing suspend or modify and license granted under this chapter where the Department has reasonable grounds to believe that the licensee is responsible for any unlawful acts pursuant to §1224 of this Title. The Department shall furnish the licensee with notice of the time and place of the hearing, which notice shall be served personally or by registered mail directed to his place of business or last known address with postage fully paid with 10 days prior to the time fixed for the hearing.
- (b) (1) The Department may, after notice and opportunity for hearing, revoke any license granted under this chapter if the licensee has been found to have committed any unlawful act under this chapter. (2) Should the surety furnished become unsatisfactory, said licensee shall, upon notice, immediately execute a new bond, insurance or other financial responsibility and shall he fail to do so, the Department shall revoke his license and give him notice of said fact. (3) Should the licensee no longer employ a certified applicator with two years practical experience, the department shall revoke his license and give him notice of said fact."

Section 4. Amend Title 3 of the Delaware Code by deleting §1211 as it is found therein and substituting in lieu thereof the following:

"§1211. Exemptions.

This subchapter, relating to licenses and requirements for their issuance, shall not apply to research personnel applying to bona fide experimental plots. By regulation, the department may exempt certain license applicants from the experience requirements specified in §1207(c) of this Title. Exemptions from the §1207(c) requirements shall include, but not be limited to, persons applying pesticides to turf or ornamental plants."

Approved July 29, 1999

CHAPTER 235

FORMERLY

SENATE BILL NO. 126
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 AND TITLE 3 OF THE DELAWARE CODE RELATING TO FORESTRY.

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

Section 1. Amend Title 7 of the Delaware Code by striking Chapters 29, 30, 31, 33 and 35 as they appear therein as Part III of said Title, in their entireties.

Section 2. Amend Title 3 of the Delaware Code by adding a new Chapter 10 as follows:

"CHAPTER 10. STATE FORESTRY

Subchapter I. General Provisions

§1001. State agency to cooperate with individuals, public agencies and United States government.

The Department of Agriculture is the agency of the State assigned plenary authority and responsibility in public forestry functions, in the conduct of which it may cooperate with individuals and public agencies including agencies of the United States in programs concerned with:

- (1) The protection of forest lands from fire, disease and insect damage including the application of control measures therefor;
- (2) Establishing forest growth on denuded or nonforested lands;
- (3) Aiding private forest landowners, operators and processors of primary forest products in applying desirable woodland improvement, management and harvesting practices;
- (4) Forest resource research, education and surveys; and
- (5) Public recreation.

§1002. State Forestry Fund.

(a) The State Forestry Fund is continued, to which shall be credited all amounts appropriated by the General Assembly of the State for the administration of Chapters 10, 26 and 91 of this Title, all amounts received through cooperation with the United States government under the act of Congress known as the Clarke-McNary Law [16 U.S.C. §471a et seq.], as well as all other moneys to which the Department of Agriculture or the State Forestry Fund is entitled.

(b) All revenue derived from the sale of products from state forests and from land under the administration of the Department of Agriculture, as well as all collected fees, shall be paid to the State Treasurer and credited by him to the State Forestry Fund for use in connection with state forests.

§1003. Disposition of fines; report by courts of forestry law cases.

(a) All moneys received from fines imposed under Chapter 10, 26 or 91 of this Title or any laws enacted for the protection of forest lands shall be paid to the Department of Agriculture and shall be deposited to the State of Delaware General Fund.

(b) Any court before which any prosecution under the forestry laws of this State is finally concluded shall within 20 days thereafter, report in writing to the Department of Agriculture the result thereof, the amount of fine or forfeit collected, if any, and the disposition thereof, and at the same time shall remit to the Department of Agriculture all moneys received from such fines and forfeitures.

§1004. Agreements for prevention of forest fires.

(a) The Department of Agriculture may enter into agreements for the prevention and suppression of forest fires with county, municipal and private agencies owning or controlling woodlots, forest or wild lands, or whose activities in whole or in part are directed toward the prevention and suppression of forest fires. All

expenditures shall be presented to the Department of Agriculture in monthly statements, in form and manner prescribed by the Department. The Secretary of the Department of Agriculture shall audit the same and transmit such statements to the Secretary of Finance, in accordance with Chapter 65 of Title 29.

(b) The Secretary of the Department of Agriculture shall certify to the Secretary of Agriculture of the United States the amounts thus expended by the State and by private agencies and fulfill any other requirements to obtain the cooperation of the federal government toward forest protection.

§1005. Educational and research activities.

The Department of Agriculture may, so far as other duties will permit, carry on educational lectures and conduct exhibits on forestry within this State in the various colleges and schools of this State, and may also advance forestry education by publication. All colleges and schools supported in whole or in part by the State shall furnish such aid to the Department of Agriculture as the circumstances will permit. The Department of Agriculture may also conduct investigations on forestry matters and publish for distribution literature of a scientific or general interest pertaining thereto which may promote the objects of Chapter 10, 26 or 91 of this Title.

§1006. Distribution of tree seeds and seedlings.

The Department of Agriculture may procure, produce, sell, and distribute forest tree seeds and seedlings for the purpose of establishing windbreaks and forest growth upon denuded or nonforested lands within this State, in such quantities and under such regulations as are prescribed by the Department.

§1007. Sale of surplus trees.

The Department of Agriculture may sell to forestry departments, boards or commissions of neighboring states any surplus supply of young forest trees which it has on hand for which there is no demand within the State, under an understanding that the same shall be distributed under regulations substantially similar to those provided for in §1006 of this Title.

§1008. State forests, parks, experimental stations and demonstration areas.

The Department of Agriculture may:

- (1) Acquire in the name of the State by purchase, gift or otherwise, lands for the establishment of state forests, state forest parks, experimental stations and demonstration areas, and to hold, manage, regulate, control, maintain and utilize the same, but the amount expended for the acquisition of such lands in any biennial period shall not exceed the amount appropriated for the purpose and not otherwise used;
- (2) Sell or exchange such forest lands whenever it is of advantage to the state forest interests, if such sale or exchange is approved by the Governor of the State. Any deed or evidence of Title necessary to be given shall be executed on behalf of the State by the Governor, and shall be under the Great Seal of the State;
- (3) Set aside within the state forests, unusual or historic groves of trees or natural features particularly worthy of permanent preservation, and may make the same accessible and convenient for public use, and may dedicate them in perpetuity to the people of the State for recreation and enjoyment;
- (4) Lease or assign a right for any period not exceeding 10 years to any citizen, public service company, association, organization, public or private agency, on such terms and conditions as are approved by the Department, such portions of any state forest lands under the administrative control of the Department, together with such building, structure, or improvement thereon as shall be deemed advisable by the Department; and
- (5) Establish a program for issuing permits for various activities on state forest land. Said program for issuing permits for various activities on state forest land shall include but is not limited to the authority to adopt standards and regulations for issuances of permits including fees for the use of state forest property by private parties by the Department of Agriculture. It is expressly provided that said fees collected by the Department shall be defined by Department rules and regulations and shall not affect the State appropriation or be deducted therefrom, but shall be so much additional moneys available for carrying out the provisions of this subsection, and said fees shall be paid to the State Treasurer and credited by him/her to the State Forestry Fund for carrying out the purposes of this subchapter.

§1009. Receipt of gifts; leases; expenditures.

(a) The Department of Agriculture may, subject to the approval of the Governor:

(1) Receive gifts, donations, contributions or leases of land;

(2) Enter into long-term leases or cooperative agreements with private persons or groups of persons or with the federal government through any of its agencies or departments for desirable lands held by them or any of them;

(3) Make expenditures from any funds available to the Department, not otherwise allocated, for managing and developing such state forest areas as in the judgment of the Department further the forest interests of the State.

(b) All lands or rights appertaining thereto acquired in the name of the State by the Department of Agriculture and all lands turned over to the Department by gift, devise, grant, lease, agreement or otherwise shall be held, managed, regulated and controlled by the Department under Chapters 10, 26 and 91 of this Title, as state forest in accordance with law and such grant, devise, lease or agreement as is entered into by the Department as in its judgment will be to the best interest of the people of this State.

§1010. Qualifications and appointment of State Forester.

The Department of Agriculture shall employ a State Forester, who shall be a technically trained forester of not less than 2 years' experience in professional forestry work.

§1011. Powers and duties of Department generally.

The Department of Agriculture shall have direction of all forest interests and all matters pertaining to forestry and woodlands within the State. The Department of Agriculture shall execute all matters pertaining to forestry within the jurisdiction of the State; devise and promulgate rules and regulations for the enforcement of the state forestry laws and for the protection of forest lands and impose fines in furtherance thereof; direct the improvement of state forest lands; collect data relative to forest conditions and become familiar with, and inquire into, the locations of all timberland and cutover lands, and prepare maps showing the locations and areas of state forests and privately owned forests, so far as available funds will permit; take such action as is authorized by law to prevent and suppress forest, brush and grass fires; enforce all laws pertaining to forest and brush covered lands and assist in the prosecution, in the name of the State, of violations of those laws; cooperate with the landowners, counties and others in forest production and reforestation; and publish information on forestry as seems conducive to promoting the objectives of Chapter 10, 26 or 91 of this title.

Subchapter II. State Forest Officers

§1021. Appointment; term; oath of office.

(a) The Department of Agriculture may appoint suitable persons to serve under its direction either voluntarily, or under compensation, as state forest officers. Each officer so appointed shall be issued a certificate of appointment under the hand of the Secretary, and shall be issued a badge as his insignia of authority. The appointee shall hold office until he resigns or his appointment is revoked by the Secretary. Upon termination of appointment, service or authority, the appointee shall surrender and deliver to the Department the certificate, badge and other Department property in his possession.

(b) Before entering upon the duties assigned him, each state forest officer shall take and subscribe the oath or affirmation as prescribed by the Constitution of the State for public officers, and the oath, subscribed by the officer, shall be kept in the files of the Department of Agriculture. Each person appointed and sworn as aforesaid shall be officially known as a state forest officer.

§1022. General powers and duties; Powers and duties within assigned district; duties of owners and lessees.

(a) State forest officers shall have police powers similar to sheriffs, constables and other police officers throughout the State for the serving of warrants, summonses, writs or other legal papers issued by any justice of the peace or court having jurisdiction in offenses against any law enacted for the protection of forest, brush, grass or wild lands and they may arrest any person detected by them in the act of, or under such circumstances as warrant reasonable suspicion that such person is committing, or is about to commit an offense against any of the laws enacted for the protection of forest, brush, grass or wild lands in this State and of laws, rules and regulations relating to the protection of any land, property, structure material or vegetation on lands under the administration or control of the Department. A state forest officer shall also have the power to make arrests of persons violating §518 of Title 17 in his presence or view or otherwise upon the issuance of an

arrest warrant based on a showing of probable cause that the individual named in the warrant committed the violation.

(b) In addition to the powers and duties assigned in subsection (a) of this Section, each State forest officer may, in any part of the State:

(1) Enter upon any land at any time for the purpose of performing duties in accordance with this Title and no action for trespass shall lie against a State forest officer or others employed by him while working under his direction, if, in entering a property, they shall exercise due care to avoid doing unnecessary damage; and

(2) Arrest on sight, without first procuring a warrant, any person detected in the act of committing an offense against any of the laws enacted for the protection of forest, brush or wild lands from fire, or when he has a reasonable cause to suspect that any person is committing or is about to commit some such offense, and upon such arrest to take the accused before a justice of the peace of the county for hearing and trial.

(c) Each State forest officer shall have the control and direction of persons, material, equipment and property engaged in extinguishing forest fires within the district assigned to him, and such officer shall, when he discovers a fire on or approaching woodlands, forest or wild lands, or whenever such fire has been reported to him, take immediately such measures as are necessary to control and extinguish the same;

(d) Nothing in this Title shall be so construed as to relieve the owner or lessee of lands upon which fires burn or are started, from the duty of extinguishing such fires so far as it lies within his power, and no owner or lessee of land or anyone with a present vested interest in such land shall receive compensation from the State for helping or assisting in the extinguishment of fires upon the lands to which his interest is attached. No person who is responsible for starting a fire shall receive compensation for helping to extinguish such fire.

§1023. Fish and Wildlife Agents and police officers as ex officio State forest officers.

Fish and Wildlife Agents and state police officers shall be State forest officers ex officio and shall have the same powers and authority assigned to State forest officers appointed under this subchapter.

Subchapter III. Urban and Community Forestry Program

§1031. Findings and policy.

The General Assembly finds and declares that urban and community forests are a necessary and important part of community and urban environments, and are critical to the environmental, social and economic welfare of the State. The General Assembly also recognizes that the ability of all county and municipal governments to care for and manage their tree resources could be enhanced through technical and financial assistance from a State urban and community forestry program, and that properly planned and implemented local community forestry programs can provide the necessary basis for local governments to develop local tree care programs and improve quality of life. The General Assembly further declares that this chapter only addresses the tree resources on publicly owned lands, and shall in no way interfere with the ability of a landowner to manage and/or harvest his or her forested lands.

§1032. Definitions.

As used in this subchapter:

(1) 'Comprehensive Community Forestry Plan' is a document that describes how a government or other organization will manage the tree resources located on publicly owned lands within their jurisdiction. This plan should be based on an accurate inventory of both tree and other resources, such as existing roads and infrastructure, include a map of the publicly owned areas, the mission and objectives for these lands, and define the strategies and budget needed to achieve these objectives.

(2) 'Department' shall mean the Department of Agriculture.

(3) 'Local government' shall mean a municipality, county or other political subdivision of the State or any agency thereof.

(4) 'Secretary' shall mean the Secretary of Agriculture.

(5) 'Tree resources' are those trees located in street right-of-ways, parks and other publicly owned lands.

(6) 'Urban and community forestry' shall mean the planting, protection, care and management of trees and other related natural resources located on publicly owned lands within a city, town or municipality.

§1033. Powers and duties.

The Delaware Department of Agriculture Urban and Community Forestry Program, under the supervision of the State Forester, shall:

(1) Assist local governments and public organizations in establishing and maintaining urban and community forestry programs and in encouraging persons to engage in appropriate and approved practices with respect to tree management and care;

(2) Advise local governments and public organizations in the development and coordination of policies, programs and activities for the promotion of urban and community forestry;

(3) Provide grants to local governments and public organizations applying for assistance in tree planting, tree management and the development and implementation of a comprehensive community forestry plan on publicly owned lands to the extent moneys are appropriated or otherwise made available therefor;

(4) Educate citizens on the importance of trees and forests and their role in the maintenance of a healthy environment;

(5) Provide technical assistance, planning and analysis for projects related to urban and community forestry;

(6) Provide training assistance to local governments and public organizations regarding urban and community forestry issues such as tree diseases, insect programs, tree planting and tree maintenance; and

(7) Provide volunteer opportunities for the State's citizens and public organizations interested in urban and community forestry activities.

§1034. Community Forestry Council.

(a) There is established in the Department a Community Forestry Council, which shall consist of 13 members, appointed by the Secretary. Membership shall include at least 1 representative from the USDA Cooperative Extension System, Governor's Forestry Advisory Council, the Master Gardener program, Delaware Association of Nurserymen, an arborist or similar tree care expert, county or municipal government official, a member of an institution of higher learning within the State who possesses urban forestry expertise, as well as a private citizen from each county. Each member shall be a citizen with expertise or interest in trees, forestry, or tree or forest management, maintenance or care. The Department's Urban Forestry Coordinator and State Forester shall serve as ex-officio members.

(b) Each member shall serve for a period of 3 years, and may succeed himself or herself for 1 additional term; provided however, that where a member was initially appointed to fill a vacancy, such member may succeed himself or herself for only 1 additional full term. Any person appointed to fill a vacancy on the Council shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment, except that each member shall serve until a successor is duly appointed.

(c) A person who has never served on the Council may be appointed to the Council 2 consecutive times; but no such person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice appointed to the Council, or who has served on the Council for 6 years within any 9 year period, shall again be appointed to the Board until an interim period of at least 1 term has expired since such person last served.

(d) Five members of Council shall be appointed each year for a 3 year term.

(e) A member of the Council shall be suspended or removed by the Secretary for misfeasance, nonfeasance, malfeasance or neglect of duty.

(f) The provisions set forth in Chapter 58 of Title 29 shall apply to all members of the Council, and to all agents appointed or otherwise employed by the Council.

(g) A majority of the membership of the council shall constitute a quorum for the transaction of council business. Action may be taken and motions and resolutions adopted by the council at any meeting thereof by the affirmative votes of a majority of the full membership of the council.

(h) Members of the council shall serve without compensation, but may be reimbursed for expenses necessarily incurred in the discharge of their official duties.

(i) The Council shall elect a chairperson, vice-chairperson and other officers as may be necessary.

(j) The Council shall advise the State Forester and the Department on issues concerning community forestry and assist with such functions.

§1035. Duties of State Forester.

The State Forester, with the advice and assistance of the Council, may establish minimum standards, and provide a training skills and voluntary accreditation program, for representatives of local governments and organizations, the content of which shall be the appropriate and approved methods for the planting, protection, care and management of trees and other related natural resources under their control.

§1036. Development, distribution of comprehensive community forestry plan; approval.

(a) The State Forester, with the advice and assistance of the Council, may develop and make available to local governments and organizations a list of elements found within a comprehensive community forestry plan. These guidelines shall establish, but not limit, the basic framework of an approved plan.

(b) The State Forester, with the advice and assistance of the Council, shall develop and make available to local governments and organizations a procedure for submitting for approval a comprehensive community forestry plan.

(c) A local government may develop and submit to the State Forester for approval a comprehensive community forestry plan according to procedures established by the Department.

(d) The State Forester, after review and comment by the Council, shall approve a comprehensive community forestry plan if the plan contains the basic elements of an approved plan and adequately addresses the needs of the community and the tree resource.

§1037. Annual report on the status of Delaware Urban and Community Forestry Program.

The State Forester's annual report shall contain a summary of the status of the Delaware Urban and Community Forestry Program including any recommendations for legislative or administrative action to improve implementation of that Act, and transmit that report to the Governor and the General Assembly.

§1038. Rules, regulations.

The Department shall adopt, pursuant to the Administrative Procedure Act, Chapter 101 of Title 29, such rules and regulations as may be necessary to implement this chapter, including establishment of:

- (1) Guidelines for development of a comprehensive community forestry plan;
- (2) Criteria for proper selection, planting and care of tree resources;
- (3) Procedures to accept and evaluate submitted comprehensive community forestry plans;
- (4) Procedures for the review and approval of training and voluntary accreditation programs in tree care and management for local officials;
- (5) Criteria for ranking grant applications received from local governments and community organizations applying for assistance in tree planting, tree improvement and the development and implementation of comprehensive community forestry plans.

Subchapter IV. Offences and Penalties as They Relate to Fires or Damage and Removal of Trees or Shrubs.

§1041. Willfully or maliciously starting fires.

- (a) Whoever willfully or maliciously sets fire to any woodlot, forest or wild land, or property, material or vegetation, being or growing upon the lands of another, shall be fined not less than \$200, nor more than \$5,000, or imprisoned not more than 2 years, or both.

(b) This section shall not apply to the setting of a backfire under the direction of a State forest officer to extinguish a fire then burning; nor to persons setting fire under §1042 and §1043 of this Title.

§1042. Carelessly starting fires; penalty.

Whoever carelessly sets on fire any forest land, brush land, grain stubble, grass or other combustible material being or growing on lands not his own or in his possession or control, or for any purpose whatsoever sets a fire on his own land or lands in his possession or control, and negligently allows said fire to escape from his control, to the damage of the property of another, shall be fined not less than \$100, nor more than \$500. Nothing in this Title shall prohibit an owner from setting a backfire on his own land to prevent the progress of a fire then burning.

§1043. Setting fire to woodland; unseasonable marsh burning; penalty.

Whoever sets any woodland on fire, or, after the 1st of April, sets on fire any marsh, shall be fined not less than \$200, nor more than \$1,000, and shall also be liable in damages to property owners for injury done by such fire. The burning of wood cut down, or of brush in clearing land, shall not, unless there be negligence, fall within this section.

§1044. Obstructing person in performance of duty; penalty.

Whoever obstructs or prevents or attempts to obstruct or prevent any forest officer or ex officio forest officer or any person employed under the direction of the above-mentioned officers while in the performance of the duty assigned to him, or required by Chapter 10, 26 or 91 of this Title or in the exercise of the right of entry, access or examination by any officer, shall be fined not less than \$100, nor more than \$500.

§1045 Trees and shrubs of state forests; penalty.

(a) Notwithstanding any other provision of this Title, whoever without the consent of the Department of Agriculture willfully, negligently or maliciously cuts bark from or cuts down, injures, destroys or removes trees, or shrubs, or any part thereof, growing on a state forest, or willfully, negligently or maliciously does or causes to be done any other act to the damage of such forest, shall be fined not more than \$1,000, or imprisoned not more than 3 months, or both.

(b) Any constable, police officer, forest officer or state officer may arrest without warrant any person found violating this section.

§1046. Liability to State for expenses.

Notwithstanding any other provision of this Title, whoever willfully, maliciously or carelessly sets fire to forest lands, in addition to the penalties provided for such violation and the liability for damages to persons suffering loss thereby, shall be liable to the State for all expenses incurred in combating and extinguishing such fire.

§1047. Jurisdiction of offenses.

The justices of the peace shall have jurisdiction of offenses under this subchapter, except where jurisdiction of any such offenses is vested exclusively in another court.

Subchapter V. Pine and Yellow-Poplar Tree Conservation and Reforestation

§1051. Findings; policy; purpose.

The General Assembly finds and declares that the pine and yellow-poplar forest resource of the State provides significant recreational, aesthetic, wildlife and environmental benefits as well as wood fiber essential to commerce and industry for the citizens of the State. The General Assembly has also determined that the pine and hardwood forest resources are being harvested at a greater rate than they are being replanted or reproduced and unless measures are instituted to ensure that the forest resources are sustained, this natural resource will be depleted to the detriment of the citizens of the State. It is, therefore, the declared public policy of this State to preserve and protect the pine and yellow-poplar forest resources of the State. The purpose of this subchapter is to regulate the maintenance and reproduction of the pine and yellow-poplar forest resources of the State in the public interest.

§1052. Definitions.

As used in this subchapter:

- (1) 'Cutting operation' shall mean the cutting of timber for commercial purposes from 10 acres or more of land on which loblolly pine (*Pinus taeda*), shortleaf pine (*Pinus echinata*), pond pine (*Pinus serotina*) or yellow-poplar (*Liriodendron tulipifera*), singly or together occur and constitute 25 percent or more of the live trees on each acre.
- (2) 'Live tree' shall mean trees that have their crowns in the uppermost layers of the canopy (dominant and co-dominant trees), are largely free growing, free of insect and disease infestation, windfirm and old enough to produce fertile seed crops.
- (3) 'Diameter' shall mean the diameter outside bark of a standing tree measured 4.5 feet above the ground.
- (4) 'Landowner' shall mean any person holding title to the land or possessing the right to contract for the cutting operation thereon.
- (5) 'Operator' shall mean any person, including a landowner, who conducts any cutting operation.
- (6) 'Person' shall mean the State, any county, municipality, corporation or other political subdivision of the State, or any of their units, or an individual receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation or any other entity, or principal(s) in business ventures operating under more than 1 name.
- (7) 'Pine' shall mean any loblolly pine (*Pinus taeda*), shortleaf pine (*Pinus echinata*) or pond pine (*Pinus serotina*).
- (8) 'Secretary' shall mean the Secretary of the Department of Agriculture.
- (9) 'Seedling' shall mean a young pine or yellow-poplar plant less than 1 inch in diameter.
- (10) 'Tree' or 'timber' shall mean any tree of a currently commercially valuable species which is 6 inches or more in diameter.
- (11) 'Free to grow' shall mean to increase stem and crown diameter, basal area, height, volume and quality of individual tree.

§1053. Conservation or reforestation plan required; applicability; regulations.

- (a) No person shall commence a cutting operation unless seed trees have been reserved pursuant to the natural regeneration method set forth herein or pursuant to an alternate management plan approved by the State Forester or his designee.
- (b) This subchapter shall not apply to cutting operations of timber from land being cleared for reservoirs, military installations, agriculture, residential, ditch and utility right-of-ways, industrial sites, railroads or to cutting operations undertaken pursuant to a contract executed prior to January 1, 1989.
- (c) The Department of Agriculture shall have the authority to adopt, amend, modify or repeal such rules and regulations as it deems necessary to effectuate the policies and the purposes of this subchapter.

§1054. Natural regeneration; notice required upon transfer.

- (a) Operators and landowners shall leave uncut and uninjured at least 6 seed-bearing pine or yellow-poplar trees, 14 inches in diameter or larger on each acre involved in a cutting operation. If an acre lacks 1 or more of the required seedtrees, then 2 seed-bearing pines or yellow-poplars of the next smallest diameter shall be chosen to replace each missing tree.
- (b) Trees reserved pursuant to subsection (a) of this section for the purpose of reseedling shall be healthy, windfirm, well-distributed throughout each acre and have well developed crowns possessing viable cones.
- (c) Seed-bearing pine or yellow-poplar trees need not be reserved, if at least 400 pine or yellow-poplar seedlings exist on each acre which are vigorous, well distributed throughout, and free to grow upon completion of the cutting operation.
- (d) Any operators or landowners proposing to utilize the natural regeneration method shall notify the State Forester at the Delaware Department of Agriculture Forest Service of the proposed natural regeneration plan at least 10 working days prior to initiation of a cutting operation.

(1) Operators or landowners shall be responsible for having seed trees physically marked prior to notification of the State Forester.

(2) Within 10 working days, the State Forester or his designated agent shall inspect the proposed site and provide the operator or landowner with approval, approval with modifications or rejection of the natural regeneration plan.

(e) Once approval is given, but before the cutting operation begins, the landowner will agree, on a form furnished by the Department of Agriculture Forest Service, that he will not cut or permit to be cut any pine or yellow-poplar tree required to be reserved for reseeding for 2 years after completion of the cutting operation. The provisions of this subsection do not apply if the landowner places the land in any of the uses enumerated in §1053(b) of this Title.

(f) Prior to the sale or other transfer of rights of the land or perpetual timber rights subject to the obligation to reserve the trees, the transferor shall notify the transferee of the existence and nature of the obligation and the transferee shall sign a notice of the obligation indicating the transferee's knowledge thereof.

(1) The notice shall be on a form furnished by the Department of Agriculture Forest Service and shall be sent to the Department of Agriculture by the transferor at the time of sale or transfer of rights of the land or perpetual timber rights.

(2) If the transferor fails to notify the transferee about the obligation to reserve the trees, the transferor shall pay the transferee's costs related to fulfilling the obligation to reserve the trees or reforest all trees cut, including all legal costs and reasonable attorneys' fees incurred by the transferee in enforcing the obligation against the transferor.

(3) Failure by the transferor to send the required notice to the Department of Agriculture Forest Service at the time of transfer shall be prima facie evidence, in any action by the transferee against the transferor for costs related to reserving the trees or reforesting all trees cut, that the transferor did not notify the transferee of the obligation to reserve the trees prior to transfer.

§ 1055. Reforestation method; notice required upon transfer.

(a) The land involved in a cutting operation may be reforested pursuant to an approved reforestation plan in lieu of the natural regeneration method. The plan shall be prepared by the landowner or his agent and shall be designed to assure the reproduction and maintenance of growth of young, vigorous pine or yellow-poplar trees.

(b) The reforestation plan shall be accompanied by a statement of the landowner, on a form furnished by the Department of Agriculture Forest Service, that the landowner will not perform any act or permit any act to be performed which prevents reforestation. This provision does not apply if the landowner places the land in any of the uses enumerated in §1053(b) of this Title.

(c) Ten working days prior to the initiation of the cutting operation, the landowner, his agent or operator shall notify the State Forester of the intention to reforest and shall submit a reforestation plan.

(d) The landowner, his agent or operator shall submit the reforestation plan to the State Forester at the Department of Agriculture Forest Service for approval.

(1) The Department of Agriculture Forest Service shall approve, approve with modifications or reject any reforestation plan submitted within 10 working days.

(2) The determination of the Department of Agriculture Forest Service shall be in writing, setting forth the reasons for approval with modifications or rejection and shall be forwarded to the operator or landowner.

(3) In cases where a reforestation plan has been rejected by the State Forester, the landowner, his agent or operator shall be required to submit another reforestation plan for approval. Under no circumstances, shall a cutting operation begin prior to approval of a reforestation plan by the DDA Forest Service.

(e) Prior to the sale or other transfer of rights of land or perpetual timber rights subject to a reforestation obligation, the transferor of land shall notify the transferee of the existence and nature of the obligation and the transferee shall sign a notice of reforestation obligation indicating the transferee's knowledge thereof.

(1) The notice shall be on a form furnished by the Department of Agriculture Forest Service and shall be sent to the Department of Agriculture by the transferor at the time of sale or transfer of rights of land or perpetual timber rights.

(2) If the transferor fails to notify the transferee about the reforestation obligation, the transferor shall pay the transferee's costs related to reforestation including all legal costs and reasonable attorneys' fees incurred by the transferee in enforcing the reforestation obligation against the transferor.

(3) Failure by the transferor to send the required notice to the Department of Agriculture at the time of the sale shall be prima facie evidence, in any action by the transferee against the transferor for costs related to reforestation, that the transferor did not notify the buyer of the reforestation obligation prior to sale.

§1056. Prohibitions.

No person shall cut or permit to be cut any pine or yellow-poplar tree or seedling required to be reserved for reseeded or planted under a reforestation plan or perform any act or permit any act to be performed which prevents reseeded or reforestation of any area in which a cutting operation has been conducted.

§1057. Right of entry.

The State Forester or his duly authorized representative may enter, at reasonable times, upon any public or private property for the purpose of determining whether a violation of the provisions of this subchapter or any of the regulations promulgated thereunder exists upon giving verbal notice and after presenting official identification to the landowner, operator, custodian or agent of said property.

§1058. Cease and desist orders.

The State Forester shall have the power to issue a cease and desist order to any person violating any provision of this subchapter or rules or regulations promulgated thereunder. Any such cease and desist order shall remain in effect until withdrawal of said order by the State Forester, or until the order is superseded by an injunction, whichever occurs first.

§1059. Injunctive relief.

Whenever it appears that any person has engaged or is about to engage in any act or practice constituting a violation of any provisions of this subchapter or rules or regulations adopted pursuant to it, the State Forester may bring an action in the Court of Chancery to restrain or to enjoin the acts or practices and to enforce compliance with this subchapter. The Court shall not require the Department of Agriculture to post a bond.

§1060. Appeals.

- (a) Any person whose interest is substantially affected by an action of the State Forester or his designee may request a hearing to demonstrate compliance with this subchapter or any regulations promulgated thereunder.
- (b) Such hearing shall be scheduled within 15 days of the request and shall be held by the Secretary or his designee. The decision of the Secretary or his designee may be appealed to Superior Court on the record within 30 days of the decision.
- (c) No appeal shall operate to automatically stay any action of the Secretary.

§1061. Penalties.

- (a) Any person who violates any provision of this subchapter or associated rules and regulations shall, upon conviction, be subject to a fine not exceeding \$1,000, or imprisonment not exceeding 1 months, or both.
- (b) Any person found guilty of a second or subsequent violation of any provision of this subchapter is subject to a fine not exceeding \$2,000, or imprisonment not exceeding 3 months, or both. For the purposes of this subsection, a second or subsequent violation is one which has occurred within 2 years of any prior violation of this subchapter.
- (c) The Justices of the Peace Court shall have original jurisdiction to hear and determine violations of this subchapter.

Subchapter VI. Water Quality as It Relates to Silvicultural Systems and Sedimentation and Erosion Control

§1071. Findings; policy; purpose.

The State Forester shall provide for the protection of the waters of the State from pollution by sediment deposits resulting from silvicultural activities as provided in §1078 of this Title. Through the adoption of this subchapter, the State recognizes that water quality protection techniques for silvicultural practices are an integral component of properly managed forests. Further, the State recognizes the positive benefits that properly managed forest systems have on the environment, water quality and quality of life in Delaware.

§1072. Definitions.

The following words, terms and phrases, as used in this subchapter, shall have the following meaning ascribed to them except where the context clearly indicates a different meaning:

- (1) 'Owner' shall mean any person that (a) owns or leases land on which silvicultural activity occurs or (b) owns timber on land which silvicultural activity occurs.
- (2) 'Operator' shall mean any person that operates or exercises control over any silvicultural activity.
- (3) 'Pollution' shall mean such alteration of the physical, chemical or biological properties of any waters of the State resulting from sediment deposition that will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future source of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural or other reasonable uses.
- (4) 'Silvicultural activity' shall mean any forest management activity, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes and the preparation of property for reforestation.
- (5) 'Reforestation' is the establishment of a tree crop on forest land.

§1073. Conduct of silvicultural activities.

If the State Forester or the State Forester's designee determines that an owner or operator is conducting or allowing the conduct of any silvicultural activity in a manner which is causing or is likely to cause pollution, the State Forester or the State Forester's designee may advise the owner or operator of corrective measures needed to prevent or cease the pollution. Failure of the State Forester, or the State Forester's designee, to advise an owner or operator of such corrective measures shall not impair the State Forester's authority to issue cease and desist orders.

§1074. Cease and desist orders.

The State Forester shall have the power to issue a cease and desist order to any person violating any provision of this subchapter or rules or regulations promulgated thereunder. Any such cease and desist order shall remain in effect until withdrawal of said order by the State Forester, or until the order is superseded by an injunction, whichever occurs first.

§1075. Injunctive relief.

Whenever it appears that any person has engaged or is about to engage in any act or practice constituting a violation of any provisions of this subchapter or rules or regulations adopted pursuant to it, the State Forester may bring an action in the Court of Chancery to restrain or to enjoin the acts or practices and to enforce compliance with this subchapter. The Court shall not require the Department of Agriculture to post a bond.

§1076. Appeals.

(a) Any person whose interest is substantially affected by an action of the State Forester or his designee may request a hearing to demonstrate compliance with this subchapter or any regulations promulgated thereunder.

(b) Such hearing shall be scheduled within 15 days of the request and shall be held by the State Forester or his designee. The decision of the State Forester or his designee may be appealed to Superior Court on the record within 30 days of the decision.

(c) No appeal shall operate to automatically stay any action of the State Forester.

§1077. Penalties.

(a) Any person who violates any provision of this subchapter or associated rules and regulations shall, upon conviction, be subject to a fine not exceeding \$1,000, or imprisonment not exceeding 1 months, or both.

(b) Any person found guilty of a second or subsequent violation of any provision of this subchapter is subject to a fine not exceeding \$2,000, or imprisonment not exceeding 3 months, or both. For the purposes of this subsection, a second or subsequent violation is one which has occurred within 2 years of any prior violation of this subchapter.

(c) The Justices of the Peace Court shall have original jurisdiction to hear and determine violations of this subchapter.

§ 1078. Hearings, notices.

Any hearing required under this subchapter shall follow Chapter 101 of Title 29, of the Administrative Procedures Act.

§ 1079. Civil penalties.

Any owner or operator who violates, fails or refuses to obey any special order, rule, or regulation may be assessed a civil penalty by the State Forester. Such penalty shall not be less than \$200 or more than \$1,000 for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of assessing penalties. The Superior Court shall have jurisdiction of the offenses brought under this subchapter. In determining the amount of the penalty, consideration shall be given to the owner's or operator's history of noncompliance, the seriousness of the violation, including any irreparable harm to the environment, any hazards to the health or safety of the public, whether the owner or operator was negligent and the demonstrated good faith of the owner or operator in reporting and remedying the pollution. A civil penalty may be assessed by the Superior Court only after the owner or operator has been given an opportunity for a hearing as specified under in § 2981 of this Title. Any person who intentionally, knowingly and after written notice to comply, violates or refuses to comply with any notice issued pursuant to this chapter shall be fined not less than \$500 or more than \$5,000 for each offense. Each day the violation continues shall constitute a separate offense. The Superior Court shall have jurisdiction of offenses brought under this subchapter.

§ 1080. State program.

In carrying out this chapter, the State Forester may, in cooperation with appropriate municipal, county, state and federal agencies, and with representatives from operators and owners groups:

(1) Develop and publish sediment control and stormwater management techniques and guidelines for use by owners and operators;

(2) Provide technical and other assistance to owners and operators in the implementation of techniques and guidelines;

(3) Conduct and supervise educational programs for owners and operators with respect to sediment control and stormwater management techniques and guidelines;

(4) Conduct studies and research and publish the results regarding the causes, effects and hazards of sediment and stormwater originating from silvicultural activities;

(5) Cooperate with appropriate agencies of the United States or other states or any interstate agency with respect to silvicultural activities; and

(6) Establish a means of communication, such as a newsletter, so that information regarding program development and implementation can be distributed to interested owners and operators.

(7) Establish a notification system whereby owners and/or operators inform the Delaware department of Agriculture Forest Service of planned silvicultural activities prior to commencing the activities.

Section 3. Amend Title 3 of the Delaware Code by adding a new Chapter 26 as follows:

"CHAPTER 26. COMMERCIAL FOREST PLANTATIONS

§ 2601. Commercial forest plantation.

(a) A commercial forest plantation within the meaning and purpose of this chapter is a

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contiguous area of land of not less than 10 acres upon which the owner proposes to develop and maintain a forest either through planting or natural reproduction or both, to produce timber, pulpwood, poles, sawtimber, or other wood products. Such land shall at the time of listing as a commercial forest plantation actually carry sufficient forest growth of suitable character and so distributed as to give reasonable assurance that a stand of merchantable timber will develop therefrom, as determined by the State Forester. The intent and purpose of this section is to exclude from classification as a commercial forest plantation, land planted as a nursery, orchard or for ornamental purposes.

(b) Any landowner who establishes a commercial forest plantation, as defined in this chapter, and otherwise complies with this chapter shall be entitled to a 30-year exemption from county property taxes on such plantation.

§2603. Application for exemption; requirements; examination.

Any owner of a commercial forest plantation may make application to the Department of Agriculture to have such land listed for tax exemption. In making such application, he shall file with the Department of Agriculture a sworn statement of compliance with this chapter together with the location, description and acreage of the planted lands or the naturally reforested lands. Additionally, all applications for tax exemption must be accompanied by a forest management plan approved by the State Forester. The Department of Agriculture upon receipt of such application shall direct the State Forester to make or cause to be made a thorough examination of the property described in the application and report his findings to the Department of Agriculture.

§2604. Removal of exempt commercial forest plantation from county assessment books.

If the Department determines from the report of the State Forester that the owner has complied with the purpose of this chapter, namely, to develop and maintain upon his land a commercial forest, the Department shall recommend to the assessment board in the county wherein the lands are situated that the enrolled forested lands be removed from the list of assessable property for the period of 30 years, and thereupon the enrolled forested property shall be removed from the list of assessable property for the exemption period except as provided in this chapter. An owner that maintains a commercial forest plantation in compliance with this chapter for 30 years may re-apply for county tax exemption on the plantation in accordance with Section 2603 of this Title. This will constitute a new 30 year period of tax exemption on the plantation.

§2605. Voluntary withdrawal of land from exempt status; requirements.

Any owner of land listed as commercial forest plantation desiring to withdraw said land from operation of this chapter shall make written application to the Department of Agriculture for such withdrawal. Such application shall be granted only upon evidence that the owner has paid to the county treasurer the amount of tax due on said land as determined by the county board of assessment. The board of assessment shall determine the average value per year of the lands, notwithstanding Title 9, Chapter 83 of the Delaware Code, during the current period of exemption from taxation, and, further, shall determine the amount of tax due on the lands calculated according to the several yearly tax rates at the average valuation. Upon presentation to the Department of Agriculture of the application as provided in this section, the Department of Agriculture shall at once notify the county board of assessment of such action and thereupon the property described in the application shall be removed from classification and thereafter taxed as other property.

§2606. Restrictions on use of timber.

The owner of any land listed under this chapter may fell and use any dead or injured timber, and also cut and remove any live trees when such have been marked for removal with the approval and under the supervision of the Department of Agriculture.

§2607. Inspections.

The State Forester shall make periodic inspections of classified forest plantations, and shall report his findings in writing to the Department of Agriculture. If he finds that the owner of listed lands has violated this chapter, or has neglected or refused to take proper precautions against damage by fire, grazing or otherwise, he shall recommend to the Department the removal of said property from classification as commercial forest plantation land.

§2608. Removal of lands from exempt status by Department; notice; hearing; appeal.

(a) In case the State Forester recommends the removal of any lands from classification as commercial forest land, the Department of Agriculture shall notify the owner of the time and place of hearing upon such recommendation, which shall not be less than 10 days from the date of notice. The owner of the lands shall be entitled to be heard before the Department in person or by attorney, and shall be allowed to present any pertinent evidence. The Department shall thereupon determine the matter and shall either approve or disapprove the recommendation of the State Forester. If the recommendation of the State Forester is approved by the Department, it

shall notify in writing the county board of assessment thereof, and the board of assessment shall immediately restore the lands to the assessment lists. The board shall also determine the amount of tax due upon the lands, notwithstanding Title 9, Chapter 83 of the Delaware Code, according to the average valuation of the lands at the tax rates prevailing during the current period of exemption. The total amount of taxes as calculated shall be certified to the receiver of taxes and county treasurer of the county for collection as other taxes are collected, but with no penalty attached thereto.

(b) The owner of such lands may appeal from the decision of the Department to the Superior Court of the county by filing with the Prothonotary a certified copy of the recommendation of the State Forester as filed with the Department and the determination of said Department with respect thereto. The certification shall be made by the State Forester. Such appeal shall be filed within 2 terms next after the determination of the matter by the Department, or the right of appeal shall be lost.

(c) Prior to the sale or other transfer of rights of land or perpetual timber rights subject to an approved forest management plan, the transferor of land shall notify the transferee of the existence and nature of the plan and the transferee shall sign a notice of forest management obligation indicating the transferee's knowledge thereof.

(1) The notice shall be on a form furnished by the Department of Agriculture Forest Service and shall be sent to the Department of Agriculture by the transferor at the time of sale or transfer of rights of land or perpetual timber rights.

(2) If the transferor fails to notify the transferee about the forest management obligation, the board of assessment shall immediately restore the lands to the assessment lists. The board shall also determine the amount of tax due upon the lands according to the average valuation of the lands at the tax rates prevailing during the period of exemption. The total amount of taxes as calculated shall be certified to the receiver of taxes and county treasurer of the county for collection as other taxes are collected, but with no penalty attached thereto. All taxes due for the period of exemption shall be assessed to the transferor.

(3) Failure by the transferor to send the required notice to the Department of Agriculture at the time of the sale shall be prima facie evidence that the transferor did not notify the buyer of the forest management obligation prior to sale."

Section 4. Amend Title 3 of the Delaware Code by adding a new Chapter 91 as follows:

"CHAPTER 91. MIDDLE ATLANTIC INTERSTATE FOREST FIRE PROTECTION

COMPACT.

§9101. Approval of compact; text.

The Governor of Delaware may execute a compact on behalf of the State with any 1 or more of the States of Maryland, New Jersey, Ohio, Pennsylvania, Virginia and West Virginia, who may, by their legislative bodies authorize a compact, in form substantially as follows:

Middle Atlantic Interstate Forest Fire Protection Compact

Article I. The purpose of this compact is to promote effective prevention and control of forest fires in the Middle Atlantic region of the United States by the development of integrated forest fire plans, by the maintenance of adequate forest fire fighting services by the member States, and by providing for mutual aid in fighting forest fires among the compacting States of the region and with States which are party to other regional forest fire protection compacts or agreements.

Article II. This compact shall become operative immediately as to those States ratifying it whenever any two or more of the States of Delaware, Maryland, New Jersey, Ohio, Pennsylvania, Virginia and West Virginia which are contiguous have ratified it and Congress has given consent thereto.

Article III. In each State the State forester or officer holding the equivalent position who is responsible for forest fire control shall act as compact administrator for that State and shall consult with like officials of the other member States and shall implement cooperation between such States in forest fire prevention and control. The compact administrators of the member States shall organize to coordinate the services of the member States and provide administrative integration in carrying out the purposes of this compact. The compact administrators shall formulate and, in accordance with need, from time to time revise a regional forest fire plan for the member States. It shall be the duty of each member State to formulate and put in effect a forest fire plan for that State and take such measures as may be necessary to integrate such forest fire plan with the regional forest fire plan formulated by the compact administrators.

Article IV. Whenever the State forest fire control agency of a member State requests aid from the State forest fire control agency of any other member State in combating, controlling or preventing forest fires, it shall be the duty of the State forest fire control agency of that State to render all possible aid to the requesting agency which is consonant with the maintenance of protection at home.

Article V. Whenever the forces of any member State are rendering outside aid pursuant to the request of another member State under this compact, the employees of such State shall, under the direction of the officers of the State to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges and immunities as comparable employees of the State to which they are rendering aid. No member State or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. All liability, except as otherwise provided hereinafter, that may arise either under the laws of the requesting State or under the laws of the aiding State or under the laws of a third State on account of or in connection with a request for aid shall be assumed and borne by the requesting State. Any member State rendering outside aid pursuant to this compact shall be reimbursed by the member State receiving such aid for any loss or damage to or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of employees and equipment incurred in connection with such request: Provided, That nothing herein contained shall prevent any assisting member State from assuming such loss, damage, expense or other cost, or from loaning such equipment, or from donating such services to the receiving member State without charge or cost. Each member State shall provide for the payment of compensation and death benefits to injured employees and the representatives of deceased employees in case employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such State. For the purposes of this compact, the term employee shall include any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding State under the laws thereof. The compact administrators shall formulate procedure for claims and reimbursement under the provisions of this article in accordance with the laws of the member States.

Article VI. Nothing in this compact shall be construed to authorize or permit any member State to curtail or diminish its forest fire fighting forces, equipment, services or facilities, and it shall be the duty and responsibility of each member State to maintain adequate forest fire fighting forces and equipment to meet demands for forest fire protection within its borders in the same manner and to the same extent as if this compact were not operative. Nothing in this compact shall be construed to limit or restrict the powers of any State ratifying the same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the enactment or enforcement of State laws, rules or regulations intended to aid in such prevention, control and extinguishment in such State. Nothing in this compact shall be construed to affect any existing or future cooperative relationship or arrangement between the United States Forest Service and a member State or States.

Article VII. The compact administrators may request the United States Forest Service to act as the primary research and coordinating agency of the Middle Atlantic Interstate Forest Fire Protection Compact in cooperation with the appropriate agencies in each State, and the United States Forest Service may accept the initial responsibility in preparing and presenting to the compact administrators its recommendations with respect to the regional fire plan. Representatives of the United States Forest Service may attend meetings of the compact administrators.

Article VIII. The provisions of Articles IV and V of this compact which relate to mutual aid in combating, controlling or preventing forest fires shall be operative as between any State party to this compact and any other State which is party to a regional forest fire protection compact in another region: Provided, That the Legislature of such other State shall have given its assent to such mutual aid provisions of this compact.

Article IX. This compact shall continue in force and remain binding on each State ratifying it until the Legislature or the Governor of such State takes action to withdraw therefrom. Such action shall not be effective until six months after notice thereof has been sent by the chief executive of the State desiring to withdraw to the chief executives of all States then parties to the compact.

§9102. Effective date of compact.

The above compact shall be effective immediately as between the State and such other state or states as have already approved the compact. As to other states it shall become effective when approved by them. The Governor may take such action as may be necessary to complete the exchange of official documents between this State and any other state authorizing the compact.

§9103. Compact administrator.

The State Forester, or someone designated by him shall act as compact administrator for this State."

Approved July 29, 1999

CHAPTER 236

FORMERLY

HOUSE BILL NO. 262
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE AUTHORITY OF
SCHOOL TEACHERS AND SCHOOL ADMINISTRATORS TO CONTROL THE DISRUPTIVE
BEHAVIOR OF STUDENTS AND TO DISCIPLINE OR PUNISH STUDENTS.

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

Section 1. Amend §701, Title 14 of the Delaware Code by striking §701 in its entirety and by substituting in lieu thereof the following:

"§701. Authority of teachers and administrators to control the disruptive behavior of students.

(a) 'Disruptive behavior' includes conduct that is so unruly, disruptive, or abusive that it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or a school-sponsored activity.

(b) While a student is entrusted in their care or supervision, public school teachers and administrators have the same authority to control the behavior of the student and to discipline or punish the student as a parent, custodian, guardian, or other person similarly responsible for the care and supervision of the student. The authority includes (1) removing a student from a classroom or school-sponsored activity, and (2) rendering corporal punishment where deemed reasonable and necessary. If corporal punishment is deemed necessary, it must be administered reasonably and in accordance with State or local board of education policy.

(c) When a teacher removes a student from a classroom or school-sponsored activity in an effort to control the student's disruptive behavior, an on-site school administrator may, upon a written showing of good cause, override the teacher's decision to remove the student from the classroom or school-sponsored activity. Before overriding a teacher's decision, the administrator shall strongly presume that the teacher's decision to remove the student was reasonable and necessary under the circumstances.

(d) When a student is removed from a classroom or school-sponsored activity, or is disciplined or punished pursuant to this section, the principal, or the principal's designee, shall afford the student appropriate due process as required by the federal and State constitutions.

(e) When a student is removed from a classroom or school-sponsored activity, the principal, or the principal's designee, and the removing teacher shall determine if and when a student may be readmitted to the classroom or school-sponsored activity. If the teacher and principal, or principal's designee, cannot agree, the superintendent, or the superintendent's designee, shall make the determination.

(f) When a teacher or school administrator removes a student from a classroom or school-sponsored activity, or disciplines or punishes a student, a rebuttable presumption exists that the teacher or

administrator acted reasonably, in good faith, and in accordance with State or local board of education policy. The burden of overcoming the presumption shall be upon the student.

(g) Each local board of education shall establish, adopt, publish, and distribute to students in the district and their parents or guardians policy or standards that:

(1) specify the general circumstances under which a student may be removed from a classroom or school-sponsored activity, consistent with a teacher's ultimate authority to determine disruptive behavior and to remove a student from a classroom or school-sponsored activity.

(2) specify the circumstances under which a student may receive corporal punishment; and

(3) further define and/or provide examples of 'disruptive behavior' set forth in subsection (a) of this section.

(h) A district shall not establish or adopt a policy or standards that prohibit the removal of a student from a classroom or school-sponsored activity. However, a district may ban corporal punishment.

(i) This Act may be cited as the 'Teacher Classroom Control Act'."

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 30, 1999

CHAPTER 237

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 383

AS AMENDED BY HOUSE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND TITLES 9, 14, AND 22 OF THE DELAWARE CODE RELATING TO LAND USE PLANNING AND EDUCATION.

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

Section 1. Amend §2661 of Title 9 of the Delaware Code by deleting subsection (c) in its entirety and substituting in lieu thereof the following:

"(c)(i) This section shall apply only to residential development. Prior to recording a major record subdivision plan, as defined by New Castle County, the applicant shall provide certification to the Department of Land Use from the Secretary of the Department of Education after consultation with the superintendent of the appropriate individual school district that the school district has adequate capacity for the proposed development. The Secretary shall respond to any request for certification or Voluntary School Assessments within sixty (60) days receipt of a completed request for such certification. That certification shall include the following information:

(A) Existing classrooms and service levels based upon the Delaware Department of Education, Delaware School Construction Manual, September 19, 1996, as may be amended or supplemented from time to time, or based upon other standards accepted as accurate by the Secretary of the Department of Education; and,

(B) Capacity calculations, which shall include the current student population, increased demand resulting from prior certifications from the Department of Education, and the increased demand that will result from the proposed development. The Department of Land Use shall

within twenty (20) days provide the Department of Education with all necessary information regarding the number and type of dwelling units proposed and other information which the Secretary may request.

This subsection (c) shall apply to all new residential major subdivision plans submitted pursuant to the New Castle County Unified Development Code adopted December 31, 1997 as may be amended.

(ii) Notwithstanding the foregoing provisions of this subsection (c), no certificate of adequate school capacity shall be required where either (1) the residential development is restricted by recorded covenants to provide housing or shelter predominantly for individuals 55 years of age or older pursuant to the provisions of the Federal Fair Housing Act, 42 U.S.C. § 3601, et. seq., (2) the residential development is for low income housing, which, for purposes of this section shall be defined to mean any housing financed by a loan or mortgage that is insured or held by the Secretary of HUD or the Delaware State Housing Authority or which is developed by a non-profit corporation certified under Section 501(c)(3) of the United States Internal Revenue Code, or (3) the applicant has pledged, in a writing recorded and running with the subject property, to pay a Voluntary School Assessment, in an amount determined pursuant to Title 14, Section 103(c), for each lot for which the applicant would otherwise be required to obtain a certificate.

(iii) Voluntary School Assessments will be calculated on a per unit basis as of the time of the issuance of the first building permit, and the assessment shall remain constant throughout the development of the subdivision (and shall not be increased for any reason, including but not limited to any resubdivision); provided, however, that after five (5) years the Voluntary School Assessment amount may be recalculated. Any Voluntary School Assessments paid under this subsection (c) shall be paid at the time of obtaining a certificate of occupancy for each unit to the Revolving Fund created by Title 14, Section 1714. With the approval of the Secretary, after consultation with the superintendent of the affected school district, an applicant may receive a credit against voluntary assessments to be paid in an amount equal to the fair market value of any lands or properties set aside by the applicant and deeded to the school district for school uses. Any such lands shall not be used for non-school purposes, other than as parkland or open space. All voluntary assessments paid shall be held in the Revolving Fund by the State for the school district in which the applicant's project is located until such time as the school district engages in construction activities which increase school capacity, at which time such assessments shall be released to the school district by the State in the amount of the Voluntary School Assessments paid into the Revolving Fund for such district.

(iv) To the extent New Castle County has adopted (or in the future attempts to adopt) any regulations or ordinances linking or tying residential development to school capacity, or otherwise restricting residential development in the absence of school capacity, such regulations and ordinances are hereby pre-empted and of no force and effect."

Section 2. Amend Chapter 8 of Title 22 of the Delaware Code by creating a new §842 as follows:

"§842. School Capacity Application for Municipal Corporations in New Castle County.

(i) This section shall apply only to residential development. Prior to recording a residential subdivision plan for over five units in size for any lands annexed into any municipality located in New Castle County on or after July 1, 1992, and notwithstanding any home rule or charter provision to the contrary, the applicant shall provide certification from the Secretary of the Department of Education after consultation with the superintendent of the appropriate individual school district that the school district has adequate capacity for the proposed development. The Secretary shall respond to any request for certification or Voluntary School Assessments within sixty (60) days receipt of a completed request for such certification. That certification shall include the following information:

(A) Existing classrooms and service levels based upon the Delaware Department of Education, Delaware School Construction Manual, September 19, 1996, as may be amended or supplemented from time to time, or based upon other standards accepted as accurate by the Secretary of the Department of Education; and,

(B) Capacity calculations, which shall include the current student population, increased demand resulting from prior certifications from the Department of Education, and the increased demand that will result from the proposed development. The municipality shall within twenty (20) days provide the Department of Education with all necessary information regarding the

number and type of dwelling units proposed and other information which the Secretary may request.

This section shall apply to all new residential subdivision plans over five units in size for lands annexed into a municipality on or after July 1, 1992 and first submitted for review after July 1, 1999.

(ii) Notwithstanding the foregoing provisions of this section, no certificate of adequate school capacity shall be required where either (1) the residential development is restricted by recorded covenants to provide housing or shelter predominantly for individuals 55 years of age or older pursuant to the provisions of the Federal Fair Housing Act, 42 U.S.C. § 3601, et. seq., (2) the residential development is for low income housing, which, for purposes of this section shall be defined to mean any housing financed by a loan or mortgage that is insured or held by the Secretary of HUD or the Delaware State Housing Authority or which is developed by a non-profit corporation certified under Section 501(c)(3) of the United States Internal Revenue Code, or (3) the applicant has pledged, in a writing recorded and running with the subject property, to pay a Voluntary School Assessment, in an amount determined pursuant to Title 14, Section 103(c), for each lot for which the applicant would otherwise be required to obtain a certificate.

(iii) Voluntary School Assessments will be calculated on a per unit basis as of the issuance of the first building permit, and the fee shall remain constant throughout the development of the of the subdivision (and shall not be increased for any reason, including but not limited to any resubdivision); provided, however, that after five (5) years the Voluntary School Assessment amount may be recalculated. Any Voluntary School Assessments paid under this section shall be paid at the time of obtaining a certificate of occupancy for each unit to the Revolving Fund created by Title 14, Section 1714. With the approval of the Secretary, after consultation with the superintendent of the affected school district, an applicant may receive a credit against voluntary assessments to be paid in an amount equal to the fair market value of any lands or properties set aside by the applicant and deeded to the school district for school uses. Any such lands shall not be used for non-school purposes, other than as parkland or open space. All voluntary assessments paid shall be held in the Revolving Fund by the State for the school district in which the applicant's project is located until such time as the school district engages in construction activities which increase school capacity, at which time such assessments shall be released to the school district by the State in the amount of Voluntary School Assessments paid into the Revolving Fund for such district.

(iv) To the extent any municipality located in New Castle County has adopted (or in the future attempts to adopt) any regulations or ordinances linking or tying residential development to school capacity, or otherwise restricting residential development in the absence of school capacity, for lands covered by this section, such regulations and ordinances are hereby pre-empted and of no force and effect."

Section 3. Amend §1714 of Title 14 of the Delaware Code by deleting the third sentence thereof in its entirety and substituting in lieu thereof the following:

"The Department shall make no payments to any school district from the Revolving Fund unless either the acquisition of a school site and the approximate cost of the proposed new construction thereon have first been approved by a referendum held among the voters in the school district concerned or, in the event that such a referendum has not been approved, upon presentation from the school district that it otherwise has available sufficient funds to meet the local share, as that term is defined in Chapter 75 of Title 29 of the Delaware Code, of the school district concerned necessary for the school construction project."

Section 4. Amend Title 14, Section 103 of the Delaware Code by adding a new Section 103(c) to read as follows:

"(c) The Secretary shall calculate a Voluntary School Assessment which applicants shall have the option of paying in lieu of any school certification required by Title 9, Section 2661 or Title 22, Section 842. Voluntary School Assessments shall be calculated on a per unit basis for each project which seeks to pay such assessments in lieu of certification as follows: (1) calculating the average cost (including land, or if the school district already owned such land, the then-fair market value of such land at the time of construction), per child, for the average new public schools (one elementary school, one middle school, one high school) constructed with State assistance in New Castle County as determined by the State of Delaware School Construction Technical Assistance Manual prepared by the Delaware Department of Education (as such manual exists as of June 30, 1999, such manual not to be updated for purposes of this calculation no earlier than July 1, 2005 and thereafter updated as the Department normally updates such

manual); (2) multiplying that number by the local percentage share then-required by State law of the local school district in order to receive State capital assistance; (3) multiplying the resulting figure by 0.50, representing the average number of school-aged children projected to be housed within each residential unit, provided that in no event shall the Voluntary School Assessment exceed the five percent of the total cost of the residential unit."

Section 5. If any provision of this act is held invalid, the act in its entirety shall be invalid.

Section 6. The Department of Education may promulgate rules and regulations to effectuate the purposes of this Act.

Approved July 30, 1999

CHAPTER 238

FORMERLY

HOUSE BILL NO. 355

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE TO INCREASE THE NUMBER OF FAMILY COURT JUDGES TO 15 TO PROVIDE FOR ADDITIONAL FAMILY COURT JUDGES IN KENT COUNTY AND SUSSEX COUNTY.

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

Section 1. Amend Section 906(b), Chapter 9, Title 10, Delaware Code by striking the same in its entirety and inserting in lieu thereof the following:

"(b) The Court shall be composed of 15 judges of equal judicial authority. One judge shall be the Chief Judge and the remainder shall be Associate Judges. No more than a majority of the one judge shall be members of the same political party."

Section 2. Amend Section 906(e), Chapter 9, Title 10, Delaware Code by striking Section 906(e) in its entirety and inserting in lieu thereof the following:

"(e) All of the judges shall be residents of the State for a period of 5 years immediately prior to their appointment. The Chief Judge may reside in any county of the State. After appointment, 8 of the Associate Judges shall reside in New Castle County, 3 Associate Judges shall reside in Kent County, and 3 Associate Judges shall reside in Sussex County."

Section 3. This Act shall become effective on July 1, 1999.

Approved July 27, 1999

CHAPTER 239

FORMERLY

SENATE BILL NO. 166

AN ACT TO AMEND SECTION 9203 OF TITLE 10 OF THE DELAWARE CODE RELATING TO THE NUMBER OF JUSTICES OF THE PEACE.

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

Section 1. Amend §9203 of Title 10 of the Delaware Code by replacing the number "27" as found in said section with the number "29".

Approved July 27,1999

CHAPTER 240

FORMERLY

SENATE BILL NO. 206

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE TO INCREASE THE NUMBER OF COURT OF COMMON PLEAS JUDGES TO 9 TO PROVIDE FOR ADDITIONAL COURT OF COMMON PLEAS JUDGES FOR KENT COUNTY AND SUSSEX COUNTY.

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

Section 1. Amend Section 1302(a), Title 10, Delaware Code by striking the same in its entirety and inserting in lieu thereof the following:

"(a) The Court shall consist of 9 Judges."

Section 2. Amend Section 1302(c), Title 10, Delaware Code by striking Section 1302(c) in its entirety and inserting in lieu thereof the following:

"(c) Five judges shall be residents of New Castle County, 2 Judges shall be residents of Kent County, and 2 Judges shall be residents of Sussex County."

Section 3. This Act shall become effective on July 1, 1999.

Approved July 27,1999

CHAPTER 241

FORMERLY

HOUSE BILL NO. 411

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES ON PERSONAL INCOME.

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

Section 1. Amend § 1108(a)(1), Title 30 of the Delaware Code, by striking the punctuation and word ", and" as they appear at the end of said paragraph and substituting in lieu thereof a semicolon ";".

Section 2. Amend § 1108(a)(2), Title 30 of the Delaware Code, by striking said paragraph in its entirety and substituting in lieu thereof the following:

"(2) For taxable periods beginning after December 31, 1998, and before January 1, 2000, the standard deduction of a resident individual shall be \$3,250, and the standard deduction of resident spouses shall be \$4,000 if they file a joint return and \$2,000 each if they file separate returns; and"

Section 3. Amend § 1108(a), Title 30 of the Delaware Code, by adding to said subsection a new paragraph (3) to read as follows:

"(3) For taxable periods beginning after December 31, 1999, the standard deduction of a resident individual shall be \$3,250, and the standard deduction of resident spouses shall be \$6,500 if they file a joint return and \$3,250 each if they file separate returns."

Section 4. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate, or affect the remainder of this Act, which shall remain in full force and effect.

Section 5. This Act shall be effective for tax periods commencing after December 31, 1999.

Approved August 04, 1999

CHAPTER 242

FORMERLY

HOUSE BILL NO. 414

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES ON PERSONAL INCOME.

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

Section 1. Amend § 1102(a), Title 30 of the Delaware Code, by adding a new paragraph (11) to read as follows:

"(11) For taxable years beginning after December 31, 1999, the amount of tax shall be determined by reference to paragraph (10) and 5.95 % of taxable income in excess of \$60,000."

Section 2. This Act shall be effective for tax periods commencing after December 31, 1999.

Approved August 04, 1999

CHAPTER 243

FORMERLY

HOUSE BILL NO. 412

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)(3)b.2(B) by inserting the words "capital gains. " between the word "dividends," and the word "interest" as they appear in the first sentence of said paragraph.

Section 2. This Act shall be effective for taxable years beginning after December 31, 1999.

Approved August 04,1999

CHAPTER 244

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 64

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAX CREDIT FOR EXPENSES INCURRED BY ACTIVE VOLUNTEER FIREFIGHTERS AND OTHERS.

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

Section 1. Amend §1113, Title 30, of the Delaware Code by inserting between the phrases "December 31, 1995" and "against the tax" the following:

"but before January 1, 1999; and \$300 for tax years commencing after December 31, 1998".

Approved August 04,1999

CHAPTER 245

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 90

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES.

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

Section 1. Amend §2702(b), Title 30 of the Delaware Code, by striking the symbol and figure "0.240%" as it appears in paragraph (1) of said subsection and substituting in lieu thereof the symbol and figure "0.180%".

Section 2. This Act shall be effective for tax periods commencing after December 31, 1999.

Approved August 04, 1999

CHAPTER 246

FORMERLY

SENATE BILL NO. 245

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES ON PERSONAL INCOME.

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

Section 1. Amend § 1106(b)(3)b.2.(A), Title 30 of the Delaware Code, by striking the symbol and figure "\$5,000" as they appear therein and substituting in lieu thereof the symbol and figure "\$12,500".

Section 2. This Act shall be effective for taxable years beginning after December 31, 1999.

Approved August 04, 1999

CHAPTER 247

FORMERLY

SENATE BILL NO. 244

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES AND PERSONAL INCOME.

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

Section 1. Amend § 1161(1), Title 30 of the Delaware Code, by striking said subsection in its entirety and substituting therefor the following:

"(1) Every resident individual who (A) is required to file a federal income tax return for the taxable year, or (B) is a single person and has for the taxable year adjusted gross income as modified by § 1106 of this title of more than \$9,378, or (C) is a married individual who is entitled to file a joint federal income tax return for the taxable year, and whose adjusted gross income for the taxable year as modified by § 1106 of this title, when combined with the adjusted gross income of the individual's spouse, is more than \$15,449."

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Section 2. Amend § 1110(b), Title 30 of the Delaware Code, by striking the symbol and figure "\$100" each time they appear in paragraphs (1) and (2) of said subsection and substituting in lieu thereof the symbol and figure "\$110".

Section 3. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate, or affect the remainder of this Act, which shall remain in full force and effect.

Section 4. This Act shall be effective for tax periods commencing after December 31, 1999.

Approved August 04, 1999

CHAPTER 248

FORMERLY

SENATE BILL NO. 243

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES ON PERSONAL INCOME.

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

Section 1. Amend § 1102(a), Title 30 of the Delaware Code, by adding a new paragraph (10) to read as follows:

"(10) For taxable years beginning after December 31, 1999, the amount of tax shall be determined as follows: 2.2 % of taxable income in excess of \$2,000 but not in excess of \$5,000; 3.9 % of taxable income in excess of \$5,000 but not in excess of \$10,000; 4.8 % of taxable income in excess of \$10,000 but not in excess of \$20,000; and 5.2 % of taxable income in excess of \$20,000 but not in excess of \$25,000; 5.55% of taxable income in excess of \$25,000 but not in excess of \$60,000."

Section 2. Amend § 1102(a), Title 30 of the Delaware Code, by inserting after the date "December 31, 1998," as it appears in paragraphs (8) and (9) of said subsection the phrase "and before January 1, 2000,".

Section 3. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate, or affect the remainder of this Act, which shall remain in full force and effect.

Section 4. This Act shall be effective for tax periods commencing after December 31, 1999.

Approved August 04, 1999

CHAPTER 249

FORMERLY

SENATE BILL NO. 247

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES.

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

Section 1. Amend §5506(g), Title 30 of the Delaware Code by deleting said subsection in its entirety and adding a new subsection (g) to read as follows:

"The gross receipts or tariff charges of a distributor of electricity and electrical services attributable to sales of electricity or electrical services for use in an electrolytic or electroarc thermal or air separation process shall be exempt from the tax imposed by this chapter."

Section 2. Amend §5506, Title 30 of the Delaware Code by adding a new subsection (j) to read as follows:

"The gross receipts or tariff charges of a distributor of electricity, electrical services or gas attributable to sales of electricity, electrical services, gas or gas services for use in an automobile manufacturing process shall be exempt from the tax imposed by this chapter. For purposes of this subsection, the term "automobile manufacturing" shall refer to the manufacturing operations of an automobile assembly plant and shall not refer to either the administrative operations of an automobile assembly plant or to the manufacture of component parts of an automobile outside an automobile assembly plant."

Section 3. This Act shall be effective for tax periods commencing after December 31, 1999.

Approved August 04, 1999

CHAPTER 250

FORMERLY

SENATE BILL NO. 248

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO THE BUSINESS TAX CREDITS AND DEDUCTIONS.

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

Section 1. Amend Subchapter I, Chapter 20, Title 30 of the Laws of Delaware, by deleting the subchapter in its entirety.

Section 2. Amend Chapter 20, Title 30 of the Laws of Delaware by inserting a new subchapter I as follows:

"Subchapter I. Neighborhood Assistance Tax Credit.

§ 2001. Short title.

This subchapter shall be known and may be cited as the 'Neighborhood Assistance Act.'

§ 2002. Definitions.

As used in this subchapter:

(1) 'Community services' means any type of counseling and advice, emergency assistance or medical care furnished to individuals of groups in an impoverished area.

(2) 'Impoverished area' means any clearly-defined, economically-distressed, urban or rural area in this State which is certified as such by the Department of Health and Social Services and approved by the Tax Appeal Board. Such certification shall be made on the basis of federal census studies and current indices of social and economic conditions.

(3) 'Neighborhood organization' means any organization performing community services and offering neighborhood assistance in an impoverished area and holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of the Internal Revenue Code [26 U.S.C. § 1 et. seq.]

(4) 'Community Development Corporation' and 'Community-Based Development Organization' means any locally-based and resident-controlled, non-profit organizations that plan and implement Community Economic Development projects in impoverished areas or for low income people that holds a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of the Internal Revenue Code [26 U.S.C. § 1 et. seq.]

(5) 'Neighborhood assistance' means furnishing financial assistance, labor, material, and technical advice to aid in the physical, economic and community improvement of any part or all of an impoverished area.

(6) 'Business firm' means any business entity authorized to do business in this State and subject to the Delaware corporation income tax.

(7) 'Job training' means any type of instruction to an individual who resides in an impoverished area that enables him or her to acquire vocational skills so that s/he can become employable or be able to seek a higher grade of employment.

(8) 'Education' means any type of scholastic instruction to an individual who resides in an impoverished area that enables him/her to meet educational requirements for known job vacancies.

(9) 'Crime prevention' means any activity that aids in the reduction of crime in an impoverished area.

(10) 'Housing' means any activity that aids in substantial renovation or new construction of rental or owner-occupied residences for low and moderate income families in impoverished areas.

(11) 'Economic development' means any activity that aids in business development and ownership in impoverished areas.

§ 2003. Declaration of Policy.

It is declared to be public policy of this State to encourage the investment by business firms in offering neighborhood assistance and providing job training, education, crime prevention and community services, both directly and by contributing to neighborhood organizations, to benefit individuals living in impoverished areas. This public policy further encourages the creation of significant partnerships among community-based development organization, the private sector and the government.

§ 2004. Qualification for tax credit.

For each taxable period beginning on or after January 1, 2000, business firms which contribute to a neighborhood organization, Community Development Corporation, Community-Based Development Organization, or which engages in the activities of providing neighborhood assistance, job training or education for individuals not employed by the business firm, community services, crime prevention, housing, or economic development in an impoverished area shall receive a tax credit as provided in § 2005 of this title if the Director of the Economic Development Office and the Tax Appeal Board annually approve the proposal of each business firm, setting forth the program to be conducted, the impoverished area selected, and the estimated amount to be invested in the program. The Director of the Economic Development Office and the Tax Appeal Board may promulgate rules and regulations for the approval or disapproval of such proposals by business firms.

A Neighborhood Assistance Act Advisory Council, comprised of Community Economic Development practitioners and representatives of the private and public sectors, shall be established to provide guidance and recommendations to the Director of the Economic Development Office and the Tax Appeal Board in establishing program priorities and mechanisms for the program to be conducted, determining the impoverished area(s) selected, and the estimated amount to be invested in the program or Community-Based Development Organization. The Neighborhood Assistance Act Advisory Council shall assist the Department of the Department of Health and Social Services and the Tax Appeal Board in establishing and promulgating rules and regulations for the approval or disapproval of proposals by business firms and Community-Based Development Organizations.

§ 2005. Corporate income tax credit; amount.

(a) For purposes of computing taxable income the tax owed under Chapter 19 of this title, relating to the corporation income tax, the Secretary of Finance shall allow a credit equal to fifty percent (50%) of the amount invested by a business firm in a program or in a Community-Based Development Organization, the proposal for which was approved under § 2004 of this title. Such tax credit, however, shall not exceed \$100,000 per business.

(b) Any investment made in a tax year for which the tax credit herein described is claimed by a taxpayer shall not also be eligible for treatment in the same tax year as a charitable contribution deduction for state income tax purposes in calculating Delaware income tax liability.

§ 2006. Limitations on credits.

(a) The aggregate amount of such tax credits approved for all firms shall not exceed \$500,000 in any one fiscal year.

(b) If the total amount of Neighborhood Assistance Tax Credits approved by the Director of the Economic Development Office and the Tax Appeal Board for which taxpayers applied in any year exceeds the amount allocated for those credits, then the Neighborhood Assistance Tax Credits to be received by each application shall be the product of \$500,000 multiplied by a fraction, the numerator of which is the eligible Neighborhood Assistance Tax Credits applied for by the applicant and the denominator is the total of all eligible Neighborhood Assistance Tax Credits applied for by the applicants.

§ 2007. Unused tax credit

(a) Any business firm making contributions, after January 1, 2000, in amounts in excess of the maximum allowable credit permitted under § 2005 of this title, shall be permitted to carry forward the excess contribution as a credit in any of the next 5 years subsequent to the date of the initial grant, subject to the limitation imposed by subsection (b) of this section.

(b) Excess contributions are those contributions that are not available as a credit in the year of the grant because of the limitation imposed by § 2005 of this title. The excess contributions carried over from prior years shall be allowable only after contributions for the current year have been credited, and in no event shall the total credit under this subchapter for any 1 year exceed the limitation imposed by § 2005 of this title."

Approved August 04,1999

CHAPTER 251

FORMERLY

SENATE BILL NO. 249

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO REVENUES FROM
ABANDONED OR UNCLAIMED PROPERTY AND THE TRANSPORTATION TRUST FUND.

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

Section 1. Amend §6102, Title 29, Delaware Code, by adding thereto a new subsection (r) to read as follows:

"(r) The State shall transfer each fiscal year the first \$10 million in receipts received under Chapter 11(n) of Title 12, that would otherwise be deposited to the General Fund, to the Transportation Trust Fund maintained under Chapter 14 of Title 2 of the Delaware Code."

Approved August 04,1999

CHAPTER 252

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 1

AN ACT TO AMEND TITLE 14 AND TITLE 29 OF THE DELAWARE CODE RELATING TO EDUCATION,
THE ESTABLISHMENT OF A SCHOOL PROPERTY TAX REDUCTION PROGRAM AND SCHOOL
CONSTRUCTION CAPITAL IMPROVEMENTS.

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

Section 1. Amend §6102, Title 29 of the Delaware Code by adding to said section a new subsection (r) to read as follows:

"(r)

- (1) A special fund of the State is created in the Department of Finance to be known as the "Education Expense and Property Tax Relief Fund" to which shall be deposited \$17.5 million received in any revenue source not otherwise committed to a special fund, from which shall be paid education-related

expenses and tax claims made under this subsection. Should claims against this fund exceed \$17.5 million, the Secretary of Finance, with the approval of the Budget Director and Controller General, may transfer from the general contingency line in the Department of Education to the Education Expense and Property Tax Relief Fund the amount of such reasonably foreseen additional claims.

- (2) Sums authorized by this subsection shall be allocated such that, when considered in combination with other monies appropriated therein, total funds available for each school district and each special school shall be done consistent with §1707 of Title 14 of the Delaware Code adjusted as follows:
- (i) School district current expense revenue for the purposes of these funds shall be as defined by §1707(b)(8), Title 14 of the Delaware Code except that it shall exclude tuition tax expenditures for the local cost of private placement/unique alternative programs and Part I of the Student Discipline Program.
 - (ii) State average effort as defined in §1707(b)(10) of Title 14 of the Delaware Code shall be the authorized amount times 61.6% divided by the State average ability.
 - (iii) In §1707(c) and §1707(d) of Title 14 of the Delaware Code, the number ".72" shall be replaced with ".616".
 - (iv) For the monies allocated under this subsection, the limitation contained in §1707 that precludes any districts from receiving more than 110% of the per unit allocation shall not apply.
 - (v) Notwithstanding the provisions of this subsection, no local school district with less than average ability as defined by §1707 of Title 14 shall receive an allocation from this fund that is less than \$125,000. This provision shall not apply to state administered special schools.

The final allocation of these monies shall be approved by the Budget Director and the Controller General each fiscal year. Any balance remaining in the Education Expense and Property Tax Relief Fund at the conclusion of any fiscal year shall revert to the General Fund.

- (3) Funds received pursuant to this Act may be used by local school districts to increase support for education including, but not limited to, computer hardware and software, library resources and other instructional materials, and minor capital improvements to school facilities, or to offset, and thereby allow reduction of, local current expense taxes on residential properties in those districts to the extent that monies received under this section would be or would raise the effort index, if allocated through §1707 of Title 14, of the local school district above 1.00 or the local current expense effort plus their share of equalization funds under §1707 of Title 14 raises more than \$27,000 per unit. Notwithstanding any of the foregoing to the contrary, funds received pursuant to this Act shall not be used for major capital improvements or debt service.
- (4) Local school boards shall develop a plan for using monies received pursuant to this Act, provide appropriate and reasonable public notice and comment on the proposed plan, and approve the plan through majority vote of the whole school board. Local school boards shall submit the approved plan to the Secretary of Education, the Budget Director, and the Controller General. Local school boards and all other responsible parties under this paragraph are hereby directed to undertake and cause such conditions to be met as soon as practicable after the enactment of this Act, but in no event later than October 30, 1999, and shall notify the Secretary of Education, the Budget Director, the receiver of taxes and county treasurer, and the Controller General as soon as such conditions are met.
- (5) To the extent that local school districts are eligible to reduce local current expense taxes on residential properties under paragraph (3) of this subsection, and the local school board approves the reduction pursuant to paragraph (4) of this subsection, the local school districts shall report to the receiver of taxes and county treasurer the change in current expense tax rate (in terms of cents per \$100 of assessed value) on residential property in the district equal to the value of the tax reduction approved by the local school board. The receiver of taxes and county treasurer shall apply the change in current expense tax rate before any property tax reduction under §1917(c) of Title 14.
- (6) For tax years beginning on or after May 1, 1999 and before May 1, 2000, each receiver of taxes and county treasurer shall, no later than January 31, 2000, submit a list to the Secretary of Finance of taxpayers living in local school districts that have authorized reduction in current expense tax rate pursuant to this subsection, the amount of school tax paid by said taxpayer and the school tax that

would have been due taking into account the authorized reduction approved by the local school board under this subsection. For tax years beginning on or after May 1, 2000 and each year thereafter, local school districts shall report to each receiver of taxes and county treasurer the current expense tax rate taking into account any reductions authorized pursuant to this subsection.

- (7) For tax years beginning on or after May 1, 1999 and before May 1, 2000, the Secretary of Finance shall refund to taxpayers living in local schools districts that have authorized reduction in current expense tax rate pursuant to this subsection an amount equal to the school tax paid by said taxpayer less the school tax that would have been due taking into account reductions authorized pursuant to this subsection. The Secretary of Finance may use an amount from the Education Expense and Property Tax Refund Fund established pursuant to this subsection to offset administrative costs up to 5% of the value of credits claimed, but not to exceed \$100,000.
- (8) The Secretary of Finance may promulgate such rules and regulations and prescribe such forms and reports as the Secretary of Finance shall deem necessary to implement this subsection."

Approved August 05,1999

CHAPTER 253

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 115

AN ACT TO AMEND CHAPTER 55, TITLE 29 OF THE DELAWARE CODE RELATING TO THE STATE
EMPLOYEE'S' PENSION PLAN.

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

Section 1. Amend §5522, Title 29 of the Delaware Code by striking the ratio "4/10" wherever it appears in said section, and replacing it with the ratio "2/10".

Section 2. This Act shall be effective for state employees retiring after June 30, 1999.

Approved August 05,1999

CHAPTER 254
FORMERLY
HOUSE BILL NO. 413

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO DELAWARE TAX CREDITS.

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

Section 1. Amend Title 30 of the Delaware Code by adding thereto a new chapter, which shall read as follows:

"Chapter 18. Land and Historic Resource Tax Credit.

§ 1801. This Act shall be known as the 'Delaware Land and Historic Resources Protection Incentives Act of 1999'.

§ 1802. Purpose and Findings.

(a) The General Assembly finds that the State of Delaware's unique natural resources, wildlife habitats, historic resources and resources of outdoor recreation are a significant benefit to the state and the public; and

(b) The General Assembly finds that the State of Delaware's unique natural resources and distinctive natural heritage including habitat for plants, animals and natural communities and historic resources, are being lost at an alarming rate; and

(c) The General Assembly finds that much of the State of Delaware's unique natural resources and habitats and historic resources are found on lands which are privately owned; and

(d) The General Assembly desires to encourage private landowners to be stewards of lands which are important habitat or designated natural areas or which contain significant historic resources; and

(e) The General Assembly desires to complement existing land conservation acquisition programs under the Delaware Land Protection Act, as set forth in Chapter 75 of Title 7 of this Code, and historic preservation programs and not duplicate them and thereby preserve public financial resources and leverage public expenditures; and,

(f) The General Assembly desires to provide private landowners with incentives to encourage protection of private lands for open space, natural resources, biodiversity conservation, outdoor recreation and historic preservation purposes.

§ 1803. Definitions. The following definitions shall apply to this Act:

(a) 'Delaware Heritage program' means the program within the Department of Natural Resources and Environmental Control, Division of Fish and Wildlife which is responsible for inventory, research, data collection, information management and consultation about Delaware's unique or rare plant and animal species and natural communities and for the maintenance of computerized and manual records of the status and trends of such species and natural communities and habitat location information.

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

(c) 'Historic Resources' means those structures, improvements, sites or lands which are listed as significant in or eligible for listing in the National Register of Historic Places either as individual listings or as contribution elements in listed or eligible historic districts.

(d) 'Interest in real property' means any perpetual right in real property, or improvements thereto, or water including but not limited to a fee simple, easement, partial interest, mineral right, remainder, future interest, or other interest or right concerning the use of property.

(e) 'Land' or 'lands' means real property, with or without improvements thereon; right of way, water and riparian rights; easements; privileges and all other rights or interests of any kind or description in, relating to or connected with real property.

(f) 'Natural Habitat' means those land areas in Delaware which are or may be documented as areas of ecological importance and significance for the protection of unique or rare plants, animals and natural communities. Such areas are or may be comprised of lands which, due to their physical or biological features, provide important elements for the protection, maintenance and survival of plants, animals and/or natural communities such as, for example, food, shelter, or living space, and may include without limitation, breeding, feeding, resting, migratory, or overwintering areas. Physical or biological features include, but are not limited to: structure and composition of the vegetation; faunal community; soils; water chemistry and quality; and geologic, hydrologic, or microclimatic factors and other ecological processes.

(g) 'Open space' means any open lands characterized by (i) natural and/or scenic beauty, or (ii) whose existing openness, natural condition or present state of use, if retained, would maintain important outdoor recreational areas and wildlife habitat, or would maintain or enhance the conservation of Delaware's natural, historic, or scenic resources.

(h) 'Public or Private Conservation Agency' means any Delaware governmental body, or any private not-for-profit charitable corporation or trust authorized to do business in the State of Delaware and organized and operated for natural resources, land conservation or historic preservation purposes, and having tax-exempt status as a public charity under the U.S. Internal Revenue Code of 1986, as amended, and having the power to acquire, hold and maintain land and/or interests in land for such purposes.

§ 1804. Tax Credit Available; Land Conveyed for Conservation and Preservation Purposes.

(a) There shall be allowed as a credit against the tax imposed by Chapter 11 and 19 of Title 30 of the Delaware Code, as set forth in this title, an amount equal to 40% of the fair market value of any land or interest in land located in Delaware which is conveyed for the purpose of open space, natural resource, and/or biodiversity conservation or historic preservation as an unconditional donation in perpetuity by the landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests therein for conservation or preservation purposes. The fair market value of qualified donations made under this Act shall be substantiated by a 'qualified appraisal' prepared by a 'qualified appraiser', as those terms are defined under applicable Federal law and regulations governing charitable contributions.

(b) The amount of the credit that may be claimed by a taxpayer shall not exceed \$50,000. In addition, in any one tax year the credit used may not exceed the amount of individual or corporate income tax otherwise due. Any portion of the credit which is unused in any one tax year may be carried over for a maximum of five (5) consecutive tax years following the tax year in which the credit originated, subject to the limitations provided herein, until fully expended.

(c) Qualified donations shall include the conveyance in perpetuity of a fee interest in real property or a less-than-fee interest in real property, such as a conservation easement, pursuant to Chapter 69 of Title 7 of this Code. Dedications of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered as qualified donations under this Act.

(d) Qualified donations shall be eligible for the tax credit herein described if such donations are made to the State of Delaware, an instrumentality thereof, or a charitable organization described in Section 501(c) of the U.S. Internal Revenue Code of 1986 and which: (a) meets the requirements of Section 170(h)(3)(A) or (B).

(e) To be eligible for treatment as qualified donations under this Section, land, or interests in lands, must meet the requirements for land protection of the Delaware Land Protection Act as set forth in Section 7503, Title 7 of this Code; or consist of lands which are natural habitat for the protection of Delaware's unique and rare biological and natural features as determined by the Department, relying on information supplied and maintained by the Delaware Natural Heritage Program; or meet the requirements for Delaware's important historic resources as determined by the Delaware Department of State, Division of Historical and Cultural Affairs. The use and protection of such lands, or interests therein, for open space, natural area protection, biodiversity

habitat conservation, historic preservation or similar use and purpose shall be assured in perpetuity.

(f) Any qualified donation made in a tax year for which the tax credit herein described is claimed by a taxpayer shall not also be eligible for treatment in the same tax year as a charitable contribution for state income tax deduction purposes in calculating Delaware Income Tax liability.

§ 1805. Administration.

(a) The Department in consultation with the Department of State, Division of Historical and Cultural Affairs shall promulgate such rules and regulations as may be deemed necessary to certify eligible projects for treatment in fulfillment of the purposes of this Act within six months of the date of enactment. The Department and the Division of Historical and Cultural Affairs, in cooperation with the Open Space Council, upon each five year anniversary of the enactment of this Act or of any renewals thereof, shall prepare a report to the General Assembly showing the lands protected during such period pursuant to this Act.

(b) The Division of Revenue, of the Department of Finance for the State of Delaware, in consultation with the Department, shall promulgate such rules and regulations within six months of the date of enactment as may be necessary to administer the tax incentives provided for in this Act and shall coordinate with the agencies referenced in subsection (a) above in the preparation of the report(s) to the General Assembly showing the fiscal impact on the Delaware Treasury of the credits claimed pursuant to this Act.

§ 1806. Applicability, Fiscal Limitation and Renewal.

(a) The tax credits provided by this Act shall apply to transfers of land or interests therein in taxable years beginning on or after January 1, 2000 and for ten calendar years thereafter.

(b) Any taxpayer claiming a tax credit under this Act may not claim a credit under any similar Delaware law for costs related to the same project. A taxpayer may not claim a tax credit under this Act for lands or interests in land, a portion of which constitutes the taxpayer's entire holdings and where the taxpayer has sold or has contracted to sell to the State of Delaware the balance of such lands or interests in land for open space, biodiversity, land conservation or historic preservation purposes.

(c) Any tax credits which arise under this Act from the donation of land or an interest in land made by a pass-through tax entity such as a trust, estate, partnership, limited liability corporation or partnership, limited partnership, subchapter S corporation or other fiduciary shall be used either by such entity in the event it is the taxpayer on behalf of such entity or by the member, manager, partner, shareholder and/or beneficiary, as the case may be, in proportion to their interest in such entity in the event that income, deductions and tax liability passes through such entity to such member, manager, partner, shareholder and/or beneficiary. Such tax credits may not be claimed by both the entity and the member, manager, partner, shareholder and/or beneficiary for the same donation.

(d) The total amount of tax credits to be made available under this Act shall not exceed 10 million dollars over the ten-year period following the year of enactment of this Act. The aggregate amount of such tax credits available in any one tax year shall not exceed 1 million dollars and shall be allocated to taxpayers for eligible projects in accordance with the rules and regulations to be established as set forth in Section 1805 of this Chapter.

(e) At the end of the initial ten year period during which such tax credits are made available, the Legislature and the Governor shall review the program and the allocation of tax credits and shall determine whether and how best to reauthorize the program.

§ 1807. Construction. No part or segment of this Act shall be interpreted to in any way alter or amend any permit requirements, reporting requirements, allocation procedures, or other requirements set forth in any other provision of state law."

CHAPTER 255

FORMERLY

HOUSE BILL NO. 418

AN ACT AMENDING THE FISCAL YEAR 2000 APPROPRIATIONS ACT.

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

Section 1. Amend House Bill No. 400 of the 140th General Assembly by inserting the following line items and appropriation amounts to the Office of the Budget, Contingencies and One-Time Items, (10-02-04) as follows:

"Pension Plan Penalty Reduction	537.9
Prescription Drug Assistance - Administration	375.0
Private Placement	1,000.0
Elderly Property Tax Relief and Education Expense Fund	13,000.0
Property Tax Relief and Education Expense Fund	17,500.0"

Section 2. Further Amend House Bill No. 400 of the 140th General Assembly by inserting the following line item and Appropriated Special Fund amount to the Office of the Budget, Contingencies and One-Time Items, (10-02-04) as follows:

"Prescription Drug Assistance - Payments	2,322.4 ASF"
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Section 3. Further Amend House Bill No. 400 of the 140th General Assembly by adjusting all sub-totals, totals, and grand totals to include the appropriations contained in Section 1 of this Act.

Section 4. Line item appropriations contained in Section 1 of this act shall be transferred to the appropriate budget units on signature of the Budget Director and the Controller General.

Section 5. Section 2 of this Act shall be effective thirty days after receipt of funds from the Master Settlement Agreement entered into by the State of Delaware and the Participating Tobacco Manufacturers into the Delaware Health Fund created by 72 Laws of Delaware Chapter 198.

Section 6. Further amend House Bill No. 400 of the 140th General Assembly by deleting the numbers "315", "335" and "358" as they appear on line 6, page 99 and inserting in lieu thereof the numbers "319", "339" and "362".

Approved August 05,1999

CHAPTER 256
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 1

AN ACT TO AMEND TITLES 14 AND 29 OF THE DELAWARE CODE RELATING TO SCHOOL TAXES

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

Section 1. Amend § 6102, Title 29 of the Delaware Code, by adding to said section a new subsection (q) to read as follows:

"(q)

- (1) A special fund of the State is created in the Department of Finance to be known as the "Elderly Property Tax Relief and Education Expense Fund" to which shall be deposited \$13 million received in any revenue source not otherwise committed to a special fund, from which shall be paid claims made under this subsection and § 1919 of Title 14. Should such claims exceed \$13 million during any fiscal year, the Secretary of Finance, with the approval of the Budget Director and Controller General, may transfer from the general contingency line in the Department of Education to the Elderly Property Tax Relief and Education Expense Fund the amount of such reasonably foreseen additional claims. Any balance remaining in the Elderly Property Tax Relief and Education Expense Fund at the conclusion of any fiscal year shall revert to the General Fund.
- (2) Sums appropriated pursuant to this Act shall be allocated to school districts using a method that recognizes factors including, but not limited to, the number of primary residential households owned by persons 65 or over in each school district, the relative value of residential property owned by persons 65 and over, the relative property values of each school district, the school tax rates of each school district, and the average rate of application for tax relief pursuant to this Act. The final method and allocation of these monies shall be approved by the Secretary of Finance, in consultation with the Controller General.
- (3) Local school boards shall decide, through majority vote of the whole school board, whether to authorize a credit against taxation imposed pursuant to Chapter 19 of Title 14 on the valuation of any qualified property, as defined herein, owned by a person who, as of the beginning of the tax year, is of the age of 65 or more. The maximum such credit shall be the lesser of 50% of such tax remaining after taking into account any exemption pursuant to Title 9 and Title 22; or \$500. The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to §6102 of Title 29. Shall the local school board decide to authorize less than the maximum amount of credit against taxation, the local school board shall develop a plan for using monies received pursuant to this subsection, provide appropriate and reasonable public notice and comment on the proposed plan, and approve the plan through majority vote of the local school board. Local school boards shall submit the approved plan to the Secretary of Finance, the Secretary of Education, the Budget Director, and the Controller General. In the event that local school boards choose not to authorize the aforementioned credit against taxation, the sums appropriated herein will result in increased State funding for education-related expenses of the school districts. Education-related expenses for the purposes of this subsection shall be defined as including, but not limited to, computer hardware and software, library resources and other instructional materials, and minor capital improvements to school facilities. Local school boards and all other responsible parties under this paragraph are hereby directed to undertake and cause such conditions to be met as soon as practicable after the enactment of this Act, but in no event later than October 30, 1999, and shall notify the Secretary of Finance and the Controller General as soon as such conditions are met. Notwithstanding any of the foregoing to the contrary, funds received pursuant to this Act shall not be used for major capital improvements or debt service."

Section 3. Amend § 1917(a), Title 14 of the Delaware Code, by striking the first sentence of said subsection in its entirety and substituting in lieu thereof the following sentence: "The receiver of taxes and county treasurer shall collect school taxes in the same manner and at the same time as provided by law for the collection of taxes for other purposes, and, except as provided in subsection (c) of this section, shall allow no abatement or discount upon any taxes levied for school purposes required to be collected by them."

Section 4. Amend § 1917, Title 14 of the Delaware Code, by adding to said section a new subsection (c) to read as follows:

"(c)

- (1) If authorized by majority vote of the whole school board of the local school district pursuant to §6102(q) of Title 29, there shall be allowed a credit against taxation imposed pursuant to this chapter on the valuation of any qualified property. For purposes of this subsection, 'qualified property' shall mean property owned and occupied as a dwelling by, and as the principal residence of, a qualified person. A 'qualified person' is a person who, as of the beginning of the tax year, is of the age of 65 or more. The maximum such credit authorized by vote of local school boards shall be the lesser of:

- (A) 50% of such tax remaining after taking into account any exemption pursuant to Title 9 and Title 22 and any tax reduction pursuant to §6102 of Title 29; or

(B) \$500.

The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to §6102 of Title 29.

- (2) No credit against taxation on the valuation of real property as provided in this subsection shall be allowed except in accordance with a form of written application prescribed by the Secretary of Finance in consultation with the receiver of taxes and county treasurer and provided by the receiver of taxes and county treasurer for use by the claimants under this subsection. Such application shall be filed with the receiver of taxes or county treasurer as follows:

- (A) For tax years beginning on or after May 1, 1999, but before May 1, 2000, in accordance with rules and deadlines established by the Secretary of Finance; and
- (B) For all subsequent tax years, no later than the date of application for similar tax exemption programs for persons 65 and over offered by the county in which the qualified property exists.

(3)

- (A) Where title to property on which a credit is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, claimant shall not be allowed a credit against his interest in said property in excess of the assessed valuation of his proportionate share in said property, which proportionate share, for the purposes of this subsection, shall be deemed to be equal to that of each of the other tenants, unless it is shown that the interests in question are not equal, in which event claimant's proportionate share shall be as shown.

- (B) Nothing in this subsection shall preclude more than 1 tenant, whether title be held in common or joint tenancy, from claiming a credit against the property so held, but no more than the equivalent of 1 full credit in regard to such property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, the credit shall be apportioned between or among them in proportion to their interests. Property held by husband and wife, as tenants by the entirety, shall be deemed wholly owned by each tenant, but not more than 1 credit in regard to such property shall be allowed in any year.

- (C) Right to claim a credit under this subsection shall extend to property the title to which is held by a partnership to the extent of the claimant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim a credit under this subsection, but not to property the title to which is held by a corporation.

- (4) The Secretary of Finance may, in consultation with the receiver of taxes and county treasurer, promulgate such rules and regulations and prescribe such forms as the Secretary shall deem necessary to implement this subsection. The Secretary may require that any return or other writing required to be filed

with respect to the credit allowed under authority of this subsection be signed by the maker of such return or writing under oath or affirmation, subject to the penalties of perjury.

- (5) An aggrieved taxpayer may appeal from the disposition of a claim for credit under this subsection in the same manner as provided for appeals from property tax assessments generally.
- (6) Whenever the Secretary of Finance shall determine that a credit has been claimed in disregard of the conditions under which such claims may be made and for which he has authorized payment under § 1919(c) or § 1919(d) of this Title, the Secretary may assess such claimant for the amount of the credit and, unless it is shown that such disregard is due to reasonable cause and not due to willful neglect, with a penalty of 20% of the credit claimed along with interest at 1% for any month or fraction of a month commencing on the date on which the claim for credit was filed."

Section 5. Amend § 1919, Title 14 of the Delaware Code, by adding to said section a new subsection (c) to read as follows:

“(c)

- (1) For tax years beginning on or after May 1, 1999, but before May 1, 2000, each receiver of taxes and county treasurer shall, in accordance with rules and deadlines established by the Secretary of Finance, report to the Secretary of Finance the amount of credits allowed under § 1917(c) for the current tax year. Credits shall be allowed and reported to the Secretary of Finance only in the event the claimant has paid the school tax due for the tax year.
- (2) The Secretary of Finance shall, after receiving the report required under paragraph (1) of this subsection, pay over to each receiver of taxes and county treasurer an amount from the Elderly Property Tax Relief and Education Expense Fund established pursuant to § 6102(q) of Title 29, Delaware Code, to offset administrative costs to each county an amount up to 5% of the value of credits claimed, but not to exceed \$50,000. The Secretary of Finance may use an amount from the Elderly Property Tax Relief and Education Expense Fund established pursuant to § 6102(q) of Title 29, Delaware Code to offset administrative costs up to 5% of the value of credits claimed, but not to exceed \$50,000.
- (3) For tax years beginning on or after May 1, 1999 and before May 1, 2000, each receiver of taxes and county treasurer shall, no later than January 31, 2000, submit a list to the Secretary of Finance of taxpayers qualifying and approved for the credit under § 1917(c) of this Title, the amount equal of the school tax paid by said taxpayer, and the school tax that would have been due taking into account the credit under § 1917(c), along with such other information as deemed appropriate by the Secretary of Finance."
- (4) For tax years beginning on or after May 1, 1999 and before May 1, 2000, the Secretary of Finance shall refund to taxpayers qualifying and approved for the credit under § 1917(c) of this Title an amount equal to the school tax paid by said taxpayer less the school tax that would have been due taking into account the credit under § 1919(c).
- (5) The Secretary of Finance may promulgate such rules and regulations and prescribe such forms and reports as the Secretary of Finance shall deem necessary to implement this subsection."

Section 6. Amend § 1919, Title 14 of the Delaware Code, by adding to said section a new subsection (d) to read as follows:

“(d) For tax years beginning on or after May 1, 2000, each receiver of taxes and county treasurer shall, once each calendar month, report to the Secretary of Finance the amount of credits allowed under § 1917(c) of this Title which have not been previously reported to the Secretary, and such reports shall contain such further information and in such form as the Secretary shall prescribe. Credits shall be allowed and reported to the Secretary of Finance only in the event the claimant has paid the school tax due for the tax year determined after taking into account the credit provided by § 1917(c). The Secretary shall pay over to the State Treasurer, no later than 30 days following receipt of such report, an amount from the Elderly Property Tax Relief and Education Expense Fund established pursuant to § 6102 (q) of Title 29, Delaware Code equal to the allowable credits which shall be deposited into a separate account in the depository for other school moneys to the credit of the district."

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.

Approved August 05, 1999

CHAPTER 257

FORMERLY

SENATE SUBSTITUTE NO. 2

FOR

SENATE BILL NO. 80

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO FUNDING FOR PLACEMENT OF THE HANDICAPPED.

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

Section 1. Amend §604(c), Title 14 of the Delaware Code, by deleting the number "30" as it appears therein and substituting in lieu thereof the number "15", and further by deleting the number "70" as it appears therein and substituting in lieu thereof the number "85".

Approved August 05, 1999

CHAPTER 258

FORMERLY

SENATE BILL NO. 242

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES FOR THE FISCAL YEAR ENDING JUNE 30, 2000; 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; APPROPRIATING SPECIAL FUNDS OF THE DELAWARE TRANSPORTATION AUTHORITY, REVERTING AND REPROGRAMMING CERTAIN FUNDS OF THE STATE; APPROPRIATING GENERAL FUNDS AND SPECIAL FUNDS OF THE STATE; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS; AND AMENDING THE LAWS OF DELAWARE.

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

Section 1. Fiscal Year 2000 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 2000 Governor's Recommended Capital Budget and Project Information document. Any authorization balance (excluding Transportation Trust Fund balances) remaining unexpended or unencumbered by June 30, 2002, shall be subject to reversion or reauthorization.

Approved August 05, 1999

SECTION 1 ADDENDUM

AGENCY/PROJECT	INTERNAL PROGRAM UNIT	BOND AUTHOR-IZATIONS AND REAUTHOR-IZATION	DEAUTHOR-IZATION OF STATE GUAR-ANTEED BONDS	NON-TRANS.		TRANS.		GENERAL FUNDS	21st CENTURY FUNDS	TOTAL
				REAUTHOR-IZATION	STATE GUAR-ANTEED BONDS	STRIPPER WELL	TRUST FUND REAUTH.			
OFFICE OF THE BUDGET										
EMS Information Systems/Corrifications	10-02-01	00001YGD	-	-	-	-	-	1,000,000	-	1,000,000
Inland Bays Flashing Studies	10-02-01	00002YGD	-	-	-	-	-	100,000	-	100,000
Local Police Technology	10-02-01	00003YGE	-	-	-	-	-	3,000,000	-	3,000,000
Technology Fund	10-02-01	00003YGD	-	-	-	-	-	8,000,000	-	8,000,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	13,100,000	\$ -	\$ 13,100,000
DELAWARE ECONOMIC DEVELOPMENT OFFICE										
Delaware Strategic Fund	10-03-03	00001YGD	-	-	-	-	-	12,000,000	-	12,000,000
Rivertown Development Corporation	10-03-03	00004YGD	-	-	-	-	-	12,000,000	-	12,000,000
Life Sciences	10-03-03	00005YGD	-	-	-	-	-	6,000,000	-	6,000,000
AstraZeneca	10-03-03	00006YGD	-	-	-	-	-	6,000,000	-	6,000,000
Garrison's Trust	10-03-03	00007YGD	-	-	-	-	-	2,000,000	-	2,000,000
Seaford Industrial Park	10-03-03	00008YGD	-	-	-	-	-	500,000	-	500,000
Laurel Rivertown	10-03-03	00009YGD	-	-	-	-	-	450,000	-	450,000
Delaware City Rivertown	10-03-03	00010YGD	-	-	-	-	-	200,000	-	200,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	37,150,000	\$ -	\$ 37,150,000

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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.

Approved August 05, 1999

CHAPTER 257
FORMERLY
SENATE SUBSTITUTE NO. 2

FOR

SENATE BILL NO. 80

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO FUNDING FOR PLACEMENT OF THE HANDICAPPED.

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

Section 1. Amend §604(c), Title 14 of the Delaware Code, by deleting the number "30" as it appears therein and substituting in lieu thereof the number "15", and further by deleting the number "70" as it appears therein and substituting in lieu thereof the number "85".

Approved August 05, 1999

CHAPTER 258
FORMERLY

SENATE BILL NO. 242

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES FOR THE FISCAL YEAR ENDING JUNE 30, 2000; DEALTHORIZING 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; APPROPRIATING SPECIAL FUNDS OF THE DELAWARE TRANSPORTATION AUTHORITY; REVERTING AND REPROGRAMMING CERTAIN FUNDS OF THE STATE; APPROPRIATING GENERAL FUNDS AND SPECIAL FUNDS OF THE STATE; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS; AND AMENDING THE LAWS OF DELAWARE.

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Section 1. Fiscal Year 2000 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 2000 Governor's Recommended Capital Budget and Project Information document. Any authorization balance (excluding Transportation Trust Fund balances) remaining unexpended or unencumbered by June 30, 2002, shall be subject to reversion or reauthorization.

Approved August 05, 1999

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SECTION 1 ADDENDUM
FISCAL YEAR 2000 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL PROGRAM UNIT	DFMS NO.	BOND AUTHORIZATIONS AND REAUTHORIZATION	DEAUTHORIZATION OF STATE GUARANTEED BONDS	NON-TRANS. REVERSION & REPROGRAMMING	STRIPPER WELL	TRANS. TRUST FUND REAUTH	TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUNDS	TOTAL
OFFICE OF THE BUDGET											
EMS Information Systems/Defibrillators	10-02-01	00001YGD	-	-	-	-	-	-	1,000,000	-	1,000,000
Inland Bays Flushing Studies	10-02-01	00002YGD	-	-	-	-	-	-	100,000	-	100,000
Local Police Technology	10-02-01	00003YGE	-	-	-	-	-	-	3,000,000	-	3,000,000
Technology Fund	10-02-01	00003YGD	-	-	-	-	-	-	8,000,000	-	8,000,000
Subtotal:			0	0	0	0	0	0	13,100,000	0	13,100,000
DELAWARE ECONOMIC DEVELOPMENT OFFICE											
Delaware Strategic Fund	10-03-03	04001YGD	-	-	-	-	-	-	12,000,000	-	12,000,000
Riverfront Development Corporation	10-03-03	00004YGD	-	-	-	-	-	-	12,000,000	-	12,000,000
Life Sciences	10-03-03	00005YGD	-	-	-	-	-	-	6,000,000	-	6,000,000
AstraZeneca	10-03-03	00006YGD	-	-	-	-	-	-	6,000,000	-	6,000,000
Garrison's Trust	10-03-03	00007YGD	-	-	-	-	-	-	2,000,000	-	2,000,000
Seaford Industrial Park	10-03-03	00008YGD	-	-	-	-	-	-	500,000	-	500,000
Laurel Riverfront	10-03-03	00009YGD	-	-	-	-	-	-	450,000	-	450,000
Delaware City Riverfront	10-03-03	00010YGD	-	-	-	-	-	-	200,000	-	200,000
Subtotal:			0	0	0	0	0	0	37,150,000	0	37,150,000
OFFICE OF INFORMATION SERVICES											
800 MHz State Agency End User Equipment	10-08-30	00001YGE	-	-	-	-	-	-	250,000	-	250,000
Kent County 800MHz Radio Installation	10-08-30	00011YGE	-	-	-	-	-	-	72,000	-	72,000
Subtotal:			0	0	0	0	0	0	322,000	0	322,000
STATE											
Diamond State Port Corporation	20-01-01	00012YGD	-	-	-	-	-	-	10,000,000	-	10,000,000
Diamond State Port Corporation - Debt Reduction	20-01-01	00013YGD	-	-	-	-	-	-	7,000,000	-	7,000,000
Delaware Stadium Corporation	20-01-01	00010YGD	-	-	-	-	-	-	1,100,000	-	1,100,000
Main Channel Grading	20-01-01	00008YGD	-	-	-	-	-	-	2,000,000	-	2,000,000

SECTION 1 ADDENDUM
FISCAL YEAR 2000 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT			BOND AUTHOR-	DEAUTHOR-	NON-TRANS.	TRANS.								
	INTERNAL		IZATIONS AND	IZATION OF	REVERSION									
	PROGRAM		REAUTHOR-	STATE GUAR-	& REPRO-	STRIPPER	TRUST FUND	TRANS	GENERAL	21st CENTURY				
	UNIT	OFMS NO.	IZATION	ANTEED BONDS	GRAMMING	WELL	REAUTH	TRUST FUNDS	FUNDS	FUNDS	TOTAL			
STATE - Continued														
Delaware Auto Terminal	20-01-01	00014YGO	-	-	-	-	-	-	2,000,000	-	2,000,000			
Painting Collection	20-01-01	00018YGO	-	-	-	-	-	-	200,000	-	200,000			
Veterans Home Study	20-01-01	00018YGO	-	-	-	-	-	-	55,000	-	55,000			
Veterans Monument Maintenance/Restoration Fund	20-01-02	00017YGO	-	-	-	-	-	-	50,000	-	50,000			
Abbott's Mill	20-06-04	99017YGR	-	-	-	-	-	-	245,000	-	245,000			
Fenwick Island Lighthouse	20-06-04	00018YRO	-	-	75,000	-	-	-	-	-	75,000			
Cape Henlopen Lighthouse study	20-06-04	00018YRO	-	-	20,000	-	-	-	-	-	20,000			
Georgetown Public Library	20-08-01	99018YRC	-	-	970,300	-	-	-	-	-	970,300			
Dover Public Library	20-08-01	00020YRC	-	-	364,300	-	-	-	-	-	364,300			
Milton Public Library	20-08-01	00021YRR	-	-	288,000	-	-	-	-	-	288,000			
Lewes Public Library	20-08-01	00022YGC	-	-	-	-	-	-	500,000	-	500,000			
Wilmington Institute Library	20-08-01	00023YGM	-	-	-	-	-	-	83,000	-	83,000			
Beer Public Library	20-08-01	93002YGC	-	-	-	-	-	-	121,800	-	121,800			
Newark Library	20-08-01	00024YGC	-	-	-	-	-	-	1,690,600	-	1,690,600			
Smyrna Library	20-08-01	00025YGR	-	-	-	-	-	-	75,400	-	75,400			
Subtotal:			\$	-	\$	-	\$	-	\$	25,101,700	\$	-	\$	25,799,300

ADMINISTRATIVE SERVICES

MC/Equipment Supplement - DAS	30-05-10	99021YGM	-	-	-	-	-	-	1,185,800	-	1,185,800
Maintenance and Restoration	30-05-10	00026YGO	-	-	-	-	-	-	1,000,000	-	1,000,000
Sussex County Courthouse Renovation/ Property Acquisition	30-05-10	99010YBR 99010YGR	-	-	-	-	-	-	7,000,000	-	7,000,000
Environmental Compliance (UST/Asbestos)	30-05-10	00027YGM	-	-	-	-	-	-	1,500,000	-	1,500,000
New Castle County Courthouse	30-05-10	99002YBC	60,000,000	-	-	-	-	-	-	-	60,000,000
Carvel Building Renovations	30-05-10	99021YGR	-	-	-	-	-	-	1,082,700	-	1,082,700
Governor Bacon Campus Utility/Site Renovations	30-05-10	00028YGM	-	-	-	-	-	-	1,500,000	-	1,500,000
Kent County Courthouse	30-05-10	00029YBR 00029YGR	-	520,000	-	-	-	-	555,200	-	1,075,200

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SECTION 1 ADDENDUM
FISCAL YEAR 2000 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL	BOND AUTHOR-	DEAUTHOR-	NON-TRANS	TRANS			GENERAL	21st CENTURY	TOTAL
	PROGRAM	IZATIONS AND	IZATION OF	REVERSION	STRIPPER	TRUST FUND				
	OFMS NO.	REAUTHOR-	STATE GUAR-	& REPRO-	WELL	REAUTH	TRANS			
	UNIT		IZATION	ANTEED BONDS	GRAMMING		FUNDS	FUNDS		
ADMINISTRATIVE SERVICES - Continued										
MC/Equipment Supplement - Judicial	30-05-10	99013YGM	-	-	-	-	-	100,000	-	100,000
Architectural Barrier Removal	30-05-10	91018YGM	-	-	-	-	-	150,000	-	150,000
Energy Efficiency Program	30-05-10	99014YBM	-	-	-	200,000	-	-	-	200,000
Department of State Projects										
Buena Vista Conference Center Renovations	30-05-10	00030YBR	-	-	-	-	-	1,350,000	-	1,350,000
Archives Moving/Storage	30-05-10	99015YGO	-	-	-	-	-	282,300	-	282,300
Oayett Mills	30-05-10	97010YRM	-	-	25,000	-	-	-	-	25,000
Dickinson Mansion	30-05-10	00031YGM	-	-	-	-	-	150,000	-	150,000
Arsenal on the Green - Structural Renovations	30-05-10	00032YRM	-	-	250,000	-	-	-	-	250,000
MC/Equipment Supplement - State	30-05-10	99003YGM	-	-	-	-	-	500,000	-	500,000
Department of Health and Social Services Projects										
Stockley Skilled Care Planning/Renovations	30-05-10	00033YGP	-	-	-	-	-	650,000	-	650,000
Holloway Campus Renewal	30-05-10	97038YGR	-	-	-	-	-	350,000	-	350,000
Holloway Campus Cottages Renovation	30-05-10	00034YGR	-	-	-	-	-	150,000	-	150,000
Minor Capital Improvements and Equipment	30-05-10	93028YGM	-	-	-	-	-	600,000	-	600,000
Department of Services for Children, Youth and Their Families Projects										
MC/Equipment Supplement - OSCYTF	30-05-10	99018YGM	-	-	-	-	-	300,000	-	300,000
Statewide Secure Care Facility	30-05-10	00035YGC	-	-	-	-	-	1,118,800	-	1,118,800
Department of Correction Projects										
DOC Master Planning/Programming	30-05-10	00038YGP	-	-	-	-	-	250,000	-	250,000
Women's Correctional Capacity Planning	30-05-10	00037YGP	-	-	-	-	-	250,000	-	250,000
MC/Equipment Supplement - Correction	30-05-10	99008YGM	-	-	-	-	-	2,800,000	-	2,800,000
Department of Public Safety Projects										
Troop 2 Construction	30-05-10	97013YBC	5,000,000	-	-	-	-	-	-	5,000,000
SBI Customer Service Facility Design	30-05-10	00039YGP	-	-	-	-	-	125,000	-	125,000
MC/Equipment Supplement - Public Safety	30-05-10	93048YGM	-	-	-	-	-	600,000	-	600,000
Department of Agriculture Projects										
Agriculture Building and Laboratory Renovations	30-05-10	00039YGR	-	-	-	-	-	1,000,000	-	1,000,000
MC/Equipment - Complete Redden Forest Projects	30-05-10	97014YGC	-	-	75,000	-	-	-	-	75,000

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SECTION 1 ADDENDUM
FISCAL YEAR 2000 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL		BOND AUTHOR-	DEAUTHOR-	NON-TRANS.	TRANS					21st CENTURY	TOTAL
	PROGRAM		IZATIONS AND	IZATION OF	REVERSION	TRUST FUND		GENERAL				
	UNIT	DFMS NO.	REAUTHOR-	STATE GUAR-	& REPRO-	STRIPPER	REAUTH.	TRANS	FUNDS			
			IZATION	ANTEED BONDS	GRAMMING	WELL						
ADMINISTRATIVE SERVICES - Continued												
Fire School Projects												
Rewire Drillground Electrical System	30-05-10	00040YGM	-	-	-	-	-	-	50,000	-	50,000	
Auditorium Planning	30-05-10	00041YGP	-	-	-	-	-	-	30,000	-	30,000	
Fencing/Lighting Repair	30-05-10	00042YGM	-	-	-	-	-	-	30,000	-	30,000	
Delaware National Guard Projects												
Smyrna Readiness Center Land	30-05-10	97018YGL	-	-	-	-	-	-	240,000	-	240,000	
Smyrna Readiness Center Construction	30-05-10	97018YGB	-	-	-	-	-	-	2,400,000	-	2,400,000	
MCUEquipment Supplement - ONG	30-05-10	91051YGM	-	-	-	-	-	-	500,000	-	500,000	
Subtotal:			\$ 65,000,000	\$ 620,000	\$ 360,000	\$ 200,000	\$ -	\$ -	27,770,000	\$ -	\$ 93,950,000	
HEALTH AND SOCIAL SERVICES												
Fluoridation	35-01-20	00043YGO	-	-	-	-	-	-	500,000	-	500,000	
Maintenance and Restoration	35-01-20	97018YGM	-	-	-	-	-	-	1,500,000	-	1,500,000	
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	2,000,000	\$ -	2,000,000	
NATURAL RESOURCES AND ENVIRONMENTAL CONTROL												
Newport Boat Ramp	40-05-01	99033YGO	-	-	-	-	-	-	250,000	-	250,000	
Becke Pond Environmental Study	40-05-01	00044YGP	-	-	-	-	-	-	50,000	-	50,000	
Park Rehabilitation	40-06-02	61031YBM	-	-	-	-	-	-	1,250,000	-	1,250,000	
Wilmington State Parks/Fort Delaware	40-06-02	00045YGM	-	-	-	-	-	-	1,000,000	-	1,000,000	
Delaware Seashore State Park Wastewater	40-06-02	99034YGC	-	-	-	-	-	-	800,000	-	800,000	
Judge Morris Estate Parking/Barn	40-06-02	99035YGR	-	-	-	-	-	-	500,000	-	500,000	
Holt's Landing Crabbing Pier	40-06-02	99037YGR	-	-	-	-	-	-	275,000	-	275,000	
Cape Henlopen State Park	40-06-02	00046YGM	-	-	-	-	-	-	1,000,000	-	1,000,000	
Fox Point State Park Study	40-06-02	00047YGP	-	-	-	-	-	-	50,000	-	50,000	
Tax/Public Ditches	40-07-02	78031YGC	-	-	-	-	-	-	500,000	-	500,000	
Beach Preservation	40-07-03	78032YGO	-	-	-	-	-	-	1,000,000	-	1,000,000	
Conservation Cost Sharing Program	40-07-04	85033YGO	-	-	-	-	-	-	2,345,000	-	2,345,000	
Combined Sewer Overflows	40-08-07	99040YGO	-	-	-	-	-	-	1,500,000	-	1,500,000	
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	10,420,000	\$ -	10,420,000	

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SECTION 1 - J.M.
FISCAL YEAR 2000 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL	BOND AUTHOR-	DEAUTHOR-	NON-TRANS	STRIPPER	TRANS	GENERAL	21st CENTURY	TOTAL
	PROGRAM	IZATIONS AND	IZATION OF	REVERSION		TRUST FUNG		FUNDS	
	UNIT	DFMS NO.	REAUTHOR-	STATE GUAR-	& REPRO-	WELL	REAUTH	TRANS	
			IZATION	ANTEED BONDS	GRAMMING			TRUST FUNDS	
PUBLIC SAFETY									
State Police Helicopter Replacement - Lease	45-01-01	96023YGE	-	-	-	-	-	450,000	450,000
Computers for Patrol Vehicles	45-06-01	00048YGE	-	-	-	-	-	1,100,000	1,100,000
State Police Bomb Disposal Vehicle	45-06-01	00049YGO	-	-	-	-	-	20,000	20,000
Training Academy equipment/upgrades	45-06-01	00050YGM	-	-	-	-	-	87,800	87,800
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	1,647,800	1,647,800
TRANSPORTATION									
Program Development (74/00)	55-05-00	95034YTT	-	-	-	-	-	3,000,000	3,000,000
System Preservation (75/00)	55-05-00	95034YTT	-	-	-	-	-	85,542,000	85,542,000
System Management (76/00)	55-05-00	95035YTT	-	-	-	-	-	32,895,000	32,895,000
System Expansion (77/00)	55-05-00	95036YTT	-	-	-	-	14,020,000	25,434,000	39,454,000
Engineering and Contingencies (57/00)	55-05-00	78049YTT	-	-	-	-	-	7,880,000	7,880,000
Suburban Streets/Misc. Drainage (58/00)	55-05-00	78043YTT	-	-	-	-	1,550,000	18,550,000	20,100,000
Municipal Street Aid (71/00)	55-05-00	99034YTT	-	-	-	-	-	8,000,000	8,000,000
Reserve Account	55-05-00		-	-	-	-	-	1,880,000	1,880,000
Subtotal:			\$ -	\$ -	\$ -	\$ 15,570,000	\$ 160,661,000	\$ -	176,231,000
AGRICULTURE									
Ag Experimental Station	65-01-01	00051YGO	-	-	-	-	-	120,000	120,000
Nutrient Management	65-01-01	00052YGO	-	-	-	-	-	200,000	200,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	320,000	320,000
FIRE PREVENTION COMMISSION									
Hydraulic Rescue Tools (Newark, Cranston Heights, Holloway Terraces, Minquas, Odessa, Bowers, Camden/Wyoming, Cheswold, Frederica, Houston, Bathany Blades, Oagsboro, Indian River, Lewes, Millsboro, Millville, Selbyville, Hockessin)	75-02-01	92017YGE	-	-	-	-	-	142,500	142,500
Thermal Imaging Cameras	75-02-01	99048YGE	-	-	-	-	-	135,000	135,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	277,500	277,500

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SECTION 1 ADDENDUM
FISCAL YEAR 2000 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL PROGRAM UNIT	DFMS NO.	BOND AUTHOR-IZATIONS AND REAUTHOR-IZATION	DEAUTHOR-IZATION OF STATE GUAR-ANTEED BONDS	NON-TRANS. & REPRO-GRAMMING	STRIPPER WELL	TRANS. TRUST FUND REAUTH.	TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUNDS	TOTAL
DELAWARE NATIONAL GUARD											
Dagobert Army Completion	78-01-00	88018YBC	-	-	-	-	-	-	200,000	-	200,000
Harrington Army Renovations	78-01-00	00053YGR	-	-	-	-	-	-	170,000	-	170,000
Subtotal:			-	-	-	-	-	-	370,000	-	370,000
UNIVERSITY OF DELAWARE											
Townsend Hall Renovation	90-01-01	89048YGC	-	-	-	-	-	-	4,000,000	-	4,000,000
Carpenter Renovation	90-01-01	00054YGR	-	-	-	-	-	-	3,800,000	-	3,800,000
MCI/Equipment Supplement - (Biotechnology/Information Systems)	90-01-01	97023YGE	-	-	-	-	-	-	1,000,000	-	1,000,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	8,800,000	\$ -	8,800,000
DELAWARE STATE UNIVERSITY											
MCI/Equipment Supplement - DSU	90-03-01	80074YGM	-	-	-	-	-	-	3,000,000	-	3,000,000
Administration Building	90-03-01	89048YBC	-	-	-	-	-	-	5,500,000	-	5,500,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	8,500,000	\$ -	8,500,000
DELAWARE TECHNICAL AND COMMUNITY COLLEGE											
Administrative Software Project	90-04-01	00055YGO	-	-	-	-	-	-	1,250,000	-	1,250,000
Excellence Through Technology	90-04-01	87024YGO	-	-	-	-	-	-	300,000	-	300,000
Student Services Center	90-04-02	96028YGC	-	-	-	-	-	-	400,000	-	400,000
Jason Building Renovation - Owens Campus	90-04-02	95041YGR	-	-	-	-	-	-	2,750,000	-	2,750,000
Wilmington/Stanford Renovations and Equipment	90-04-04	00058YGM	-	-	-	-	-	-	700,000	-	700,000
Polytech Renovations - Terry Campus	90-04-06	87028YGR	-	-	-	-	-	-	3,100,000	-	3,100,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	8,500,000	\$ -	8,500,000

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SECTION 1 ADDENDUM
FISCAL YEAR 2000 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL PROGRAM UNIT	DFMS NO.	BOND AUTHOR-IZATIONS AND REAUTHOR-IZATION	DEAUTHOR-IZATION OF STATE GUAR-ANTEED BONDS	NON-TRANS. & REPRO-GRAMMING	STRIPPER WELL	TRANS. TRUST FUND REAUTH.	TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUNDS	TOTAL
EDUCATION											
Public Ed Enhanced Minor Capital Imprv. Fund (100% State)	85-01-01	78050YGM	-	-	-	-	-	-	10,000,000	-	10,000,000
Architectural Barrier Removal	95-01-01	81074YGM	-	-	-	-	-	-	180,000	-	180,000
Capital, Renovate /Addn. To BT/West Dover Elementary (87/33)	95-13-00	00057YGR	-	-	-	-	-	-	382,300	-	382,300
Capital, Renovate /Addns. Kent Co. Community School (87/33)	95-13-00	00058YGR	-	-	-	-	-	-	138,900	-	138,900
Capital, Renovate Central MS (87/33)	95-13-00	00059YGR	-	-	-	-	-	-	589,100	-	589,100
Capital, Renovate District Maintenance Bldg. (87/33)	95-13-00	00060YGR	-	-	-	-	-	-	478,000	-	478,000
Capital, Renovate Dover High School (87/33)	95-13-00	00061YGR	-	-	-	-	-	-	181,600	-	181,600
Capital, Renovate East Dover Elementary (87/33)	95-13-00	00062YGR	-	-	-	-	-	-	2,718,200	-	2,718,200
Capital, Renovate South Dover Elementary (87/33)	95-13-00	00063YGR	-	-	-	-	-	-	2,604,100	-	2,604,100
Capital, Renovate Wm. Henry Middle School (87/33)	95-13-00	00064YGR	-	-	-	-	-	-	485,800	-	485,800
Capital, Renovate/Addns. To Fairview Elementary (87/33)	95-13-00	00065YGR	-	-	-	-	-	-	142,600	-	142,600
Capital, Renovate/Addns. To Hartly Elementary (87/33)	95-13-00	00066YGR	-	-	-	-	-	-	2,498,000	-	2,498,000
Capital, Renovate/Addns. To Towne Pl. Elementary (87/33)	95-13-00	00067YGR	-	-	-	-	-	-	141,100	-	141,100
Lake Forest, Construct 720-Pupil Elementary (80/20)	95-16-00	00068YGC	-	-	-	-	-	-	8,925,700	-	8,925,700
Lake Forest, Renovate W. T. Chipman Middle (80/20)	95-16-00	00069YGR	-	-	-	-	-	-	1,584,200	-	1,584,200
Lake Forest, Renovate Lake Forest High (80/20)	95-16-00	00070YGR	-	-	-	-	-	-	1,644,200	-	1,644,200
Lake Forest, Renovate Lake Forest South A ES (80/20)	95-16-00	00071YGR	-	-	-	-	-	-	1,518,300	-	1,518,300
Lake Forest, Renr./Addns. To Lake Forest East ES (80/20)	95-16-00	00072YGR	-	-	-	-	-	-	2,000,000	-	2,000,000
Lake Forest, Renr./Addns. To Lake Forest North ES (80/20)	95-16-00	00073YGR	-	-	-	-	-	-	1,500,000	-	1,500,000
Cape Henlopen - Roof Renovations (80/40)	95-17-00	00074YGR	-	-	-	-	-	-	840,000	-	840,000
Cape Henlopen - Agriculture Program (80/40)	95-17-00	00075YGE	-	-	-	-	-	-	50,000	-	50,000
Millford, Construct New Banneker Elementary (78/22)	95-18-00	00076YBC	4,000,000	-	-	-	-	-	-	-	4,000,000
Millford, Land Acquisition, Elem./Middle School (78/22)	95-18-00	00077YGR	-	-	-	-	-	-	124,300	-	124,300
Millford, Morris Early Childhood Ctr. Addition (78/22)	95-18-00	00078YGR	-	-	-	-	-	-	1,921,300	-	1,921,300
Millford, Renovate Millford High (78/22)	95-18-00	00079YGR	-	-	-	-	-	-	2,000,000	-	2,000,000
Millford, Renovate Lulu Ross Elementary (78/22)	95-18-00	00080YGR	-	-	-	-	-	-	2,283,400	-	2,283,400
Seaford - Renovate/Expand Blades Elementary (80/20)	95-23-00	00081YGR	-	-	-	-	-	-	348,300	-	348,300
Seaford - Renovate/Expand Central Elementary (80/20)	95-23-00	00082YGR	-	-	-	-	-	-	2,034,200	-	2,034,200
Seaford - Renovate/Expand Douglas Elementary (80/20)	95-23-00	00083YGR	-	-	-	-	-	-	89,700	-	89,700

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SECTION 1 ADDENDUM
FISCAL YEAR 2000 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL PROGRAM UNIT	DFMS NO.	BOND AUTHORIZATIONS AND REAUTHORIZATION	DEAUTHORIZATION OF STATE GUARANTEED BONDS	NON-TRANS. & REPROGRAMMING	STRIPPER WELL	TRANS. TRUST FUND REAUTH.	TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUNDS	TOTAL
DELAWARE NATIONAL GUARD											
Dagaboro Amory Completion	78-01-00	89015YBC	-	-	-	-	-	-	200,000	-	200,000
Harrington Amory Renovations	78-01-00	00053YGR	-	-	-	-	-	-	170,000	-	170,000
Subtotal:			-	-	-	-	-	-	370,000	-	370,000
UNIVERSITY OF DELAWARE											
Townsend Hall Renovation	90-01-01	89048YGC	-	-	-	-	-	-	4,000,000	-	4,000,000
Carpenter Renovation	90-01-01	00054YGR	-	-	-	-	-	-	3,500,000	-	3,500,000
MCUEquipment Supplement - (Biotechnology Information Systems)	90-01-01	97023YGE	-	-	-	-	-	-	1,000,000	-	1,000,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	8,500,000	\$ -	8,500,000
DELAWARE STATE UNIVERSITY											
MCUEquipment Supplement - DSU	90-03-01	80074YGM	-	-	-	-	-	-	3,000,000	-	3,000,000
Administration Building	90-03-01	89048YBC	-	-	-	-	-	-	5,600,000	-	5,600,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	8,600,000	\$ -	8,600,000
DELAWARE TECHNICAL AND COMMUNITY COLLEGE											
Administrative Software Project	90-04-01	00058YGO	-	-	-	-	-	-	1,250,000	-	1,250,000
Excellence Through Technology	90-04-01	97024YGO	-	-	-	-	-	-	300,000	-	300,000
Student Services Center	90-04-02	89028YGC	-	-	-	-	-	-	400,000	-	400,000
Jason Building Renovation - Owens Campus	90-04-02	95041YGR	-	-	-	-	-	-	2,750,000	-	2,750,000
Wilmington/Stanton Renovations and Equipment	90-04-04	00058YGM	-	-	-	-	-	-	700,000	-	700,000
Polytech Renovations - Terry Campus	90-04-08	97028YGR	-	-	-	-	-	-	3,100,000	-	3,100,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	8,600,000	\$ -	8,600,000

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SECTION 1 ADDENDUM
FISCAL YEAR 2000 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL PROGRAM UNIT	DFMS NO.	BOND AUTHORIZATIONS AND REAUTHORIZATION	DEAUTHORIZATION OF STATE GUARANTEED BONDS	NON-TRANS. & REPROGRAMMING	STRIPPER WELL	TRANS. TRUST FUND REAUTH.	TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUNDS	TOTAL
EDUCATION											
Public Ed Enhanced Minor Capital Imprv. Fund (100% State)	95-01-01	78050YGM	-	-	-	-	-	-	10,000,000	-	10,000,000
Architectural Barrier Removal	95-01-01	91074YGM	-	-	-	-	-	-	160,000	-	160,000
Capital, Renovate/Addn. To B7/West Dover Elementary (97/33)	95-13-00	00087YGR	-	-	-	-	-	-	382,300	-	382,300
Capital, Renovate/Addn. Kent Co. Community School (97/33)	95-13-00	00058YGR	-	-	-	-	-	-	138,900	-	138,900
Capital, Renovate Central MS (97/33)	95-13-00	00059YGR	-	-	-	-	-	-	589,100	-	589,100
Capital, Renovate District Maintenance Bldg. (97/33)	95-13-00	00060YGR	-	-	-	-	-	-	478,000	-	478,000
Capital, Renovate Dover High School (97/33)	95-13-00	00061YGR	-	-	-	-	-	-	181,600	-	181,600
Capital, Renovate East Dover Elementary (97/33)	95-13-00	00062YGR	-	-	-	-	-	-	2,718,200	-	2,718,200
Capital, Renovate South Dover Elementary (97/33)	95-13-00	00063YGR	-	-	-	-	-	-	2,604,100	-	2,604,100
Capital, Renovate Wm. Henry Middle School (97/33)	95-13-00	00064YGR	-	-	-	-	-	-	485,800	-	485,800
Capital, Renovate/Addn. To Fairview Elementary (97/33)	95-13-00	00065YGR	-	-	-	-	-	-	142,600	-	142,600
Capital, Renovate/Addn. To Harby Elementary (97/33)	95-13-00	00066YGR	-	-	-	-	-	-	2,458,000	-	2,458,000
Capital, Renovate/Addn. To Towns Pl. Elementary (97/33)	95-13-00	00067YGR	-	-	-	-	-	-	141,100	-	141,100
Lake Forest, Construct 720-Pupil Elementary (90/20)	95-15-00	00068YGC	-	-	-	-	-	-	8,925,700	-	8,925,700
Lake Forest, Renovate W. T. Chipman Middle (90/20)	95-15-00	00069YGR	-	-	-	-	-	-	1,584,200	-	1,584,200
Lake Forest, Renovate Lake Forest High (90/20)	95-15-00	00070YGR	-	-	-	-	-	-	1,644,200	-	1,644,200
Lake Forest, Renovate Lake Forest South A ES (90/20)	95-15-00	00071YGR	-	-	-	-	-	-	1,518,300	-	1,518,300
Lake Forest, Renov/Addn. To Lake Forest East ES (90/20)	95-15-00	00072YGR	-	-	-	-	-	-	2,000,000	-	2,000,000
Lake Forest, Renov/Addn. To Lake Forest North ES (90/20)	95-15-00	00073YGR	-	-	-	-	-	-	1,600,000	-	1,600,000
Cape Henlopen - Roof Renovations (90/40)	95-17-00	00074YGR	-	-	-	-	-	-	840,000	-	840,000
Cape Henlopen - Agriculture Program (90/40)	95-17-00	00075YGE	-	-	-	-	-	-	60,000	-	60,000
Milford, Construct New Bannaker Elementary (78/22)	95-18-00	00076YBC	4,000,000	-	-	-	-	-	-	-	4,000,000
Milford, Land Acquisition, Elem/Middle School (78/22)	95-18-00	00077YGR	-	-	-	-	-	-	124,300	-	124,300
Milford, Monte Early Childhood Ctr, Addition (78/22)	95-18-00	00078YGR	-	-	-	-	-	-	1,921,300	-	1,921,300
Milford, Renovate Milford High (78/22)	95-18-00	00079YGR	-	-	-	-	-	-	2,000,000	-	2,000,000
Milford, Renovate Lulu Ross Elementary (78/22)	95-18-00	00080YGR	-	-	-	-	-	-	2,283,400	-	2,283,400
Seaford - Renovate/Expand Blades Elementary (90/20)	95-23-00	00081YGR	-	-	-	-	-	-	348,300	-	348,300
Seaford - Renovate/Expand Central Elementary (90/20)	95-23-00	00082YGR	-	-	-	-	-	-	2,034,200	-	2,034,200
Seaford - Renovate/Expand Douglas Elementary (90/20)	95-23-00	00083YGR	-	-	-	-	-	-	98,700	-	98,700

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SECTION 1 ADDENDUM
FISCAL YEAR 2000 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL PROGRAM		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 FUNDS	TOTAL
	UNIT	OFMS NO.									
EDUCATION - Continued											
Sesford - Renovate/Expand Sesford High (80/20)	86-23-00	00084YGR	-	-	-	-	-	-	137,800	-	137,800
Sesford - Renovate/Expand Sesford Middle (80/20)	86-23-00	00085YGR	-	-	-	-	-	-	3,337,500	-	3,337,500
Sesford - Renovate/Expand West Elementary (80/20)	86-23-00	00086YGR	-	-	-	-	-	-	2,826,700	-	2,826,700
Appoquinimink, Construct New Elementary (71/29)	86-29-00	99052YBC	-	-	-	-	-	-	5,201,000	-	5,201,000
Appoquinimink, Renovate Middletown Middle (71/29)	86-29-00	99053YGR	-	-	-	-	-	-	4,181,500	-	4,181,500
Appoquinimink, Renovate Redding Middle(71/29)	86-29-00	99054YGR	-	-	-	-	-	-	1,788,300	-	1,788,300
Appoquinimink, Renovate Townsend Elementary(71/29)	86-29-00	99056YGR	-	-	-	-	-	-	1,633,800	-	1,633,800
Appoquinimink, Renovate Silver Lake Elementary(71/29)	86-29-00	99055YGR	-	-	-	-	-	-	1,048,400	-	1,048,400
Appoquinimink, Critical Classroom Acquisition Program (CCAP) (71/29)	86-29-00	00087YGC	-	-	-	-	-	-	4,000,000	-	4,000,000
Red Clay, Renovate McKean HS(80/40)	86-32-00	99063YGR	-	-	-	-	-	-	1,025,400	-	1,025,400
Red Clay, Renovate Baltz Elementary (80/40)	86-32-00	99064YGR	-	-	-	-	-	-	883,200	-	883,200
Red Clay, Renovate Conrad Elementary (80/40)	86-32-00	99065YGR	-	-	-	-	-	-	1,060,200	-	1,060,200
Red Clay, Renovate Dickinson HS (80/40)	86-32-00	99066YGR	-	-	-	-	-	-	582,900	-	582,900
Red Clay, Renovate Forest Oak Elementary (80/40)	86-32-00	99067YGR	-	-	-	-	-	-	487,800	-	487,800
Red Clay, Renovate H. B. duPont MS (80/40)	86-32-00	99068YGR	-	-	-	-	-	-	470,400	-	470,400
Red Clay, Renovate Highlands Elementary (80/40)	86-32-00	99069YGR	-	-	-	-	-	-	238,800	-	238,800
Red Clay, Renovate Linden Hill Elementary (80/40)	86-32-00	99070YGR	-	-	-	-	-	-	83,700	-	83,700
Red Clay, Renovate Marbrook Elementary (80/40)	86-32-00	99071YGR	-	-	-	-	-	-	487,400	-	487,400
Red Clay, Renovate Mote Elementary (80/40)	86-32-00	99072YGR	-	-	-	-	-	-	538,900	-	538,900
Red Clay, Renovate Richardson Pk Elementary(80/40)	86-32-00	99073YGR	-	-	-	-	-	-	798,200	-	798,200
Red Clay, Renovate Shortridge Elementary (80/40)	86-32-00	99074YGR	-	-	-	-	-	-	425,500	-	425,500
Red Clay, Renovate Skyline MS (80/40)	86-32-00	99075YGR	-	-	-	-	-	-	718,100	-	718,100
Red Clay, Renovate Stanton MS (80/40)	86-32-00	99076YGR	-	-	-	-	-	-	188,200	-	188,200
Red Clay Renovate Telegraph Rd. (80/40)	86-32-00	99077YGR	-	-	-	-	-	-	444,900	-	444,900
Red Clay, Renovate Warner Elementary (80/40)	86-32-00	99078YGR	-	-	-	-	-	-	227,200	-	227,200
Red Clay, Renovate Wilmington HS (80/40)	86-32-00	99079YGR	-	-	-	-	-	-	1,191,200	-	1,191,200
Red Clay, Renovate A. I. duPont HS (80/40)	86-32-00	99080YGR	-	-	-	-	-	-	1,241,800	-	1,241,800

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SECTION 1 ADDENDUM
FISCAL YEAR 2000 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL		BOND AUTHOR-	DEAUTHOR-	NON-TRANS.	TRANS.			GENERAL FUNDS	21st CENTURY FUNDS	TOTAL
	PROGRAM		IZATIONS AND	IZATION OF	REVERSION	STRIPPER	TRUST FUND				
	UNIT	OFMS NO.	REAUTHOR- IZATION	STATE GUAR- ANTEED BONDS	& REPRO- GRAMMING	WELL	REAUTH.	TRUST FUNDS			
EDUCATION - Continued											
Red Clay, Renovate Richey Elementary (80/40)	86-32-00	99081YGR	-	-	-	-	-	-	85,500	-	85,500
Red Clay, Renovate Lewis Elementary (80/40)	86-32-00	99082YGR	-	-	-	-	-	-	88,500	-	88,500
Red Clay, Brandywine Springs (80/40)	86-32-00	97041YGC	-	-	-	-	-	-	3,000,000	-	3,000,000
Delmar, for New MidHB (78/21)	86-37-00	99030YGC	-	-	-	-	-	-	447,800	-	447,000
Delaware Skills Center Building renovations (100% State)	86-38-00	99085YGR	-	-	-	-	-	-	250,000	-	250,000
State Consortium for Tech Prep programs (100% State)	86-38-00	99085YGC	-	-	-	-	-	-	450,000	-	450,000
Sussex Tech, Expansion Of Sussex Tech High (80/40)	86-40-00	99085YBC	1,000,000	-	-	-	-	-	2,000,000	-	3,000,000
		99085YGC									
Indian River, Renovate Ennis School (80/40)	86-43-00	00086YGR	-	-	-	-	-	-	138,100	-	138,100
Margaret Sterck School Renovations (100% State)	86-51-00	00086YGR	-	-	-	-	-	-	412,000	-	412,000
Brandywine, Bush School Renovations (100%)	86-52-00	00086YGR	-	-	-	-	-	-	207,000	-	207,000
Subtotal:			\$ 5,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 87,020,400	\$ -	\$ 87,020,400
TWENTY-FIRST CENTURY FUND											
Open Space	25-01-01	00081YGC	-	-	-	-	-	-	18,000,000	-	18,000,000
Water/Wastewater	25-01-01	00082YGC	-	-	-	-	-	-	10,000,000	-	10,000,000
Resource, Conservation and Development	25-01-01	00083YGC	-	-	-	-	-	-	7,000,000	-	7,000,000
Pulp Woodlands	25-01-01	00084YGL	-	-	-	-	-	-	5,000,000	-	5,000,000
Farmland Preservation	25-01-01	00086YGC	-	-	-	-	-	-	5,000,000	-	5,000,000
Community Redevelopment	25-01-01	00086YGC	-	-	1,000,000	-	-	-	3,000,000	8,000,000	12,000,000
		00086YGC									
Subtotal			\$ -	\$ -	\$ 1,000,000	\$ -	\$ -	\$ -	\$ 48,000,000	\$ 8,000,000	\$ 57,000,000
GRAND TOTAL:			\$ 70,000,000	\$ 820,000	\$ 3,067,800	\$ 200,000	\$ 15,870,000	\$ 180,841,000	\$ 278,000,000	\$ 8,000,000	\$ 537,008,800

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1 Section 2. Deauthorization of State Guaranteed Bonds.

2 (a) Amend Section 5054(d)(2) of Title 29 of the Delaware Code, as amended, by striking the number "\$6,227,015"
3 wherever it appears in said Section and inserting in lieu thereof the number "\$5,607,015."

4 (b) Nothing in this Act shall reduce the amount of bonds authorized to be issued by The Delaware Economic
5 Development Authority, or any successor authority, to which may be pledged the full faith and credit of the state below the
6 amount of such bonds issued and unpaid on the effective date of this Act. The provisions of Section 11 of Chapter 387 of
7 Volume 63 of the Laws of Delaware shall apply in this regard.

9 Section 3. Authorization of Twenty-Year Bonds. The state hereby authorizes the issuance of bonds, to which the state
10 shall pledge its full faith and credit, such bonds to be issued in such principal amount as necessary to provide proceeds to
11 the state in the amount of Seventy Million Dollars (\$70,000,000) and in the amount of One Million Seven Hundred Ninety
12 Four Thousand Nine Hundred Dollars (\$1,794,900) local share of school bonds. Bonds authorized to be used by this
13 Section shall mature not later than twenty (20) years from their date of issuance. The proceeds of such bonds, except for
14 local share of school bonds, are hereby appropriated for a portion of the purposes set forth in the Section 1 Addendum of
15 this Act and summarized as follows:

<u>Department, Agency, or Instrumentality</u>				<u>Amount</u>
Department of Administrative Services				\$65,000,000
Department of Education				<u>5,000,000</u>
<u>Purpose</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Total Cost</u>	
Milford, Construct New Banneker Elementary, (78/22)	4,000,000	1,128,200	5,128,200	
Sussex Tech, Expansion of Sussex Tech High School (60/40)	<u>1,000,000</u>	<u>666,700</u>	<u>1,666,700</u>	
Subtotals	<u>\$5,000,000</u>	<u>\$1,794,900</u>	<u>\$6,794,900</u>	
Total				<u>\$ 70,000,000</u>

32 Section 4. 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>
Hovercraft	70/210	10-02-01-6612	\$29,071.00
Firing Range	69/386	30-05-10-6525	31.04

1	Sussex Courthouse Renovations	70/210	30-05-10-6613	580.00
2				
3	CSOB Roof	70/210	30-05-10-6615	2,650.00
4				
5	SBI Vault	70/210	30-05-10-6631	1,081.88
6				
7	MPCJF Expansion	68/405	38-04-06-6312	23,827.48
8				
9	Architectural Barrier - DOE	69/386	95-01-01-6501	0.80
10				
11	New Elementary - Caesar Rodney	69/386	95-10-00-6512	23.50
12				
13	Architectural Barrier - Lake Forest	68/405	95-15-00-6302	525.05
14				
15	MCI-VE - Lake Forest	68/405	95-15-00-6384	0.08
16				
17	Carrcroft Elementary - Brandywine	69/386	95-31-00-6512	0.30
18				
19	Rehab High School- Brandywine	70/210	95-31-00-6612	1,864.56
20				
21	MCI- VOC EQ	68/204	95-32-00-6284	<u>0.80</u>
22				
23	Total			<u>\$59,656.49</u>
24				

25 Section 5. Transfers from the State Treasurer's Bond Reversion Account. Notwithstanding the provisions of any other
26 state law, the State Treasurer shall transfer, as funds become available, the sum of Twelve Thousand Dollars (\$12,000) from
27 the State Treasurer's Bond Reversion Account (94-12-05-03-8101) to the following departments in the following amounts
28 for the purposes set forth in the Section 1 Addendum of this Act:

29	<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
30	Department of Administrative Services	<u>\$12,000</u>
31	(MCI/Equipment - Complete Redden Forest Projects)	
32	Total	<u>\$12,000</u>
33		

34 Section 6. Transfers from the State Treasurer's School Bond Reversion Account. Notwithstanding the provisions of
35 any other state law, the State Treasurer shall transfer, as funds become available, the sum of Three Thousand Dollars
36 (\$3,000) from the State Treasurer's School Bond Reversion Account (94-12-05-03-8102) to the following departments in
37 the following amounts for the purposes set forth in the Section 1 Addendum of this Act.

38	<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
39	Department of Administrative Services	<u>\$3,000</u>
40	(MCI/Equipment - Complete Redden Forest Projects)	
41	Total	<u>\$3,000</u>
42		

Section 7. Appropriation of General Funds. It is the intent of the General Assembly that Two Hundred Thirty One Million Dollars (\$231,000,000) be appropriated to the following departments, agencies and instrumentalities of the State and in the following amounts for the purposes set forth in the Section 1 Addendum of this Act. Any funds remaining unexpended or unencumbered by June 30, 2002, shall revert to the General Fund of the State of Delaware. 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 Thirty Million Four Hundred Sixty Five Thousand Six Hundred Dollars (\$30,465,600) local share of school bonds. Bonds authorized by this Section shall mature not later than twenty years from their issuance.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Office of the Budget	\$ 13,100,000
Delaware Economic Development Office	37,150,000
Office of Information Services	322,000
Department of State	25,101,700
Department of Administrative Services	27,770,600
Department of Health and Social Services	2,000,000
Department of Natural Resources and Environmental Control	10,420,000
Department of Public Safety	1,647,800
Department of Agriculture	320,000
Fire Prevention Commission	277,500
Delaware National Guard	370,000
University of Delaware	8,500,000
Delaware State University	8,500,000
Delaware Technical and Community College	8,500,000
Department of Education	<u>87,020,400</u>

<u>Purpose</u>	<u>State Share</u>	<u>Maximum Local Share</u>	<u>Total Cost</u>
Architectural Barrier Removal (60/40)	160,000	106,700	266,700
Public Ed. Enhanced Minor Capital Imprv. Fund (100% State)	10,000,000		10,000,000
Capital, Renovate/Addn. To BT/West Dover Elementary (67/33)	362,300	178,400	540,700
Capital, Renovate/Addns Kent County Community School (67/33)	139,900	68,900	208,800
Capital, Renovate Central Middle School (67/33)	589,100	290,200	879,300

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1	Capital, Renovate District Maintenance Building (67/33)	479,000	235,900	714,900
2				
3	Capital, Renovate Dover High School (67/33)	161,600	79,600	241,200
4	Capital, Renovate East Dover Elementary (67/33)	2,718,200	1,338,800	1,610,000
5	Capital, Renovate South Dover Elementary (67/33)	2,604,100	1,282,600	3,886,700
6	Capital, Renovate Wm. Henry Middle School (67/33)	465,800	229,400	695,200
7	Capital, Renovate/Addns. Fairview Elementary (67/33)	142,600	70,200	212,800
8	Capital, Renovate/Addns to Hartly Elementary (67/33)	2,458,000	1,210,700	3,668,700
9	Capital, Renovate/Addns to Towne Pt. Elem (67/33)	141,100	69,500	210,600
10	Lake Forest, Construct 720 Pupil Elem (80/20)	6,925,700	1,731,400	8,657,100
11	Lake Forest, Renovate W.T. Chipman Middle (80/20)	1,584,200	396,100	1,980,300
12	Lake Forest, Renovate Lake Forest High (80/20)	1,544,200	386,100	1,930,300
13	Lake Forest, Renovate Lake Forest South A ES (80/20)	1,518,300	379,600	1,897,900
14	Lake Forest, Renovate Lake Forest East ES (80/20)	2,000,000	500,000	2,500,000
15	Lake Forest, Renovate Lake Forest North ES (80/20)	1,500,000	375,000	1,875,000
16	Cape Henlopen, Roof Renovations (60/40)	840,000	560,000	1,400,000
17	Cape Henlopen, Agriculture Program (60/40)	50,000	33,300	83,300
18	Milford, Land Acquisition, Elem/Middle School (78/22)	124,300	35,100	159,400
19	Milford, Morris Early Childhood Ctr. Addition (78/22)	1,921,300	541,900	2,463,200
20	Milford, Renovate Milford High (78/22)	2,000,000	564,100	2,564,100
21	Milford, Renovate LuLu Ross Elementary (78/22)	2,283,400	644,000	2,927,400
22	Seaford, Renovate/Expand Blades Elementary (80/20)	349,300	87,300	436,600
23	Seaford, Renovate/Expand Central Elementary (80/20)	2,034,200	508,600	2,542,800
24	Seaford, Renovate/Expand Douglas Elementary (80/20)	99,700	24,900	124,600
25	Seaford, Renovate/Expand Seaford High (80/20)	137,600	34,400	172,000
26	Seaford, Renovate/Expand Seaford Middle (80/20)	3,337,500	834,400	4,171,900
27	Seaford, Renovate/Expand West Elementary (80/20)	2,626,700	656,700	3,283,400
28	Appoquinimink, Construct New Elementary (71/29)	5,201,000	2,124,000	7,325,000
29	Appoquinimink-Renovate Middletown Middle (71/29)	4,181,500	1,708,000	5,889,500
30	Appoquinimink-Renovate Redding Middle (71/29)	1,789,300	730,800	2,520,100
31	Appoquinimink-Renovate Silver Lake Elementary (71/29)	1,048,400	428,200	1,476,600
32	Appoquinimink-Renovate Townsend Elementary (71/29)	1,633,800	667,300	2,301,100
33	Appoquinimink, Critical Classroom Acquisition Program (CCAP)	4,000,000	500,000	4,500,000
34	Red Clay-Add to McKean High (60/40)	1,025,400	683,600	1,709,000
35	Red Clay-Renovate Baltz Elementary (60/40)	683,200	455,500	1,138,700
36	Red Clay-Renovate Conrad Elementary (60/40)	1,060,200	706,800	1,767,000
37	Red Clay-Renovate Dickinson High (60/40)	562,900	375,300	938,200
38	Red Clay-Renovate Forest Oak Elementary (60/40)	467,600	311,800	779,400
39	Red Clay-Renovate HB duPont Middle (60/40)	470,400	313,600	784,000
40	Red Clay-Renovate Highlands Elementary (60/40)	239,800	159,900	399,700
41	Red Clay-Renovate Linden Hill Elementary (60/40)	63,700	42,500	106,200
42	Red Clay-Renovate Marbrook Elementary (60/40)	457,400	304,900	762,300
43	Red Clay-Renovate Mote Elementary (60/40)	536,900	358,000	894,900
44	Red Clay-Renovate Richardson Park & ILC (60/40)	798,200	532,200	1,330,400
45	Red Clay-Renovate Shortlidge Elementary (60/40)	425,500	283,600	709,100
46	Red Clay-Renovate Skyline Middle (60/40)	715,100	476,700	1,191,800
47	Red Clay-Renovate Stanton Middle (60/40)	198,200	132,100	330,300
48	Red Clay-Renovate Telegraph Road (60/40)	444,900	296,600	741,500
49	Red Clay-Renovate Warner Elem/Kdgr Ctr (60/40)	227,200	151,400	378,600
50	Red Clay-Renovate Wilmington High (60/40)	1,191,200	794,200	1,985,400
51	Red Clay-Renovate/Add to A.I. duPont High (60/40)	1,241,600	827,800	2,069,400
52	Red Clay-Renovate/Add to Richey Elementary (60/40)	65,500	43,600	109,100
53	Red Clay-Repair Roof/Other Lewis Elementary (60/40)	88,500	59,000	147,500
54				

1	Red Clay – Brandywine Springs (60/40)	3,000,000	2,000,000	5,000,000
2	Delmar – New Middle/High School (79/21)	447,800	119,000	566,800
3	Delaware Skills Center Bldg. Renovations (100% State)	250,000	-	250,000
4	State Consortium for Tech Prep Programs (100% State)	450,000	-	450,000
5	Sussex Tech, Expansion of Sussex Tech High (60/40)	2,000,000	1,333,300	3,333,300
6	Indian River – Renovate Ennis (60/40)	138,100	92,100	230,200
7	Margaret Sterck School Renovations (100% State)	412,000	-	412,000
8	Brandywine, Bush School Renovations (100%)	<u>207,000</u>	<u>0</u>	<u>207,000</u>
9				
11	Subtotal	\$87,020,400	\$30,465,600	\$ 117,486,000
12	Total			<u>\$ 231,000,000</u>

13

14 Section 8. Appropriation of First State Improvement Fund. The state hereby authorizes the appropriation of Forty Five

15 Thousand Dollars (\$45,000) from the First State Improvement Fund (86-12-05-03-9600) for a portion of the purposes set

16 forth in the Section 1 Addendum of this Act.

17	<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
18	Department of State	\$20,000
19	(Cape Henlopen Lighthouse Study)	
20	Department of Administrative Services	<u>25,000</u>
21	(Dayett Mills)	
22	Total	<u>\$45,000</u>

23

24 Section 9. Health Facilities Subsidy Fund. Notwithstanding the provisions of Chapter 90 of Title 16 of the Delaware

25 Code, there is hereby appropriated the sum of Thirty Five Thousand Dollars (\$35,000) from the Health Facilities Subsidy

26 Fund held by the State Treasurer (96-12-05-03-9400) to the following department in the following amount for the purposes

27 set forth in the Section 1 Addendum of this Act. Any funds remaining unexpended or unencumbered by June 30, 2002,

28 shall revert to the Health Facilities Subsidy Fund.

29	<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
30	Department of Administrative Services	<u>\$35,000</u>
31	(MCI/Equipment – Complete Redden Forest Projects)	
32	Total	<u>\$35,000</u>

33

34 Section 10. Allocation of Stripper Well Funds. The state hereby authorizes the Department of Administrative Services

35 to allocate Two Hundred Thousand Dollars (\$200,000) from the proceeds of the Stripper Well Court Case Settlement for

36 eligible projects up to the amount set forth in the Section 1 Addendum of this Act. All potentially eligible projects shall be

37 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 11. Appropriation of Special Funds There is hereby appropriated the sum of One Million Nine Hundred Sixty Two Thousand Six Hundred Dollars (\$1,962,600) from the Bond Sale 178 account, held by the State Treasurer (97-12-05-03-8598) to the following departments in the following amounts for the purposes set forth in the in the Section 1 Addendum of this Act. Any project funds remaining unexpended or unencumbered by June 30, 2002 shall revert to the General Fund of the State of Delaware. Any remaining balance in the Bond Sale 178 account shall be used to reduce debt service.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of State	
(Fenwick Island Lighthouse)	\$75,000
(Georgetown Public Library)	970,300
(Dover Public Library)	364,300
(Milton Public Library)	268,000
Department of Administrative Services	
(Arsenal on the Green - Structural Renovations)	260,000
(MCI/Equipment - Complete Redden Forest Projects)	<u>25,000</u>
Total	\$1,962,600

Section 12. Continuing Appropriations. For the fiscal year ending June 30, 1999, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 2000.

<u>Fiscal Year</u>	<u>Account Codes</u>	<u>Remarks</u>
1997	10-02-01-0802	Radios-Local
1992	10-03-03-0182	Dover Civic Center
1999	10-03-03-0811	Dover Civic Center
1991	10-03-03-6112	Dover Civic Center
1990	10-03-03-9643	Dover Civic Center
1998	12-05-03-0800	L&W Defeasance
1995	20-01-01-0181	Historical Society of Delaware
1995	20-01-01-0182	Millsboro Historical Society
1995	20-01-01-0183	Delaware Agriculture Museum
1995	20-01-01-0185	Madison Factory
1993	20-08-01-0182	Concord Library
1995	20-08-01-0182	Wilmington Library
1997	20-08-01-0800	Newark Land
1999	20-08-01-0805	Concord Library
1999	20-08-01-0806	NCC Bear Library
1999	20-08-01-0807	NCC North Regional
1999	20-08-01-0808	Plan Rehoboth Library
1994	20-08-01-6419	Bear Library
1994	20-08-01-6421	Concord Library
1994	20-08-01-6423	Rehoboth Library

1	1995	20-08-01-6512	NCC Bear Library
2	1995	20-08-01-6513	NCC North Regional
3	1995	20-08-01-6514	Plan Rehoboth Library
4	1996	20-08-01-6612	NCC Northern Regional
5	1996	20-08-01-6613	Rehoboth Library
6	1996	20-08-01-6616	Wilmington Library
7	1997	20-08-01-6712	Northern Regional Library
8	1996	30-05-10-0190	APOQ Center/Library
9	1996	30-05-10-0192	Woodshaven Kruse
10	1997	30-05-10-0800	Veterans Cemetery
11	1997	30-05-10-0801	Dayett Asbestos
12	1997	30-05-10-0802	Dayett Ren
13	1997	30-05-10-0803	Forensic Mental health
14	1997	30-05-10-0804	WHK Asbestos
15	1997	30-05-10-0805	Prison Construction
16	1999	30-05-10-0848	Sussex Courthouse
17	1999	30-05-10-0849	NCC Courthouse
18	1999	30-05-10-0850	Prison Constr.-Exp
19	1999	30-05-10-0851	Prison Construction
20	1995	30-05-10-6518	Comegys Forensic
21	1996	30-05-10-6601	Architectural Barrier
22	1996	30-05-10-6614	MCI Equipment
23	1996	30-05-10-6617	Rental Equipment
24	1996	30-05-10-6620	Enh Vault
25	1996	30-05-10-6625	Secure Care
26	1996	30-05-10-6627	Expn/Const
27	1996	30-05-10-6632	Redden MCI
28	1996	30-05-10-6633	LL Roof
29	1997	30-05-10-6701	Architectural Barrier
30	1997	30-05-10-6712	Sussex Courthouse
31	1997	30-05-10-6713	Carvel
32	1997	30-05-10-6715	JP 7/16
33	1997	30-05-10-6716	Archives
34	1997	30-05-10-6717	Campus Renewal
35	1997	30-05-10-6718	Prison Construction
36	1997	30-05-10-6720	Plummer House
37	1997	30-05-10-6722	Troop 2
38	1997	30-05-10-6725	Smyrna Armory
39	1997	30-05-10-6726	NCC Fire Off
40	1997	30-05-10-6727	NCC Fire Office
41	1998	30-05-10-6802	Sussex Courthouse
42	1995	40-06-02-0184	Brandywine Aquatic
43	1999	40-06-02-0811	Delaware Aquatic Center
44	1994	40-06-02-6413	Brandywine Aquatic
45	1994	40-06-02-6417	Carpenter Park Bandstage
46	1996	40-06-02-6613	Aquatic Center
47	1997	40-06-02-6713	Delaware Aquatic Center
48	1998	40-06-02-6813	FDSP Improvements
49	1991	40-06-04-6212	Brandywine Aquatic
50	1992	40-06-04-6212	Brandywine Aquatic
51	1993	40-07-02-6313	Resource, Conservation and Development
52	1991	40-08-01-6115	Little Mill
53	1992	40-08-01-6212	Little Mill
54	1994	40-08-01-6413	Revolving Loan Program
55	1995	40-08-01-6512	Waste Water Grant
56	1995	40-08-01-9652	State Revolving Loans
57	1995	40-08-01-6513	Revolving Loan Program

1	1993	40-08-06-0182	Cockeysville
2	1997	45-01-01-0800	Helicopter
3	1992	76-01-01-6213	MCI/Equip
4	1996	90-03-01-0195	Women's Locker Room
5	1995	90-03-01-6512	Science Center
6	1997	90-03-01-6712	Econ. & Business Admin.
7	1998	90-03-01-6812	Econ. & Business Admin.
8	1997	90-04-01-0800	Excellence in Technology
9	1994	90-04-02-0183	Land Acquisition
10	1993	90-04-02-0187	Land Acquisition South
11	1999	90-04-04-6912	Wilmington Campus
12	1996	90-04-06-0190	HVAC - Terry
13	1997	95-10-00-6712	Jr/HI/Middle
14	1997	95-10-00-6713	Frear Middle
15	1997	95-13-00-0800	Dover High School
16	1995	95-13-00-6512	Elementary School
17	1994	95-17-00-6412	Brittingham
18	1997	95-23-00-0800	Seaford High School
19	1997	95-23-00-0801	Seaford Middle School
20	1997	95-23-00-6712	Design/Ren
21	1997	95-23-00-6713	Seaford High School
22	1997	95-23-00-6714	Seaford Middle School
23	1996	95-31-00-6619	Claymont
24	1997	95-31-00-6712	Concord High School
25	1997	95-31-00-6713	Lombardy
26	1997	95-31-00-6714	Harlan
27	1991	95-33-00-6113	New Elementary
28	1996	95-33-00-6612	Bancroft Elementary
29	1996	95-33-00-6613	Newark High School
30	1996	95-33-00-6614	Cobbs/Gauger
31	1996	95-33-00-6615	Replace Leasure
32	1996	95-33-00-6616	Land Acquisition
33	1996	95-33-00-6617	Glasgow High School
34	1997	95-33-00-6712	Shue Middle School
35	1997	95-33-00-6713	Glasgow Elementary School
36	1997	95-33-00-6714	Christiana High School
37	1997	95-33-00-6793	Architectural Barrier
38	1996	95-33-00-0280	Bancroft Elementary
39	1996	95-33-00-0281	Newark High School
40	1996	95-33-00-0282	Cobbs/Gauger
41	1996	95-33-00-0283	Leasure Elementary
42	1996	95-33-00-0284	Glasgow Elementary Land
43	1996	95-33-00-0285	Glasgow High School
44	1997	95-33-00-0801	New Elementary
45	1997	95-33-00-0802	Christiana High School
46	1997	95-51-00-0800	Sterck Renov
47			

48 Section 13. Exxon Funds. It is the intent of the General Assembly that the monies appropriated in this Act and funds
49 authorized for minor capital improvements in any annual appropriation act may be used to match Exxon funds for any
50 purpose deemed appropriate by the State Energy Weatherization Committee and so long as the purpose does not contradict
51 the purposes set forth in the Section 1 Addendum of this Act.

52

Section 14. Twenty-First Century Fund Appropriations. The General Assembly hereby authorizes the amount of Eight Million Dollars (\$8,000,000) to be paid out of Twenty-First Century Fund interest. It is the intent that the appropriation account shall be administered through the Department of Finance. No funds shall be used for agency overhead or personnel-related costs. Any unused authorization remaining in the Project Accounts on June 30, 2005 shall revert to the Twenty-First Century Account in the Department of Finance.

<u>Purpose</u>	<u>Amount</u>
Community Redevelopment Fund	<u>\$8,000,000</u>
Total	\$8,000,000

Section 15. General Funds to Twenty-First Century Fund. It is the intent of the General Assembly that the sum of Forty Eight Million Dollars (\$48,000,000) be appropriated from General Funds to the Office of the Secretary, Department of Finance (25-01-00) to be deposited into the Twenty-First Century Fund as established by Section 6102A, Title 29, Delaware Code.

<u>Purpose</u>	<u>Amount</u>
Open Space	\$18,000,000
Water/Wastewater	10,000,000
Resource, Conservation and Development	7,000,000
Pulp Woodlands	5,000,000
Farmland Preservation	5,000,000
Community Redevelopment	<u>3,000,000</u>
Total	\$48,000,000

Section 16. Delaware v. New York Supreme Court Decision. 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 Three Million Three Hundred Thousand Dollars (\$3,300,000) due January 31, 2003, and in the amount of Seventeen Million Seven Hundred Thousand Dollars (\$17,700,000) due January 31, 2004.

Section 17. Educational Technology. 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 completing a capital program of creating an Educational Technology wiring network encompassing every public school in the State shall

1 be made by the Delaware Center for Educational Technology from the Educational Technology Account or from any other
2 sources of funding including, but not limited to, governmental or private grant funds, until the Strategic Plan required under
3 the provisions of Chapter 6102A(j)(4) of Title 29, Delaware Code shall have been approved by the Joint Legislative
4 Committee on the Capital Improvement Program, provided, however, that nothing contained herein shall preclude the
5 expenditure of grant funds specifically targeted or restricted by the granting agency for the purposes of providing hardware or
6 software in the classroom, distance learning programs, staff development programs related to technology implementation, or
7 school to home networking connections.

8
9 Section 18. Delaware Center for Educational Technology. The Delaware Center for Educational Technology is
10 prohibited from establishing or maintaining State supported e-mail addresses for public school students except as may be
11 deemed necessary by the local school district. This Section shall not preclude local school districts from providing student
12 access to e-mail with local discretionary funds either through their own e-mail server or through a contract with the Office of
13 Telecommunications Management (OTM). OTM shall provide a written report to the Joint Legislative Committee on the
14 Capital Improvement Program by June 1, 2000 which shall include, but not be limited to, the number of schools participating
15 in either local or OTM services for e-mail, acceptable use policies, monitoring capabilities, and security.

16
17 Section 19. Project Funds Transfer from Prior Fiscal Years to FY 2000. Within the same county, any Twenty-First
18 Century funds or match remaining from completed projects authorized as part of the Twenty- First Century Resource,
19 Conservation and Development (RCD) project list pursuant to prior appropriations may be utilized for RCD projects in the
20 FY 2000 list of projects approved as part of the FY 2000 Capital Improvement Act.

21
22 Section 20. Amend 71 Laws of Delaware, Chapter 150, Section 14 and 71 Laws of Delaware, Chapter 378, Section 13
23 by adding the following to the end of each section respectively:

"1995	30-05-10-6518	Comegys Forensic
1990	40-08-01-6512	Wastewater Grants"

24
25
26
27 Section 21. Amend 71 Laws of Delaware, Chapter 378, Section 13 by adding the following to the end of said section:

" 1994	40-08-01-6413	Revolving Loan Program
1995	40-08-01-6513	Revolving Loan Program"

1 Section 22. Wastewater Assistance Programs. The Section 1 Addendum to this Act contains an appropriation of
2 \$10,000,000 for the Water/Wastewater Infrastructure Program. Of this appropriation, \$50,000 is hereby appropriated to
3 Sussex County for the purpose of funding the first year of the Wastewater Assistance Program. The purpose of this
4 appropriation is to reduce the annual cost of sewer service to low-income residents of the West Rehoboth sanitary and sewer
5 district, consistent with the plan agreed to by the Secretary of the Department of Natural Resources and Environmental
6 Control and the Secretary of Finance. All future interest earnings on the \$1,000,000 residual appropriation designated in the
7 Fiscal Year 1999 Bond and Capital Improvements Act under Section 15(e)(2) for this purpose will accrue to said program for
8 use in the reduction of sewer fees.

9
10 Section 23. Newark Reservoir. Of the \$5,500,000 of 21st Century Funds that have been set aside for water projects
11 through the Water/Wastewater Management Account, \$1,700,000 shall be used for the Newark Reservoir project. The
12 remainder of the funding for this project shall be the responsibility of the City of Newark. The City of Newark shall make
13 every effort to insure that the project is consistent with the Future Water Supply Plan for Northern New Castle/Churchman's
14 EIS process. If the City fails to secure funds sufficient to complete this project by July 1, 2001, this appropriation shall revert
15 to the Water/Wastewater Management Account. It is the intent of the General Assembly that this appropriation represents the
16 first appropriation of a two-year appropriation of equal amounts.

17
18 Section 24. Northern Data Center. Of the \$5,000,000 appropriated for Fiscal Year 2000 in the Fiscal Year 1999 Capital
19 Improvement Act for Education Technology, \$100,000 shall be allocated to the Northern Data Center for hardware, software,
20 and other costs related to implementing the statewide Education Technology network.

21
22 Section 25. Pulp Woodlands. Section 1 Addendum of this Act authorizes an appropriation of \$5,000,000 for Pulp
23 Woodlands. This appropriation is to assist in the acquisition of Sussex County forestlands. The match provisions of
24 §6102A(c)(2) shall not apply to this appropriation.

25
26 Section 26. Open Space. The Section 1 Addendum appropriates \$18,000,000 for the 21st Century Fund - Open Space.
27 The match provisions of §6102A(c)(2) shall apply to all funds appropriated with the exception of \$4,500,000.

28
29 Section 27. Community Redevelopment Fund Deauthorization. The General Assembly hereby deauthorizes \$1,000,000
30 of the Community Redevelopment Grant for New Castle County Police Station/Kimberton in the Fiscal Year 1999

1 Community Redevelopment Fund. These funds shall revert to the Community Redevelopment Fund. The remaining
2 \$250,000 shall continue as a Community Redevelopment Fund grant for Kimberton.

3
4 Section 28. Community Redevelopment Fund Match. Notwithstanding the provisions of §6102(A)(1)(3), Title 29 of the
5 Delaware Code, any Community Redevelopment Fund award to Sussex County Council for the Gumboro Community
6 Association, Preservation Delaware for the Claymont Stone School, the Woodland Ferry or the Town of Elsmere shall not
7 require a local match. Fiscal Year 1999 and 2000 grants to the Laurel Redevelopment Corporation shall not require a local
8 match. Additionally, any Community Redevelopment Fund award to the Police Athletic League-Hockessin shall require a
9 40% match from said organization.

10
11 Section 29. Notwithstanding the provisions of §6102A(i)(3), Title 29 of the Delaware Code, the FY 2000 Community
12 Redevelopment Fund grant to Preservation Delaware for a statewide historic preservation revolving fund shall not require a
13 local match. Expenditure of these funds shall be contingent upon execution of an agreement between the Division of
14 Historical and Cultural Affairs and Preservation Delaware, Inc. outlining the administration of the revolving fund program
15 and approval of said agreement by the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program.

16
17 Section 30. Amend §5209(e), Title 29 of the Delaware Code by adding the words, ", soil and water conservation
18 districts" between the words "county" and "or municipality" wherever the same appear in said subsection.

19
20 Section 31. Amend §2712(a)(1), Title 29 of the Delaware Code by deleting the phrase "pay cycle beginning July 1,
21 1999" and substituting in lieu thereof the phrase "upon the implementation of the new payroll system."

22
23 Section 32. Amend §5106(a), Title 29 of the Delaware Code by deleting the phrase "pay cycle beginning July 1, 1999"
24 and substituting in lieu thereof the phrase "upon the implementation of the new payroll system."

1 **OFFICE OF THE BUDGET**

2 Section 33. 800 MHz Digital Trunked Radio System. Notwithstanding Chapters 63 and 69, Title 29, Delaware Code or
3 any other statutory provision to the contrary, the Office of Information Services is hereby granted exclusive authority to enter
4 into agreements with private telecommunications companies to lease or license space for communication facilities on
5 telecommunications towers and other facilities constructed for the 800 MHz Digital Trunked Radio System. The revenues
6 received by the Office of Information Services under these agreements shall be deposited in a special fund and used for
7 maintenance of 800 MHz Digital Trunked Radio System. Maintenance projects shall include but are not limited to the
8 remediation of any Year 2000 compliance issues.

9
10 Section 34. Local Police Technology. a) The Section 1 Addendum to this Act appropriates \$3,000,000 to the Office of
11 the Budget for Local Police Technology. Of this amount, \$157,300 shall be used to purchase a marine unit for the City of
12 Wilmington Police Department. Disbursement of the \$157,300 shall be at the discretion of the Police Chief of the City of
13 Wilmington.

14 b) \$150,000 shall be allocated to the City of Wilmington for a Video Surveillance Project.

15 c) \$400,000 to implement a Uniform Traffic Report system.

16 d) The remaining \$2,292,700 Act shall be allocated to assist local law enforcement agencies to purchase and enhance
17 technologies that will enable them to increase their crime reporting capabilities, comply with state and federal technology
18 standards and improve inter-agency communication. These monies will be limited to spending on the following projects:

19 (1) Real-Time Crime Reporting (COMSTAT). Hardware, software and end-user equipment that will enable local law
20 enforcement agencies to deliver criminal incident reports to a state-wide data base within 24 hours of an incident
21 and allow access to crime state-wide crime data.

22 (2) NCIC 2000. Hardware, software and end-user equipment that will enable local law enforcement agencies to
23 comply with NCIC 2000 technology requirements.

24 (3) Computer Aided Dispatch. Hardware, software and end-user equipment to modify existing or purchase new
25 computer aided dispatch systems to increase inter-agency communication and coordination.

26 All hardware, software and end-user equipment shall be compatible with the minimum standards established by the
27 Delaware Justice Information System (DELJIS) Board of Managers and any other applicable State of Delaware and federal
28 systems standards. Local law enforcement agencies shall include counties, municipalities, towns, Delaware cities, and the

1 State Office of Narcotics and Dangerous Drugs. These local law enforcement agencies may combine their allocations to
2 support a pool arrangement to fund a contiguous area served by more than one law enforcement agency. These funds shall be
3 distributed based upon the local law enforcement agency's authorized strength of full-time sworn officers as follows:
4 Applications for funding shall be submitted to the Local Law Enforcement Technology Fund Committee and shall specify the
5 purpose, the systems, the technology and the amount of funding requested. Final distribution of funds shall be contingent
6 upon the approval of the Budget Director and the Controller General. No part of this appropriation may be used to supplant
7 funds already committed by the law enforcement agency to regular police operations, or to pay salaries or other personnel
8 costs of police officers or supporting personnel, or general operating and/or administrative expenses. Local law enforcement
9 agencies are encouraged to use these funds to leverage additional federal funding for technology to support the above
10 projects.

11 Of the amount allocated to the City of Wilmington, \$52,000 shall be used to purchase 800 MHz radios and batteries.

12
13 Section 35. Technology Fund. (a) The Section 1 Addendum of this Act contains an appropriation to the Office of the
14 Budget (10-02-01) of \$9,000,000 for Technology Fund. This appropriation contemplates information technology planning,
15 development and procurement services for the following state department/agencies development projects:

16 DEPARTMENT/AGENCY

SERVICE NEED

17 Department of Finance

Automated System for Acquisitions and Payables
(ASAP) statewide system.

19 Department of Correction

Offender Tracking

20 Department of Education

Pupil Accounting

21 (b) Allocation of the funds appropriated for this purpose shall be made by the Budget Director in consultation with the
22 affected department/agency head. Service need allocations shall not be transferred to another department or service need
23 unless approved by the Budget Director. In the event there are federal funds available for match in support of a project or
24 projects, the Budget Director and the Controller General may transfer such funds as are necessary for matching purposes to
25 the department/agency involved.

26 (c) No computer or computer-programming related systems project identified in Subsection (a) of this Section may be
27 initiated by the departments/agencies during this fiscal year, unless covered by a formalized plan approved by the Budget
28 Director in consultation with the Office of Information Services.

(d) Status reports for all active projects, 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 through the completion of the project.

(e) No funds appropriated in the Section 1 Addendum of this Act may be used to employ data or word processing professionals in support of current or proposed data or word processing systems without prior written approval of the Budget Director.

Section 36. EMS System. The Section 1 Addendum to this Act appropriates \$1,000,000 to the Office of the Budget for EMS - Information Systems/Defibrillators. It is the intent of the General Assembly that these funds be expended in accordance with the recommendations contained within the report "Delaware Emergency Medical Services Improvement Committee; Report to the Governor and General Assembly". These funds shall be used for upgrades or improvements to existing Emergency Medical Dispatch (EMD) systems and additional features, that would not otherwise be purchased on replacements to existing systems required to meet the recommendations in said Report, necessary to achieve the recommendations in the report relating to data collection and transfer to the Statewide EMS Data Collection System maintained by the Office of Emergency Medical Services, and also for the initial allocation of defibrillators to emergency responders. The Office of Emergency Medical Services, in consultation with the Secretary of the Department of Public Safety, the Budget Director and the Controller General shall develop both specifications and a priority listing for upgrades to existing EMD systems and for the purchase of defibrillators through this appropriation. The Budget Director shall distribute the funding in accordance with said listing. This appropriation shall be contingent upon passage of House Bill No. 332 or similar legislation. Should such legislation not be enacted, these funds shall revert to the General Fund.

Section 37. Kimberton Substation. New Castle County shall provide to the Budget Director and Controller General a detailed accounting of interest earned from funds appropriated by the state for the Kimberton Substation project by Section 1, 1999. Said funds have been appropriated or authorized through the following legislation and in the following amounts:

70, <u>Laws of Delaware</u> , Chapter 210	\$250,000
70, <u>Laws of Delaware</u> , Chapter 473	500,000
71, <u>Laws of Delaware</u> , Chapter 150	500,000
71, <u>Laws of Delaware</u> , Chapter 378	250,000

The interest earned by New Castle County on the above appropriations shall be credited toward the state's share of this project.

1

2 Section 38. Inland Bays Flushing Studies. The Section 1 Addendum of this Act appropriates \$100,000 to the Office of
3 the Budget for Inland Bays Flushing Studies. These studies shall investigate, design and theoretically test the concept of
4 implementing additional tidal flow flushing opportunities into areas of the Rehoboth and Little Assawoman Bay . The Office
5 of the Budget shall solicit the assistance of the Department of Natural Resources and Environmental Control, the University
6 of Delaware's College of Marine Studies and the Center for Inland Bays in conducting the study.

(d) Status reports for all active projects, 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 through the completion of the project.

(e) No funds appropriated in the Section 1 Addendum of this Act may be used to employ data or word processing professionals in support of current or proposed data or word processing systems without prior written approval of the Budget Director.

Section 36. EMS System. The Section 1 Addendum to this Act appropriates \$1,000,000 to the Office of the Budget for EMS – Information Systems/Defibrillators. It is the intent of the General Assembly that these funds be expended in accordance with the recommendations contained within the report "Delaware Emergency Medical Services Improvement Committee; Report to the Governor and General Assembly". These funds shall be used for upgrades or improvements to existing Emergency Medical Dispatch (EMD) systems and additional features, that would not otherwise be purchased on replacements to existing systems required to meet the recommendations in said Report, necessary to achieve the recommendations in the report relating to data collection and transfer to the Statewide EMS Data Collection System maintained by the Office of Emergency Medical Services, and also for the initial allocation of defibrillators to emergency responders. The Office of Emergency Medical Services, in consultation with the Secretary of the Department of Public Safety, the Budget Director and the Controller General shall develop both specifications and a priority listing for upgrades to existing EMD systems and for the purchase of defibrillators through this appropriation. The Budget Director shall distribute the funding in accordance with said listing. This appropriation shall be contingent upon passage of House Bill No. 332 or similar legislation. Should such legislation not be enacted, these funds shall revert to the General Fund.

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4 implementing additional tidal flow flushing opportunities into areas of the Rehoboth and Little Assawoman Bay . The Office
5 of the Budget shall solicit the assistance of the Department of Natural Resources and Environmental Control, the University
6 of Delaware's College of Marine Studies and the Center for Inland Bays in conducting the study.

1 **DELAWARE ECONOMIC DEVELOPMENT OFFICE**

2 Section 39. Delaware Strategic Fund. Of the funds appropriated to the Delaware Strategic Fund in the Section 1
3 Addendum of this Act, up to \$500,000 may be utilized in order to provide financial assistance in the form of matching
4 grants in an amount not greater than either \$25,000 or 50 percent of the total project costs for environmental assessments
5 and remediations of sites associated with the "brownfield" initiative. For purposes of this Section a "brownfield" is defined
6 as a vacant, unoccupied, or underutilized site, with respect to any portion thereof, which the owner of the site has reasonable
7 cause to believe may, as a result of any prior commercial or industrial activity by any person, have been environmentally
8 contaminated in a manner that would interfere with the intended use of such site. The Delaware Economic Development
9 Authority shall draft rules and regulations pertaining to eligibility and establish criteria to administer the assistance.

10
11 Section 40. Composites Research. The Delaware Economic Development Office is authorized to provide a match of
12 up to \$100,000 to the University of Delaware Center for Composite Materials for federal research grants received that
13 support the development and application of composite manufacturing technology for the benefit of Delaware companies.
14 Such match shall be disbursed from the Strategic Fund upon documentation of the receipt of federal funds allocated to the
15 Center during the fiscal year for these purposes and upon documentation of the relevance of these research projects to
16 Delaware industries' needs and their participation within said projects.

17
18 Section 41. Delaware Industrial Park. The Delaware Economic Development Office is hereby prohibited from locating
19 any operation that involves the use of hazardous materials at the former Helix Synthesis Technologies site within the
20 Delaware Industrial Park. Hazardous materials are defined as any material of a gaseous, liquid or solid form that has the
21 potential to cause temporary or permanent harm to humans or the environment.

22
23 Section 42. Port of Wilmington. If the Governor and the Delaware Economic Development Office, at the direction of
24 the Board of Directors of the Diamond State Port Corporation, request that the Delaware River and Bay Authority fund the
25 acquisition of real property and improvements for the expansion of Port of Wilmington pursuant to the Compact (Title 17,
26 Delaware Code, § 1701) and applicable statutory requirements, and if any such project is undertaken and funded by the
27 Delaware River and Bay Authority, then such project is hereby authorized and approved by this Act.

1 Section 43. Riverfront Development Corporation. If the Governor and the Delaware Economic Development Office, at
2 the direction of the Board of Directors of the Riverfront Development Corporation of Delaware, request the Delaware River
3 and Bay Authority fund the acquisition of real property and improvements for economic development along or in proximity
4 to the Brandywine and Christina Rivers as recommended in the report of the Governor's Task Force on the Future of the
5 Brandywine and Christina Rivers, A Vision for the Rivers (1994) pursuant to the Compact (Title 17, Delaware Code, § 1701)
6 and applicable statutory requirements, and if any such project is undertaken and funded by the Delaware River and Bay
7 Authority after written approval by the Governor, then such project is hereby authorized and approved by this Act.

8
9 Section 44. Rivers Fund. (1) Funds appropriated for Riverfront Development Corporation shall be distributed directly
10 to the "Brandywine-Christina Rivers Improvement Fund" established in Volume 70, Laws of Delaware, hereinafter referred
11 to as the "Rivers Fund". (2) The Rivers Fund shall be invested by the State Treasurer in securities consistent with the
12 policies established by the Cash Management Policy Board. All monies generated by the said Fund shall be deposited
13 thereto. (3) Not more than \$350,000 of interest income from the Rivers Fund shall be used for operating expenses for the
14 fiscal year ending June 30, 2000.

15
16 Section 45. Federal Job Corps Land Acquisition. Volume 71, Chapter 378 Laws of Delaware appropriates \$800,000 to
17 the Delaware Economic Development Office for land acquisition associated with the location of a Federal Job Corps site in
18 the City of Wilmington. The expenditure of these funds shall be subject to approval by the Budget Director and the
19 Controller General.

20
21 Section 46. DeBraak. The Delaware Economic Development Office is authorized to enter into a public/private
22 partnership to study the feasibility of constructing a replica of the DeBraak to be located in Lewes. The Delaware Economic
23 Development Office may provide up to \$20,000 as a match for the study.

24
25 Section 47. Life Sciences. The Section 1 Addendum to this Act appropriates \$5,000,000 to the Delaware Economic
26 Development Office for Life Sciences. These funds are intended to demonstrate the state's commitment toward efforts in the
27 life sciences through the support of the Delaware Biotechnology Institute.

28 The Delaware Biotechnology Institute will serve as the catalyst in uniting state, industry and higher education resources
29 in developing new research and development oriented, commercially driven partnerships in the life sciences. These
30 partnerships will be a key element of an overall technology-based economic development strategy for the State. It is

1 expected that the development of the life sciences industry in Delaware will have multiple economic development benefits
2 including enhancing global competitiveness, increasing the diversity of the state's economic base, creating high quality jobs
3 and developing a high level of technical competence in Delaware's workforce. In addition, this development will strengthen
4 the research and technology transfer capabilities of the University of Delaware, Delaware State University and Delaware
5 Technical and Community College.

6 The funds appropriated herein are intended to attract and support key faculty members conducting research at the
7 Institute. Funds may be targeted toward equipping and developing research laboratories. The Institute is encouraged to use
8 the state funds appropriated herein to leverage private funding as appropriate. The Institute shall report to the Co-Chairs of
9 the Joint Legislative Committee on Capital Improvements by April 30, 2000 as to the expenditures of this appropriation.

10
11 Section 48. Garrison Tract Fund. (a) The Section 1 Addendum authorizes the amount of \$2,000,000 for acquiring the
12 property generally known as the Garrison Tract for development of that property into a high tech industrial park.

13 (b) Title to the Garrison Tract will be transferred directly from the current fee owner to the City of Dover. The City of
14 Dover will be responsible for all infrastructure development and costs associated with developing the Garrison Tract.

15 (c) The City of Dover, Kent County and the State, working together, have identified the Garrison Tract as important to
16 the future of Central Delaware and its citizens and are committed to developing the property as a high-technology industrial
17 park. Accordingly, the three parties will work together to resolve any remaining differences and finalize the Memorandum
18 of Understanding (MOU) between the three parties within ninety days from the City of Dover taking title to the property.

19
20 Section 49. Delaware River and Bay Authority Acquisition and Development. If the Governor and the Delaware
21 Department of Natural Resources and Environmental Control ("DNREC") request that the Delaware River and Bay
22 Authority acquire and develop real property and improvements for the purpose of shoreline preservation and development
23 (including, without limitation, wetlands and open-land acquisition, active recreational and park development or facilities of
24 commerce) along or in proximity to the shoreline of the Delaware Bay and inland waters, or tributaries flowing into the
25 Delaware Bay in the vicinity of Cape Henlopen State park (excluding lands owned by the State of Delaware, east of the
26 Lewes and Rehoboth Canal) pursuant to the Compact (17 Del. C. §1701 et. seq.) and the applicable statutory requirements,
27 and if any such project is undertaken and funded by the Delaware River and Bay Authority after written approval by the
28 Governor, then such project is hereby authorized and approved by this legislation. Any conveyance of real property and
29 improvements owned by the State of Delaware pursuant to the foregoing authority shall be exempt from the provisions of

1 Title 29, Chapter 94 and Title 7, Chapter 45, Delaware Code, and the Governor or the Secretary of DNREC is hereby
2 authorized to execute and deliver to the Delaware River and Bay Authority a deed to such real property and improvements.

3
4 Section 50. Amend §1724, Title 17, Delaware Code by adding a new subparagraph (f) to read as follows:

5 "The provisions of this section shall not apply to any transportation facility, terminal facility or commerce facility or
6 development project (as defined in Article II of the Delaware New Jersey Compact set out in §1701 of this Title)
7 undertaken by the Delaware River and Bay Authority in the State of Delaware which has been proposed to the Delaware
8 River and Bay Authority by the Governor and has received legislative approval pursuant to §1726, Title 17, Delaware
9 Code."

10
11 Section 51. Amend §1726, Title 17, Delaware Code by deleting the word "major" as it appears in the first, fifth and
12 eleventh lines of this section and inserting after the word "project" on the first line and before the bracket the words ", except
13 a crossing".

14
15 Section 52. Amend § 1701, Title 17 Delaware Code, Article II of the Delaware-New Jersey Compact governing the
16 Delaware River & Bay Authority, by deleting, from the definition of "Commerce facility or development," the words
17 following the phrase "manufacturing and industrial facilities," and substituting in lieu thereof the following:
18 "and any other facility or activity designed, directly or indirectly, to promote business or commerce which, in the
19 judgment of the Authority, is required for the sound economic development of the area."

20
21 Section 53. AstraZeneca. Of the amounts appropriated to the Department of Transportation in this Act and listed in the
22 Section I Addendum of this Act for System Expansion (77/00), sufficient funds are available for reimbursement to the
23 Delaware Economic Development Office (DEDO) for certain rights-of-way for transportation improvements related to the
24 AstraZeneca Project (Project). The Department is authorized to reimburse DEDO for the cost of such lands needed solely for
25 such transportation improvements, subject to compliance with all necessary federal regulations that limit the timing of such
26 expenditures by the Department. The per acre cost to DEDO for all the lands DEDO acquires for this Project shall be used as
27 the per acre charge to the Department for such reimbursement. Other acreage acquired by DEDO for this Project needed for
28 area-wide stormwater management improvements, wetlands mitigation, and/or historic preservation regulatory compliance,
29 shall be made available to the Department without cost for its use in constructing such improvements, facilities, and/or
30 complying with historic preservation regulations, under a cost-sharing arrangement agreed to by the state agencies involved
31 in this Project.

1 Section 54. The Section 1 Addendum to this Act contains an appropriation for the 21st Century Fund – Open Space. Of
2 this amount, \$4,500,000 shall be transferred to the Division of Parks and Recreation (40-06-04). During the fiscal year ending
3 June 30, 2000 these funds shall be transferred to the Delaware Economic Development for use in the acquisition of properties
4 associated with the AstraZeneca project.

5
6 Section 55. AstraZeneca Project Fund.

7 (a) In order to consolidate sources of funding to accomplish the objectives set forth in this Section, the following
8 transfers of funding in the amounts indicated shall be made:

9 (1) \$4,500,000 from the funds appropriated in the Section 1 Addendum to this Act for the 21st Century Fund – Open
10 Space;

11 (2) \$5,000,000 from the AstraZeneca Fund created in the Capital Improvements Act for the fiscal year ending
12 June 30, 2000;

13 (3) \$9,400,000 from the Delaware Strategic Fund.

14 (b) The General Assembly hereby authorizes the amount of \$18,900,000 to be placed in the AstraZeneca Project Fund
15 Account ("Account") hereby established in the office of the Delaware Economic Development Office ("DEDO") for
16 the purpose of acquiring the properties identified herein and developing and implementing a comprehensive plan to
17 serve the following important and vital public purposes and essential governmental functions:

18 (1) the creation of stable and useful employment opportunities for the citizens of the State;

19 (2) the retention of existing valuable employment opportunities;

20 (3) the creation of valuable economic development incentives and opportunities;

21 (4) the planning and implementation of necessary highway transportation improvements;

22 (5) the planning and implementation of area wide storm water management improvements;

23 (6) the preservation of open space for public recreation and conservation of natural resources;

24 (7) the protection and adaptive reuse of significant cultural and historical landmarks;

25 (8) the development and maintenance of State parklands to be utilized chiefly for public recreation; and

26 (9) the establishment and extension of greenway corridors using pathways through parklands, open space areas and
27 conservation easement areas for public access to recreational areas in different locations.

28 (c) The properties subject to acquisition by fee simple interest are titled in the name of Al-Zar, Ltd. being all of the
29 lands owned by Al-Zar, Ltd., located in the vicinity of Route 202, Rockland Road, Foulk Road and Route 141 in

1 New Castle County, Delaware, commonly referred to and identified as the Triangle Parcel, the Residue Parcel, the
2 Alapocas Parcel and the Rock Manor Parcel, collectively referred to as the "Property". The purchase price for the
3 Property is \$16,900,000. Included in the acquisition is a Conservation Easement on lands located adjacent to the
4 Property which is to be donated by the Nemours Foundation. The acquisition of the Property and the Conservation
5 Easement is subject to a Memorandum of Agreement between the State and Al-Zar, Ltd., dated January 29, 1999.

6 (d) The Account shall be administered by DEDO. Notwithstanding any law, rule or regulation to the contrary,
7 including but not limited to the provisions of Chapters 50, 69, 70, 80, 84, 88, 91, 92, 93, 94 and 95 of Title 29 of the
8 Delaware Code and Chapters 45, 53, 54, 69, 73 and 75 of Title 7 of the Delaware Code, the Director of DEDO, with
9 respect to the expenditure of monies authorized hereunder and related activities only, shall be authorized to expend
10 funds from the Account and DEDO shall be authorized and empowered to act on behalf of and bind the State of
11 Delaware, without approval or restriction, in undertaking the following and all acts incidental thereto:

- 12 (1) the acquisition of the Property and Conservation Easement;
- 13 (2) the conveyance of such portions of the Property to the Delaware Department of Transportation ("DelDOT") as
14 needed for the implementation of highway transportation improvements and the implementation of area wide
15 storm water management improvements and/or wetlands mitigation;
- 16 (3) the conveyance, for no monetary consideration and in consideration of the public purposes and essential
17 governmental functions set forth in subparagraphs 1, 2 and 3 of paragraph (b), of such portions of the Property
18 to KB USA, L.P., a member of the AstraZeneca group, or any of its affiliates, as needed for the long term
19 expansion of business operations in the State;
- 20 (4) the leasing, for no monetary consideration and in consideration of the public purposes and essential
21 governmental functions set forth in subparagraphs 1, 2 and 3 of paragraph (b), of such portions of the Property
22 to KB USA, L.P., a member of the AstraZeneca group, or any of its affiliates, as needed for the long term
23 expansion of business operations in the State, or the use of other means for making the required Property
24 available to KB USA, L.P., a member of the AstraZeneca group, or any of its affiliates, on a short term or long
25 term basis;
- 26 (5) the conveyance of portions of the Alapocas Parcel to the Department of Natural Resources and Environmental
27 Control ("DNREC") for incorporation into the State Parks system;
- 28 (6) the conveyance or assignment of contract rights in the Rock Manor Parcel to DNREC for use as parkland
29 administered in accordance with the provisions of 7 Del. C. Ch. 47 and subject to the exercise of authority
30 provided under 7 Del. C. §4701(a)(1);

- 1
- 2 (7) the direct transfer to DNREC of the Conservation Easement donated by the Nemours Foundation;
- 3 (8) the development and implementation of a comprehensive plan to serve the purposes set forth in paragraph (b)
- 4 above;
- 5 (9) the expenditure of up to \$2,000,000 from the Account for costs and expenses associated with the acquisition of
- 6 the Property and Conservation Easement and the development and implementation of the comprehensive plan,
- 7 including but not limited to, costs and expenses for consultant fees, engineering studies, land surveys, traffic
- 8 studies, environmental assessments, wetland assessments, wetland mitigation, drainage studies, master planning
- 9 fees, due diligence studies, closing costs, title insurance, insurance premiums, legal fees, expert fees, appraisal
- 10 fees, court costs, permit reviews, regulatory compliance, planning and zoning approvals, boundary markers and
- 11 fencing;
- 12 (10) the direct conveyance of portions of the Property from Al-Zar, Ltd. to a State agency, instrumentality of the
- 13 State, or KB USA, L.P., a member of the AstraZeneca group, or any of its affiliates, provided that any
- 14 conveyance to KB USA, L.P., a member of the AstraZeneca group, or any of its affiliates shall be without
- 15 monetary consideration;
- 16 (11) the conveyance or leasing of portions of the Property from DEDO, on behalf of the State, to a State agency or
- 17 instrumentality of the State for subsequent conveyance or leasing to KB USA, L.P., a member of the
- 18 AstraZeneca group, or any of its affiliates, or its company owned designee, provided that any conveyance or
- 19 leasing to KB USA, L.P., a member of the AstraZeneca group, or any of its affiliates, or its company owned
- 20 designee shall be without consideration;
- 21 (12) the delegation of responsibilities for property acquisition activities and the development and implementation of
- 22 the comprehensive plan to State agencies or instrumentalities of the State, providing further that the State
- 23 agencies or instrumentalities undertaking delegated activities shall be authorized and empowered to the same
- 24 extent provided hereunder to DEDO; and
- 25 (13) the imposition of such terms and conditions as deemed appropriate and necessary in exercising the authority
- 26 provided under the Section.
- 27 (e) With respect to the acquisition, conveyance, leasing or transfer of the Property or any part thereof, or any interest
- 28 therein, as authorized hereunder, there shall be no transfer tax, rollback tax, or any other form of tax or assessment
- 29 charged for any such transaction. In addition, no recording costs or document fees shall be charged for the recording

1 of documents, including plot plans, involved in the acquisition, conveyance, leasing or transfer of the Property, or
2 any part thereof, or any interest therein.

3 (f) With respect to the conveyance, for no monetary consideration, of such portions of the Property to KB USA, L.P., a
4 member of the AstraZeneca group, or any of its affiliates, it is declared that it is in the public interest, and a benefit
5 to the health and welfare of the citizens of the State, to effectuate the conveyance as an incentive to AstraZeneca,
6 Ltd., to maintain and expand its business operations in the State of Delaware. It is determined and declared as a
7 matter of legislative finding that the valid public purposes and essential governmental functions of creating stable
8 and useful employment opportunities, retaining existing employment opportunities and creating valuable economic
9 development opportunities are served by this appropriation and the expenditure of the funds appropriated in
10 accordance therewith.

11 (g) Any unused authorization in the Account resulting from the prior purchase of portions of the Property by DelDOT
12 shall, when such monies become available, be transferred to the Delaware Strategic Fund, and any other unused
13 authorization in the Account by June 30, 2005 shall revert to the General Fund.
14

15 Section 56. Delaware Economic Development Authority. The Delaware Economic Development Authority is hereby
16 directed to deed to the City of Harrington approximately 35 acres of land, specifically the balance of tax map
17 #180.00 01 06.00 located on the south side of Route 14.

1 **DELAWARE STATE HOUSING AUTHORITY**

2 Section 57. Delaware State Housing Authority. Of the funds appropriated in Volume 71, Chapter 378, Laws of
3 Delaware to the Delaware State Housing Authority as part of the Infrastructure Investment Plan, up to \$300,000 may be
4 committed by the Director of the Delaware State Housing Authority as a loan to the Wilmington Housing Authority. The
5 loan shall be contingent upon a dollar for dollar match commitment from the City of Wilmington, with all other contract
6 terms at the discretion of DSHA and in accordance with Subsection 4030 (c), Title 31, Delaware Code.

1 **OFFICE OF INFORMATION SERVICES**

2 Section 58. City of Wilmington – 800 MHz. The seven frequencies/licenses for the 800 MHz system assigned to the
3 City of Wilmington shall be ceded to the State of Delaware, for purposes of incorporation into the overall 800 MHz
4 communication system.

5
6 Section 59. Kent County Communications. Section 1 Addendum to this Act appropriates \$72,000 to reimburse Kent
7 County fire and ambulance companies for the costs of communications installation.

OTHER ELECTIVE

Section 60. Amend Section 2711, Title 29 of the Delaware Code by adding the following paragraph:

"(c) Monies received pursuant to 33 USC 701c-3 will be deposited into a special account and distributed annually by the State Treasurer to soil and water conservation districts within this state for the purpose of drainage and flood control. Distributions will be made to county soil and water conservation districts in which the subject leased lands are situated in proportional shares as required by 22 USC 701c-3."

1 **DEPARTMENT OF STATE**

2 Section 61. Diamond State Port Corporation. Notwithstanding the provisions of any other State law to the contrary,
3 the Diamond State Port Corporation ("Corporation") may borrow on an interest-free basis, up to \$3,000,000 as deemed
4 necessary, from construction funds authorized in the Section 1 Addendum to ensure coverage of short-term operating cash
5 flow deficits which may be encountered by the Corporation.
6

7 Section 62. Port of Wilmington. Funds appropriated in the Section 1 Addendum for the Port of Wilmington shall be
8 distributed to the Department of State to make capital investments in the Port that maintain its competitiveness and that allow
9 it to continue to be a major economic asset of the State. Consistent with the discretion granted to the Secretary of Finance to
10 transfer funds to the Diamond State Port Corporation upon the formation of, approval by, and formal request from the Board
11 of Directors of the Diamond State Port Corporation, funds may be transferred in any fiscal year from the funds appropriated
12 in the Section 1 Addendum of this Act to the Port Account and invested and expended consistent with the purposes of the
13 Diamond State Port Corporation.
14

15 Section 63. Pursuant to 29 Del. C., Section 8735, the Diamond State Port Corporation is hereby authorized to amend its
16 certificate of incorporation to change the corporation's registered office in Delaware from the Office of the Secretary of the
17 State of Delaware, Townsend Building, Federal and Duke of York Streets, P.O. Box 1401, Dover, Kent County, Delaware, to
18 Diamond State Port Corporation, Robert F. Senseny Building, #1 Hausel Road, Port of Wilmington, Wilmington, Delaware,
19 19801.
20

21 Section 64. Funds authorized in the Section 1 Addendum for "Diamond State Port Corporation" may be used for
22 expenditures related to capital projects and for the reduction of outstanding debt obligations.
23

24 Section 65. North Wilmington Library. Funds authorized in the Section 1 Addendum of Volume 70, Chapter 473, Laws
25 of Delaware and in the Section 1 Addendum of Volume 69, Chapter 386, Laws of Delaware, shall be used to plan and
26 construct a library within the first Senate District.
27

1 Section 66. Dayett Mills. Funds remaining from those authorized in Volume 70, Chapter 473, Laws of Delaware for
2 "Dayett Mills Remediation, Asbestos/UST" may be used for any rehabilitation, or professional services to study
3 rehabilitation and restoration needs of the Dayett Mill building complex and associated grounds.

4
5 Section 67. Delaware River Main Channel Dredging. The Section 1 Addendum to this Act appropriates \$2,000,000 to
6 the Department of State for Main Channel Dredging of the Delaware River. Expenditure of these funds is contingent upon
7 the following:

- 8 1) The Army Corps of Engineers provides funding to reconstruct the seawall at Pea Patch Island according to plans and
9 specifications that have been developed by the Department of Natural Resources and Environmental Control.
- 10 2) A written agreement between the Army Corps of Engineers and the Department of Natural Resources and
11 Environmental Control dealing with the potential use of dredge spoils for Delaware beach preservation.

12
13 Section 68. Delaware Stadium Corporation. The Section 1 Addendum of this Act appropriates \$1,100,000 to the
14 Department of State, for Delaware Stadium Corporation. The Delaware Stadium Corporation and the Wilmington Blue
15 Rocks, L. P. shall submit an annual financial audit to the Budget Director and Controller General prior to the allocation of
16 these monies.

17
18 Section 69. Fenwick Island Lighthouse. The Section 1 Addendum of this Act appropriates \$75,000 to the Department
19 of State for improvements to the Fenwick Island Lighthouse. These funds shall be used for the following purposes:

20 a) Removal of Solar Collector. The solar collector now located in the front yard of the Fenwick Island Lighthouse
21 property shall be removed from the lighthouse site and the lighthouse electrical system reconnected to a conventional power
22 source. Up to \$5,000 of the funds appropriated may be used for necessary work at the lighthouse and to relocate and install
23 the solar collector at an alternate historic site such as the Indian River Lifesaving Station where sufficient land is available to
24 allow its placement without obscuring the public view of the historic structure.

25 b) Replacement of the Existing Fence Around the Perimeter of the Lighthouse Property. The present fence around the
26 perimeter of the lighthouse property shall be replaced by a good quality decorative fence constructed of durable materials and
27 of a design which is both attractive and serves the security needs of the site. The design, materials and construction of said
28 fence shall be approved in advance by the Board of Directors of the Friends of the Fenwick Island Lighthouse, Inc.

1 Section 70. Veterans Monuments Maintenance/Restoration Fund. The Section 1 Addendum to this Act appropriates
2 \$50,000 to the Department of State for Veterans Monuments Maintenance/ Restoration Fund. Of this amount, \$10,000 shall
3 be dedicated to the Knollwood Monument.
4

5 Section 71. Veterans Cemetery. The Section 1 Addendum to this Act makes an appropriation for Minor Capital
6 Improvements for the Department of State. Of this amount, \$75,000 shall be for improvements for the Veterans Cemetery
7 located in Bear.

1 **DEPARTMENT OF FINANCE**

2 Section 72. Bond Proceeds Reimbursement. Unless not permitted by the Internal Revenue Code of 1986, as amended,
3 whenever the General Assembly authorizes the issuance of the state's general obligation bonds or the Delaware
4 Transportation Authority's (the "Authority") revenue bonds to finance the costs of specific capital projects, it is the intent of
5 the General Assembly that the interest on such bonds shall not be included in gross income for federal income tax purposes
6 under Section 103 of the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations (the
7 "Regulations") thereunder as they may be promulgated from time to time. Pursuant to the state's budget and financial
8 policies, other than unexpected situations where surplus revenues render bond financing unnecessary or undesirable, no
9 funds other than the proceeds of such bonds, are or are reasonably expected to be, reserved, allocated on a long-term basis,
10 or otherwise set aside by the state to pay the costs of such specific capital projects. Pursuant to the Authority's budget and
11 financial policies, it is expected that approximately 50 percent of the costs of its capital projects shall be funded on a long-
12 term basis from the proceeds of such bonds. However, after the authorization of such bonds but prior to their issuance,
13 non-bond funds from the state's General Fund or the Authority's Transportation Trust fund or other funds may be advanced
14 on a temporary basis to pay a portion of the costs of such specific capital projects. In that event, it is expected that these
15 non-bond funds will be reimbursed from the proceeds of such bonds when they are issued. This reimbursement may cause a
16 portion of such bonds to become "reimbursement" bonds within the meaning of Section 1.150-2 of the Regulations. Under
17 those Regulations, to preserve the exclusion of the interest on such bonds from gross income for federal income tax
18 purposes, it may be necessary to make a declaration of official intent. The Secretary of Finance is hereby designated as the
19 appropriate representative of the State and the Secretary of Transportation is hereby designated as the appropriate
20 representative of the Authority, and each is authorized to declare official intent on behalf of the state or the Authority, as the
21 case may be, within the meaning of Section 1.150-2 of the Regulations, whenever and to the extent that such declaration is
22 required to preserve such tax treatment.

1 **DEPARTMENT OF ADMINISTRATIVE SERVICES**

2 **Section 73. Construction Management.**

3 (a) Notwithstanding any other state law, the Department of Administrative
4 Services ("Department") shall be responsible for the design and construction of all the projects listed under "Department of
5 Administrative Services" in the Section 1 Addendum of this Act. For those projects that are solely for the purchase of
6 equipment, including projects that are funded in any "MCI and Equipment" line, or any "MCI" line, the Department shall
7 transfer the appropriate amount of funding necessary to purchase the equipment to the agency for which the equipment is
8 being purchased. The appropriate amount of funding shall be determined and agreed to by the Department and the agency
9 for which the equipment is being purchased by August 1, 2000. For those projects for which the appropriation is passed to
10 an entity and for which the state is not a party to the construction contract, the Department shall provide technical
11 assistance.

12 (b) Notwithstanding any other state law, there is hereby created an Appeals Board, to be composed of the Lieutenant
13 Governor, the Budget Director, and the Controller General. The Appeals Board shall approve the use of all unencumbered
14 monies after that project is deemed "substantially complete." A project shall be deemed "substantially complete" when the
15 project is occupied by 75 percent of the planned tenants or when deemed completed by the Appeals Board. One year after a
16 project is deemed "substantially complete," any unencumbered authorization balance shall revert. In no case shall this
17 Section empower the Appeals Board to allow for the expenditure of funds for uses other than for the funds' authorized
18 purpose(s). The Controller General shall notify the Co-Chairs of the Joint Legislative Committee on the Capital
19 Improvement Program of any decisions of the Appeals Board.

20 (c) Use of Minor Capital Improvement and Equipment funds in order to ensure completion of a Major Capital
21 Improvement project involving construction of a new facility is prohibited.

22 (d) The Department shall submit a quarterly status report to the Budget Director and Controller General on all
23 incomplete projects.

24 (e) No project's budget should be increased beyond what is appropriated in any Bond and Capital Improvement Act,
25 either with special funds or private funds, unless the use of those funds is approved by the appropriate cabinet secretary, the
26 Budget Director, the Controller General and Co-Chairs of the Joint Legislative Committee on the Capital Improvement
27 Program.

28 **Section 74. Minor Capital Improvements and Equipment Supplement - Department of Administrative Services.**

29 Notwithstanding the provisions of any other State law to the contrary, not more than \$200,000 may be expended to enter into
30 contractual agreements for project representatives and associated administrative support to ensure adequate oversight of State

1 construction projects. The Secretary of Administrative Services is directed to provide an itemized budget for this amount to
2 the Controller General by August 1, 1999, and expenditure reports to the Controller General by December 1, 1999 and June
3 1, 2000.

4
5 Section 75. New Castle County Courthouse. Funds received by the state from the sale of the property known as the
6 Daniel Hermann Courthouse shall be retained by the Department of Administrative Services and used for the construction
7 of the New Castle County Courthouse. Revenues received from the surface parking lot associated with the New Castle
8 County Courthouse shall be retained by the Department of Administrative Services and used to defray costs associated with
9 the New Castle County Courthouse construction project.

10
11 Section 76. New Castle County Courthouse. Notwithstanding any law or local governmental ordinance, resolution, or
12 any deed restrictions to the contrary, the Secretary of Administrative Services shall designate the name of any state-owned
13 or state-operated courthouse or other judicial building or facility in New Castle County purchased, constructed, or improved
14 by funds appropriated pursuant to the Section 1 Addendum of this Act and shall have the sole authority to approve or
15 disapprove the placement of any statues or memorials in or on the grounds of such courthouse or judicial building of
16 facility.

17
18 Section 77. Construction Reports. Amend §6962(d)(13)a, Title 29, Delaware Code by inserting at the end of said
19 subsection the following: "Every State agency and School District shall, on a yearly basis, file a report with every member of
20 the General Assembly and the Governor that states which projects were bid under best value and what contractor was
21 awarded each contract."

22
23 Section 78. Veterans Cemetery Enhancements. For the Fiscal Year ending June 30, 1999 any funds that remain
24 unencumbered in the Department of Administrative Services, Division of Facilities Management Fiscal Year 1996
25 appropriation (30-05-10-66-20) shall not revert until June 30, 2000. These funds may be used for general enhancements to
26 the cemetery, including an outside internment facility and the construction of an above ground burial facility.

27
28 Section 79. Amend Volume 71, Chapter 150, Laws of Delaware by striking the word "nine" as it appears in Section
29 35(c) and substituting in lieu thereof the word "ten". Further amend Volume 71, Chapter 150, Laws of Delaware by striking

the word "three" as it appears in Section 35(c) and substituting in lieu thereof the word "four". Further amend Volume 71, Chapter 150, Laws of Delaware by adding after the words "Management or his designee," the words "the Director of the Delaware Economic Development Office,".

Section 80. Kent County Courthouse. The Section 1 Addendum contains an appropriation of \$1,185,200 to the Department of Administrative Services for Kent County Courthouse. It is the intent of the General Assembly that up to \$700,000 of these funds be used for renovations of existing space to include a new courtroom. The Department of Administrative Services is hereby authorized to negotiate the purchase of the Kent County Courthouse. In addition, the Department of Administrative Services shall begin discussions and planning to meet current and future space needs of the Judiciary in Kent County.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Section 81. Fluoridation. The Section 1 Addendum to the Act appropriates \$500,000 to the Department of Health and Social Services for Fluoridation. This appropriation shall be used to fund the state's commitment to municipal water fluoridation as per 71 Laws of Delaware, Chapter 361.

1 **DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES**

2 Section 82. Woods Haven Kruse. The Secretary of Administrative Services is hereby authorized, on behalf of the State
3 of Delaware, to acquire by agreement or in the exercise of the power of eminent domain, by condemnation in the manner
4 prescribed in Chapter 61, Title 10, Delaware Code the 22 acres, more or less, constituting the real property of the Woods
5 Haven Kruse Trust, being more specifically referred to as New Castle County Tax Parcel No. 06-059.01-001 and the precise
6 metes and bounds of which are more particularly described by the deed between Woods Haven School for Girls and The
7 Youth Services Commission of Delaware, dated June 4, 1959, and recorded at deed record 0-64, page 534.

1 **DEPARTMENT OF CORRECTION**

2 Section 83. Prison Construction. (a) Of the funds authorized, the Secretary of the Department of Administrative
3 Services, as provided through construction management services, shall consult with the Commissioner of Correction to
4 ensure expedient programming, planning and construction of authorized correctional facilities. None of the funds
5 authorized herein or in prior fiscal years are intended to supplant federal funds.

6 (b) Use of any federal grant funds awarded and approved by the Delaware State Clearinghouse Committee for the
7 purpose of constructing correctional facilities shall have the technical oversight of the Secretary of Administrative Services
8 as defined in the appropriate Section of this Act pertaining to management of the construction to ensure proper use and
9 timely completion of all such construction projects authorized herein.

10
11 Section 84. Correctional Uniforms. The Department of Correction is hereby encouraged to explore the provision of new
12 uniforms for its correctional officers. When considering new uniforms, the Department shall consider various aspects
13 including but not limited to type of materials, fit, care and durability.

1 **DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

2 Section 85. Beach Preservation. The General Assembly hereby authorizes \$1,000,000 to the Department of Natural
3 Resources and Environmental Control in the Section 1 Addendum of this Act to renourish and preserve the state's beaches.
4 The Department may not encumber the funds appropriated herein for privately-owned ocean beaches. The Department may
5 not encumber the funds appropriated herein for publicly accessible municipal ocean beaches until at least an equal amount
6 of non-state funds are available for such projects. The funds provided for beach preservation as defined in Chapter 61 of
7 Title 30 of the Delaware Code can be used for local match and if so designated, shall be reimbursed by the Department on
8 an equal basis to each such county or town for which a beach preservation project has been accomplished. The availability
9 of the aforementioned non-state matching funds must be approved by the Budget Director and the Secretary of the
10 Department of Natural Resources and Environmental Control.

11
12 Section 86. Conservation Cost-Sharing Program. The Section 1 Addendum to this Act appropriates \$2,345,000 to the
13 Department of Natural Resources and Environmental Control for the Conservation Cost-Sharing Program. This
14 appropriation shall be allocated as follows:

- 15 1. \$900,000 for the Soil and Water Conservation Program. The Department shall spend one-third of such funds for
16 use in each County.
- 17 2. \$1,445,000 shall be spent on nutrient management efforts statewide. The Division of Soil and Water may target
18 all or a portion of the funds appropriated for conservation cost share to critical areas, such as the Inland Bays
19 Watershed, the Nanticoke Watershed and others as designated by the Secretary of the Department of Natural
20 Resources and Environmental Control.

21
22 Section 87. DNREC Land Acquisition. Except for land acquired by approval of the Open Space Council or approved
23 through a Bond and Capital Improvements Act, land shall not be purchased by the Department of Natural Resources and
24 Environmental Control without prior approval of the Co-Chairs of the Joint Legislative Committee on the Capital
25 Improvement Program provided, however, that the department is not prohibited from conducting studies, surveys or other
26 contractual arrangements that would normally precede land acquisition procedures.

1 Section 88. Indian River Inlet Marina. Notwithstanding the provisions of any other State law to the contrary, the
2 Department of Natural Resources and Environmental Control may enter into long-term contractual arrangements with
3 respect to development, construction and/or operation of the facilities and grounds associated with the Indian River Inlet
4 Marina at the Delaware Seashore State Park. Before entering into said contractual arrangements, the Secretary of the
5 Department of Natural Resources and Environmental Control shall submit a proposal, together with associated State funds
6 required, if any, to be approved by the Budget Director, the Controller General and the Co-Chairs of the Joint Legislative
7 Committee on the Capital Improvement Program.

8
9 Section 89. Land and Water Conservation Trust Fund Interest. Of the interest monies generated on the principal
10 deposited in the Land and Water Conservation Trust Fund before 1995, no more than \$30,000 may be spent for the
11 combined administrative costs of the Open Space Council and the Council on Greenways and Trails.

12
13 Section 90. Smith Estate (Hockessin). Notwithstanding the provisions of any other applicable State law to the contrary,
14 the Department of Natural Resources and Environmental Control may transfer title to the Smith Estate property in Hockessin.
15 Parcel #08012.00041, to New Castle County upon completion and approval of a Delaware Land and Water Conservation
16 Trust Fund Project Agreement. Funds appropriated per the provisions of Section 49, of Volume 71, Chapter 150, Laws of
17 Delaware, for the Smith property may be used by the Department to reimburse costs associated with the acquisition of the
18 property.

19
20 Section 91. Resource, Conservation and Development. For the fiscal year ending June 30, 1999, any sum in the
21 Resource, Conservation and Development 1995 appropriation (40-07-02-01-81) and 1997 appropriation (40-07-02-08-01)
22 shall remain encumbered until June 30, 2000.

23
24 Section 92. Wilmington State Parks/Fort Delaware State Park. The Section 1 Addendum to this Act appropriates
25 \$1,000,000 to the Department of Natural Resources and Environmental Control for Wilmington State Parks/Fort Delaware
26 State Park. Of this amount, \$500,000 shall be for providing electrical service and other improvements to Fort Delaware and
27 the remainder shall be used for improvements in Wilmington State parks. No monies herein shall be used to construct a
28 central park office.

1 Section 93. Open Space Program (Smith/Lewes). The General Assembly finds that the preservation of the Smith
2 property in Lewes is in the State's best interest. It is further the intent of the General Assembly to encourage the Open Space
3 Council to review and make recommendations on the merits of the potential acquisition of the Smith property.
4

5 Section 94. White Clay Creek State Park. All applicable state laws to the contrary, the Division of Parks and Recreation
6 may, with the approval of the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program, enter into
7 long-term property leases at White Clay Creek State Park with private non-profit institutions to construct facilities and/or
8 undertake programming and educational activities that, in the judgment of the Division, are consistent with its public mission.
9

10 Section 95. Trap Pond State Park. The Section 1 Addendum to this Act appropriates \$1,250,000 to the Department of
11 Natural Resources and Environmental Control for Parks Rehabilitation. Of this amount, \$18,100 shall be used for four
12 floating docks at Trap Pond State Park.
13

14 Section 96. Amend 70 Delaware Laws, Chapter 473, Section 57 by deleting "July 1, 1999" as it appears in the last
15 paragraph and substituting *in lieu thereof* "July 1, 2000".
16

17 Section 97. Cape Henlopen State Park Nature Trail. Of the funds appropriated in the Section 1 Addendum for Cape
18 Henlopen State Park no more than \$125,000 may be spent for Phase 1 of the Cape Henlopen Nature Trail.
19

20 Section 98. Cape Henlopen State Park. Section 1 Addendum to this Act appropriates \$1,000,000 to the Department of
21 Natural Resources and Environmental Control for Cape Henlopen State Park. It is the intent of the General Assembly that
22 window unit air conditioners be installed in the Fishing Pier concession stand and park benches be installed on the T-section
23 of the pier.
24

25 Section 99. Combined Sewer Overflows. The Section 1 Addendum of this Act appropriates \$1,500,000 to the
26 Department of Natural Resources and Environmental Control for Combined Sewer Overflows in the City of Wilmington,
27 subject to at least a 1 to 1 match from the City of Wilmington prior to disbursement.

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1 **DEPARTMENT OF TRANSPORTATION**

2 Section 102. Transportation Trust Fund Authorizations. (a) There is hereby appropriated \$176,131,000 from the
3 Transportation Trust Fund for transportation programs as set forth in the Section 1 Addendum to the Act.
4

5 Section 103. To fund a portion of the amount set forth in (a) above, the Delaware Transportation Authority is hereby
6 authorized to issue bonds in an amount not to exceed \$32,798,000 pursuant to the provisions of Chapter 14, Title 2, Delaware
7 Code, as amended, of which \$31,138,000 shall be used for purposes set forth in the Section 1 Addendum to this Act with the
8 remainder of \$1,660,000 to be used to fund issuance costs and necessary reserves for the Reserve Account.

9 (b) As projects and programs are complete within the following "old" program categories made available by previous
10 act, and as unexpended balances therein are determined to be in excess of those program needs, as identified by the
11 Department, the Department of Transportation is authorized to transfer such balances to "new" program categories in such
12 amounts and to such new programs as deemed appropriate by the Department.

13 **"Old Program Categories"**

14 Advanced Planning (60/00)

15 Advanced R/W & Corridor Preservation (59/00)

16 Rehabilitation & Reconstruction (64/00)

17 Pave & Rehabilitation (64/00)

18 Bridge Placement & Rehabilitation (65/00)

19 Safety & Intersection Improvements (63/00)

20 Public Transit Improvements (73/00)

21 Corridor & Non-Corridor Improvements (66/00)

22 **"New Program Categories"**

23 Program Development (74/00)

24 System Preservation (75/00)

25 System Management (76/00)

26 System Expansion (77/00)

27 (c) To deauthorize Suburban Street Fund balances and reauthorize such balances in accordance with the Section 1
28 Addendum of this Act.

29 <u>Deauthorize</u>	<u>Amount</u>
30 Suburban Street Program (55-05-00-56-00)	\$1,550,000

1 Reauthorize

2 Suburban Street Program (55-05-00-56-00)

\$1,550,000

3
4 Section 104. Department of Transportation Accounts. (a) Any funds appropriated from any source to the Department
5 of Transportation shall be accounted for by program category as specified in the Section 1 Addendum to this Act. Amounts
6 indicated for individual projects in the "Supplemental Information for Transportation Projects" are the Department's best
7 estimates of cost, but may vary depending on bid results and project designs. The descriptions and limits are general in
8 nature and are to be used only for project identification purposes. It is the intent of the General Assembly that the
9 Department of Transportation make all reasonable efforts to ensure the timely completion of projects subject to the limitation
10 of the total funds available in each program.

11 (b) The Department is directed to continue inspecting the condition of bridges and pavements in the State of Delaware
12 and to use the System Preservation Program funds made available by this Act and the Bridge Program, the Rehabilitation and
13 Reconstruction, and the Pave and Rehabilitation Program funds made available by previous acts to ensure the bridge repairs
14 and replacements and pavement resurfacings and rehabilitations are carried out in an expeditious manner based on the
15 Department's priority and management systems.

16 (c) It is the intent of the General Assembly that the Co-Chairs of the Joint Legislative Committee on the Capital
17 Improvement Program shall be delegated the responsibility of approving modifications to the list of paving and rehabilitation
18 projects in the "System Preservation" portion of the "Supplemental Information for Transportation Projects" when the
19 Department of Transportation needs such modifications. These changes may be made subject to the Co-Chair's approval,
20 when: (a) the Department has completed or determined that it has sufficient funds on hand to complete projects in the
21 program category, or (b) when projects so listed cannot be constructed in the construction season covered by this Act because
22 of conflicting public works projects in progress or scheduled, or for other compelling reasons, and (c) funds appropriated to
23 the System Preservation program category are available for use on additional or other projects fitting within that category. In
24 modifying the list, the Department must substitute the next suitable paving and rehabilitation projects(s) from the most
25 recently approved Department of Transportation Capital Improvement Program or from the most recent project priority
26 "System Preservation" listing. A copy of the changes should be forwarded to the Budget Director and Controller General.

27 (d) Any funds appropriated from the "Suburban Street Program" (56/00) of the "Supplemental Information For
28 Transportation Projects" attached hereto may be designated for Greenways having a transportation component as long as
29 those Greenways will be dedicated to public use. Legislators may designate monies to be appropriated into a general pooled
30 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 105. 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 106. Clear the Road Policy for Churchman's Road/SR 7 Project and I-95 Projects. 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 Proj. No. 96-074-02, Fed. Proj. No. IM-N056(8) and Interstate 95 projects currently scheduled to begin in Fiscal Year 2000 (Project No. 96-074-07, I-95 Wilmington Viaduct, BR748N and BR748S, and Project No. 95-091-02, I-95 Wilmington Viaduct to PA Line) 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. This section shall also apply to I-95 and I-495 from SR 141 to the Pennsylvania line and US 202/Concord Pike from I-95 to the Pennsylvania line.
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.

- 1 3. If the parked or disabled vehicle cannot be moved under their own power to a location off the travel lanes, the
2 Department of Transportation shall have the authority to cause the vehicle to be moved to an adjacent area,
3 either with its own force or pursuant to a contract for this purpose.
- 4 4. If the vehicle is parked or disabled and there is (a) a fatality, or (b) personal injury, or (c) in cases involving
5 hazardous material loads, whether authorized or unauthorized, and movement would cause environmental risk,
6 the vehicle shall not be moved until directed by the police authority with jurisdiction over the scene.

7

8 Section 107. Public, Private Partnership Initiatives Program. Amend Section 85, Chapter 378, Volume 71 of the Laws
9 of Delaware by deleting the year "1999" and appearing therein and inserting in lieu thereof the year "2000". Authorized but
10 unspent funds exist in the Department of Transportation's Engineering and Contingency Program Account (55-05-00-57-00)
11 derived from the Section 1 Addendum of Chapter 210, Volume 70 of the Laws of Delaware previously directed in Section
12 76, thereof, for expenditure in the Public, Private Partnership Initiatives Program. It is the intent of the General Assembly
13 that from this source Thirteen Million Dollars (\$13,000,000) shall be reprogrammed to the Department of Transportation for
14 expenditure as set forth in Section 1 Addendum of this Act.

15

16 Section 108. Routes 40 and 896 Lands. Per Section 72, Chapter 473, Volume 70, Laws of Delaware, the working group
17 appointed to assess the Department of Transportation's proposed use of its lands at Routes 40 and 896 has met and discussed
18 the options available for this site. The Department will implement the following recommendations:

- 19 1. The property shall be used in a manner which will enhance the quality of life of local residents, such as
20 recreation, public safety, transportation and public education.
- 21 2. Commitments for portions of the property have been made to the following organizations: Christina School
22 District, YMCA of Delaware, and the Department of Public Safety for a State Police troop.
- 23 3. An immediate set aside of property for a potential future crossover at the Routes 40 and 896 intersection as per
24 Section 66(e) of Chapter 473, Volume 70, Laws of Delaware.
- 25 4. Consideration of the apportionment of property to New Castle County Department of Parks and Recreation,
26 New Castle County Libraries, Christiana Fire Company, and/or the Department of Transportation (park-n-ride
27 lots, transportation center, a maintenance facility), for the purpose of locating facilities at the site. The
28 Department of Transportation shall be appropriately compensated for non-transportation use of these funds at
29 the rate of \$18,000 per acre.

5. No sale or commitment of the property shall be made during FY 2000 without the concurrence of the Co-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 30, 2000, including infrastructure needs.
7. Notwithstanding the provisions of Section 137, Title 17, Delaware Code, the sale or conveyance of Department of Transportation owned lands at Routes 40 and 896 shall be governed by these provisions.
8. Prior to the transfer of a portion of such property to the Department of Public Safety for its facilities, the sum of \$18,000 per acre shall be paid to the Department of Transportation for the acreage, and such funds shall be immediately deposited in the Transportation Trust Fund, created in Title 2, Delaware Code.
9. The Department of Transportation shall be authorized to enter into an agreement for a trade of lands at the existing Routes 40 and 896 properties for the purpose of acquiring appropriate property elsewhere for transit operation/maintenance facilities, notwithstanding other provisions of law to the contrary. This exchange shall be approved by a recommendation of the Route 40/896 working group, and shall be contingent upon the acquisition of all approvals needed for the Department's facilities to be built and operated on the exchanged property.

Section 109. 5310 Program. The Delaware Transit Corporation ("DTC") administers a program to provide assistance to certain qualifying agencies for the transportation of the elderly, persons with disabilities, and thereafter for others needing transportation services, under the provisions of 49 U.S.C. Section 5310 ("5310 Program"). The 5310 Program requires the qualifying agencies to agree to comply with the program's rules and regulations, and the agencies compete for funding in an annual certification/approval process. The normal match of Federal funds to other funds is on an 80/20 funds basis. For Fiscal Year 2000, the following provisions shall apply in the DTC's administration of the 5310 Program:

- (a) The DTC is authorized to expend up to \$667,000 from a combination of Federal funds and System Preservation funds (55-05-00-75-00) appropriated in this Act.
- (b) In ranking applicants for the 5310 Program, enhanced scoring of the applications will be given first to those qualifying applicants emphasizing the replacement of their existing fleet, and second to those qualifying applicants who provide a contributing share commitment larger than the normal non-Federal ratio, thus expanding the leverage provided by the Federal funds available for the 5310 Program. These additional funds shall not be used as a replacement for System Preservation funds or Federal funds for this program, but shall be applied to this program in addition to the amount authorized in subsection (a) of this section.

(c) In administering the 5310 Program, the DTC shall take steps to assure that the qualifying applicant agencies use these vehicles first for program related needs, then to meet the transportation needs of elderly persons and persons with disabilities who do not participate in the agencies' programs, and finally for other local transportation needs, as required by Federal regulations. In keeping these commitments and providing DTC-originated trips beyond the qualifying agencies program needs, those agencies receiving funds from the Kent/Sussex reimbursable line (55-06-01-85-83) Kent and Sussex Transportation shall be reimbursed at a rate of twice the applicable DTC fare. All other agencies providing such DTC-originated trips shall be reimbursed at a rate of three times the applicable DTC fare. Agencies providing such trips will be responsible for collection of and accounting for fares in accordance with DTC guidelines. Receipt of such fares and reimbursement to the qualifying agencies shall occur on a monthly basis between DTC and the agencies.

Section 1.10. Surface Treatment Pavement Conversion Program. The General Assembly finds that in making effective use of the State's fiscal resources, in years past the Department used a form of pavement called surface treatment ('tar and chip') for hundreds of miles of lesser-used roads. Currently 64% of these roads are in Sussex County, 35% are in Kent County or below the C & D Canal in New Castle County, and 1% are above the Canal. The General Assembly further finds that advances in pavement technology and the use of life-cycle costing for pavement decisions have reached the point that the use of hot-mix pavement is a viable alternative to surface treatment. Therefore, the Department is authorized to establish and operate a Surface Treatment Pavement Conversion Program, under the following provisions:

- (a) Of the amounts appropriated for System Preservation (55-05-00-75-00) as set forth in the Section 1 Addendum to this Act, the Department is authorized to expend up to \$2,000,000 for this program.
- (b) The program shall be limited to the conversion of surface treated roads in the State's road inventory as of July 1, 1999 to new surfaces using hot mix pavement.
- (c) The Department shall develop a priority list for hot mix paving under this program. The Department shall consider the following factors:
 - (1) Average Annual Daily Traffic;
 - (2) School bus routes;
 - (3) Safety considerations;
 - (4) Ease of construction, taking into consideration subbase quality, minimal utility or right-of-way impacts, and minimal drainage problems; and

1 (5) Using the current geographic distribution ratios of such roads for planning and scheduling projects
2 under this program, if economically feasible.

3 (d) The Department shall use this priority list in determining the sequence of projects under this program.
4

5 Section 111. Design-Build Contracts. Notwithstanding other provisions of state law to the contrary, the Department of
6 Transportation is hereby authorized to utilize a design-build contract mechanism for not more than four transportation
7 construction projects as an experiment in using this procurement method for transportation infrastructure improvements.
8 Except as required to implement the award and administration of a design-build contract, the provisions of Chapter 69 of
9 Title 29, Delaware Code shall apply to such contracts. The Co-chairs of the Joint Legislative Committee on Capital
10 Improvement Program shall approve the four aforementioned projects.
11

12 Section 112. Engineering and Contingency Account. Authorized but unspent funds exist in the Department of
13 Transportation's Engineering and Contingency Account (55-05-00-57-00) derived from the Section 1 Addendum to Volume
14 71, Laws of Delaware, Chapter 227 previously directed for expenditure to accelerate certain projects. It is the intent of the
15 General Assembly that from this source One Million Twenty Thousand Three Hundred and Twenty Dollars (\$1,020,320)
16 shall be re-programmed to the Department of Transportation for expenditure as set forth in Section 1 Addendum of this Act.
17

18 Section 113. SR 141 Crossing. The Secretary of Transportation is authorized to develop a design competition for the
19 development of a design for the SR 141 crossing of the Brandywine River. The design competition shall consider aesthetics,
20 cost, use of new technologies, and environmental and historic impacts. For the purpose of selecting Design Teams for the
21 competition and making payments to the teams to develop selected design concepts, the Department shall be exempt from the
22 provisions of 29 Del. C., Chapter 69.
23

24 Section 114. Amend Section 149(a), Title 17, Delaware Code by adding the following at the end of said subsection:
25 "The Department shall also have the authority to issue rules and regulations to meet its requirements under federal, state, and
26 local environmental laws, including but not limited to the National Pollutant Discharge Elimination System (NPDES) permits
27 required by 33 U.S.C. Section 1342 et seq. (The Clean Water Act)."
28

29 Section 115. Amend Section 149(b), Title 17, Delaware Code by deleting the phrase "posted on the property" in its
30 entirety.

1 Section 116. AstraZeneca Project. Of the amounts appropriated to the Department of Transportation in this Act and
2 listed in the Section 1 Addendum to this Act for System Expansion (77/00), sufficient funds are available for reimbursement
3 to the Delaware Economic Development Office (DEDO) for certain rights-of-way for transportation improvements related to
4 the AstraZeneca Project. The Department is authorized to reimburse DEDO for the cost of such lands needed solely for such
5 transportation improvements, subject to compliance with all necessary federal regulations that limit the timing of such
6 expenditures by the Department. The per acre cost to DEDO for all the lands DEDO acquires for the AstraZeneca Project
7 shall be used as the per acre charge to the Department for such reimbursement. Other acreage acquired by DEDO for the
8 AstraZeneca Project needed for area-wide stormwater management improvements, wetlands mitigation, and/or historic
9 preservation regulatory compliance, shall be made available to the Department without cost for its use in constructing such
10 improvements, facilities, and or complying with historic preservation regulations.

11
12 Section 117. Belmont Hall. Notwithstanding the provisions of Chapter 1, Title 17 of the Delaware Code, the
13 Department of Transportation shall not dispose of any lands adjacent to Belmont Hall in Smyrna.

14
15 Section 118. Amend Chapter 30, Title 9 of the Delaware Code by adding a new §3013 to read as follows:

16 "§3013 Effect of Open Space Acquisition. Notwithstanding any other provisions of this Chapter to the contrary, upon
17 the acquisition by the county government of areas of land, whether by sheriff's sale or otherwise, previously shown as open
18 space on the recorded plats of the County, such lands shall be deemed as dedicated and available for public use. Such
19 acquisition shall not impose any duty or obligation upon the county government or other public agency to improve, repair, or
20 maintain the open space."

21
22 Section 119. Department of Transportation Parcels. The Department of Transportation is hereby prohibited from selling
23 the following land parcels during Fiscal Year 2000 without prior approval from the Co-chairs of the Joint Legislative
24 Committee on the Capital Improvement Program:

25 06-024-00-249

26 06-034-00-203

27 06-034-00-192.

28 Funds from the Open Space account shall be used to purchase these parcels upon their being declared surplus by the
29 Department of Transportation.

1 Section 120. Land Purchase. It is the intent of the General Assembly that the Department of Transportation purchase
2 property (New Castle County Tax Parcel #10-044.00-032 and #10-044.00-042 or portions thereof) for the purpose of
3 constructing an access for residences along "Railroad Avenue" off of Old Hamburg Road. Of the amount appropriated in the
4 Section 1 Addendum to this Act for Suburban Street/Miscellaneous Program (55-05-56/00), there are sufficient funds
5 available for this purchase and construction.

6
7 Section 121. Route 40 Relief Route. The Department of Transportation is prohibited from expending any funds on the
8 Route 40 Relief Route "Alternative 6B" proposal as outlined in the June 1999 minutes of the Route 40 Corridor Study
9 Committee and as considered by the Route 40 Corridor Study Committee and the Department of Transportation's Planning
10 Team.

11
12 Section 122. Caulfield Connector. Notwithstanding the provisions of §6907, Title 29 of the Delaware Code, the
13 Caulfield Connector Contract #90-031-11 may be awarded up to 60 days after bid opening.

14
15 Section 123. Notwithstanding other provisions of state law to the contrary, the Department of Transportation is hereby
16 authorized to convey a certain parcel of land, tax parcel number 09-030.30-055, to the Christiana Fire Company. This
17 transfer is contingent upon the reimbursement to the Department of \$15,000 from funds in the Suburban Street Program
18 account (56/00) and approval by the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program.

1 AGRICULTURE

2 Section 124. Farmland Preservation. Volume 71, Chapter 378, Laws of Delaware, contains an appropriation from the
3 Infrastructure Investment Plan for Farmland Preservation. For the FY 2000 allocation of these funds, it is the intent of the
4 General Assembly that:

- 5 1. Up to \$170,000 shall be used for the development of new soils maps and interpretations for Delaware. These
6 maps shall be developed on a cost share basis with the United States Department of Agriculture.
7 2. Up to \$150,000 may be used for the operating expenses of the Aglands Preservation Foundation.
8 3. Up to \$350,000 may be used to pay the costs of mapping, legal services and other related costs required to
9 create agricultural district agreements and the costs of appraisals of all eligible properties, and shall be exempt
10 from matching requirements.
11

12 Section 125. Up to \$500,000 may be used to pay the transaction costs required to purchase Agricultural Lands
13 Preservation Easements and shall be exempt from matching requirements. Transaction costs shall include the costs involved
14 in the selection process and the purchases such as all negotiation costs, survey costs, title fees, legal fees and closing costs for
15 all properties considered in future rounds of Preservation Easement purchases.
16

17 Section 126. Redden State Forest. For the Fiscal Year ending June 30, 1999, any funds that remain unencumbered for
18 the Minor Capital Improvements for the Forestry Section shall not revert until June 30, 2000. These funds shall be used for
19 general enhancements to Redden State Forest to include improvements to the Educational Facility septic system and for
20 improvements to the parking lot and entranceway.

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STATE FIRE COMMISSION

Section 127. 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: Newark, Cranston Heights, Holloway Terrace, Minquas, Odessa, Bowers, Camden/Wyoming, Cheswold, Frederica, Houston, Bethany, Blades, Dagsboro, Hockessin, Indian River, Lewes, Millsboro, Millville, and Selbyville Fire Companies. 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).

Section 128. Thermal Imaging Cameras. Volume 71, Chapter 378, Laws of Delaware, appropriated \$135,000 to the State Fire School (75-02-01) for the purchase of thermal imaging cameras. It is the intent of the General Assembly that the F.Y. 99 appropriation be used to reimburse the following fire companies for a portion of the cost to purchase a thermal imaging camera: Talleyville, Wilmington Manor, Volunteer Hose, Aetna, Wilmington Fire Department, Smyrna, Dover, Milford, Cheswold, Camden-Wyoming, Laurel, Milton, Millville, Bridgeville and Millsboro. It is also the intent of the General Assembly, that the \$135,000, appropriated in Section 1 Addendum of this Act, be used to reimburse the following fire companies for a portion of the cost to purchase a thermal imaging camera: Claymont, Goodwill, Odessa, Elsmere, Brandywine Hundred, Felton, Clayton, Marydel, Harrington, Hartly, Rehoboth, Seaford, Lewes, Georgetown and Delmar. Upon submitting receipts of sale, each company will be reimbursed up to \$9,000 per company by the State Fire School. Each fire company in the state shall be reimbursed for one thermal-imaging camera, based on a schedule provided by the Delaware Volunteer Firemen's Association. This schedule will be complete by Fiscal Year 2004.

DELAWARE NATIONAL GUARD

Section 129. Dagsboro Armory. Funds remaining from those appropriated in 71 Delaware Laws, Chapter 150 to the Department of Administrative Services – Delaware National Guard projects, Dagsboro Readiness Center shall be transferred to the Delaware National Guard.

1 **HIGHER EDUCATION**

2 Section 130. University of Delaware – MCI/Equipment. Section 1 Addendum of this Act contains an appropriation to
3 University of Delaware, MCI/Equipment Supplement (Biotechnology/Information Services). Of this amount, \$500,000 shall
4 be utilized for furnishings, equipment and minor facility modifications in support of the Information Technology Initiative.
5

6 Section 131. Delaware State University – MCI/Equipment. The Section 1 Addendum of this Act contains an
7 appropriation of \$3,000,000 to Delaware State University, MCI/Equipment. Of this amount, up to \$350,000 may be used to
8 update the automation hardware and software used for the central administrative functions such as the purchasing, payroll
9 and other functions of the university.

1 **DEPARTMENT OF EDUCATION**

2 Section 132. Appropriation for Architectural Barrier Removal. It is the intent of the General Assembly that the sum of
3 \$160,000 appropriated in the Section 1 Addendum of this Act to the Department of Education be used for the State's sixty
4 percent (60 percent) share of architectural barrier removal projects as defined in Section 7528 of Title 29 of the Delaware
5 Code. Each qualifying school district having approved architectural barrier removal projects shall authorize its 40 percent
6 share. No local school district may participate in the use of these funds without first providing its local share pursuant to the
7 provisions of this Section and other pertinent provisions of Delaware law.

8
9 Section 133. School Construction. Purchase orders and change orders for school construction projects which are
10 coded to a different school construction project line within the applicable school district will be approved upon review and
11 determination by the Department of Education and State Budget Office that full compliance of Section 2.4.3B(1) and (2) of
12 the State of Delaware School Construction Manual has been met. All such purchase orders or change orders must reference
13 the appropriate projects, lines of authorization and appropriate section of the School Construction Manual.

14
15 Section 134. Public Education Enhanced Minor Capital Improvement Fund. (a) It is the intent of the General
16 Assembly that the sum of \$10,000,000 as appropriated in the Section 1 Addendum of this Act to the Department of
17 Education be used for minor capital improvements to school buildings. This amount shall be paid by the Department of
18 Education to local districts in the following amounts:

<u>School District/Charter School</u>	<u>FY 2000</u>
19 Appoquinimink	\$ 403,531
20 Brandywine	1,016,851
21 Special	3,477
22 Christina	1,743,757
23 Special	64,640
24 Colonial	931,081
25 Special	10,788
26 New Castle County Vo-Tech	310,717
27 Red Clay	1,404,333
28 Special	13,017
29 Caesar Rodney	484,130

1	Special	14,800
2	Capital	561,073
3	Lake Forest	311,608
4	Milford	342,992
5	POLYTECH	95,489
6	Smyrna	305,011
7	Cape Henlopen	356,366
8	Special	12,928
9	Delmar	65,710
10	Indian River	661,020
11	Special	14,711
12	Laurel	182,329
13	Seaford	334,344
14	Sussex Vo-Tech	104,404
15	Woodbridge	162,447
16	East Side Charter	7,133
17	Wilmington Charter	49,215
18	Campus Community	26,748
19	Positive Outcomes	<u>5,350</u>
20	Total	<u>\$10,000,000</u>

21 (b) The funds allocated pursuant to this Section are intended to supplement the existing level of State and local
 22 expenditures in support of maintaining public school buildings in a condition which is both safe and appropriate for
 23 classroom learning. For the purposes of this Section, minor capital improvements shall mean, but shall not be limited to,
 24 capital expenditures for rebuilding or major repairs of roofs, floors, heating systems or facilities, painting, electrical systems
 25 or facilities and plumbing or water systems and facilities, asbestos abatement, the removal of architectural barriers to the
 26 handicapped and stand-alone storage facilities. These funds may also be applied to the preparation and securing of a public
 27 school district building that is being vacated but preserved for an unspecified period of time or for the return of such a
 28 building from a closed condition to use by a public school district. In order to qualify for these funds, each reorganized
 29 school district and charter school shall obligate appropriations from MCI funds for Fiscal Year 1999 and previous fiscal years
 30 before they may utilize funds described in this Section.

(c) 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.

(d) 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.

(e) Funds appropriated in this Section shall not be subject to reversion until June 30, 2002. In addition, no FY 1999 or prior year expenditure for minor capital improvements may be recoded to this appropriation.

Section 135. Glasgow Elementary School. Notwithstanding the provisions of Chapters 53 and 54 of Title 7, Delaware Code, the Christina School District is authorized to initiate construction of the Glasgow Elementary School located at Routes 40 and 896 while the archaeological survey and excavation work is being performed at said site.

Section 136. Critical Classroom Acquisition Program. The Section 1 Addendum of this Act appropriates \$4,000,000 to the Appoquinimink School District to implement a \$4,500,000 Critical Classroom Acquisition Program (CCAP). The total local share of this project shall be \$1,300,000. In Fiscal Year 2000, the district shall utilize \$500,000 of its Division III Equalization funds. The remaining \$800,000 shall be repaid over the next five years by the State withholding Division III Equalization funds in accordance with the following schedule:

Fiscal Year 2001	\$160,000
Fiscal Year 2002	\$160,000
Fiscal Year 2003	\$160,000
Fiscal Year 2004	\$160,000
Fiscal Year 2005	\$160,000

Of the \$4,500,000 total project cost, approximately \$1,000,000 is for the construction of additions to Cedar Lane Elementary School. This funding is contingent upon the approval of additional septic or sewer capacity for the proposed site. If the district is unable to obtain approval within six months of the effective date of this Act, said funds shall be deauthorized or reverted.

Notwithstanding, Chapter 69, Title 29, Delaware Code or any other statutory provision to the contrary, with the exception of those provisions relating to the payment of prevailing wages for work performed at the site, the obtaining of

1 performance bonds, and the withholding of retainage, the Appoquinimink School District may contract with specific
2 vendor(s) for the purpose of completing the CCAP.

3 The CCAP is being authorized due to the extreme nature of overcrowding and overgrowth including student population
4 percentage increases in excess of 25 percent during the last three years. In addition, this CCAP will examine alternative
5 construction techniques that may allow for completion of construction projects at a faster pace and/or at a lower cost.

6 No other CCAP program shall be authorized over the next five years while the Department of Education, State Budget
7 Office, Office of the Controller General and the Department of Administrative Services evaluate the effectiveness of the
8 CCAP. Annually, the Appoquinimink School District shall furnish the Department of Education with information regarding
9 all operational and maintenance costs incurred with this program.

10 The Appoquinimink School District shall submit all proposed plans and contracts to the State of Delaware, Department
11 of Education and the Department of Administrative Services for approval final prior to signing a contract(s).

12 The Appoquinimink School District understands that this program is one-time in nature and that under no circumstances
13 is it permitted to sign a contract which would result in the expenditure of funds in excess of the appropriated amount. The
14 District is further required to resolve future overcrowding and overgrowth issues through the normal State building program
15 (including, but not limited to, the certificate of need, referendum, and appropriation processes).

16 The Appoquinimink School District shall apply for all permits and approvals required pursuant to any applicable
17 provision of Titles 9 and 22, Delaware Code, or any ordinance, rule or regulation enacted pursuant thereto; provided,
18 nevertheless that any such permit or approval shall be granted within 45 days from the day upon which the school district
19 makes application for the same.

20 If any required approval or permit is not granted within 45 days as set forth above, the school district may commence
21 construction and shall be relieved of any future liability for obtaining such approval or permit, except for any permit or
22 approval related to additional septic or sewer capacity for the additions to be made to Cedar Lane Elementary School only.

23
24 Section 137. Brandywine Springs School. The Section 1 Addendum of this Act appropriates funds to Red Clay
25 Consolidated School District to purchase the site and building of the former Brandywine Springs School. The Red Clay
26 Consolidated School District shall submit all proposed plans and contracts to the State of Delaware, Department of Education
27 and the Department of Administrative Services for final approval prior to signing a contract. The District shall obtain a
28 certificate of necessity from the Department of Education.

29 The Red Clay Consolidated School District shall not obligate the State in excess of the appropriated amount.
30 Furthermore, the total contract cost to purchase and renovate the school, both state and local funds, shall not exceed

1 \$10,600,000. If the District is unable to secure a contract for \$10,600,000 or less, said State funds shall be deauthorized or
2 reverted.

3 The local share of the project shall be comprised of funds available to the local district from previous property sold
4 and \$3,600,000 which shall be withheld from the FY 2000 Division III Equalization allocation. In addition, the State shall
5 withhold \$394,600 from the FY 2001 Division III Equalization funding for repayment of lease monies appropriated for this
6 school in FY 1997. If additional properties are sold, including but not limited to 1400 Washington Street, The Pines, and
7 Graves Road, all provisions of Title 14, §1057, shall apply. In the absence of documentation to indicate the State and Local
8 Portion, the State proceeds shall be 60 percent and the Local proceeds shall be 40 percent.

9
10 Section 138. Amend §407(a)(2), Title 14, of the Delaware Code by adding a new sentence at the end of this subsection
11 to read as follows:

12 "Due to the unique educational and developmental needs of primary age children, on a case by case basis, districts may
13 grant exceptions to allow students in grades kindergarten through grade three to remain in school choice even if they
14 fail to meet required educational standards."

15
16 Section 139. Cape Henlopen Agriculture Program. Section 1 Addendum to this Act appropriates \$50,000 to the Cape
17 Henlopen High School Agriculture Program for the construction of a greenhouse and storage facility.

18
19 Section 140. Bond Verification. All bonds issued, or herein before or herein authorized to be issued, by the State are
20 hereby determined to be within all debt and authorization limits of the State.

21
22 Section 141. Inconsistency. Insofar as the provisions of this Act are inconsistent with the provisions of any general,
23 special, or local laws, or parts thereof, the provisions of this Act shall be controlling.

24
25 Section 142. Severability. If any section, part, phrase, or provision of this Act or the application thereof be held
26 invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase,
27 provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not
28 affect or impair the validity of the remainder of this Act or the application thereof.

29
30 Section 143. Effective Date. This Act shall take effect in accordance with the provisions of state law.

SYNOPSIS

This Bill is the FY 2000 Bond and Capital Improvements Act.

Author: Joint Legislative Committee on Capital Improvement Program

SUPPLEMENTAL INFORMATION FOR TRANSPORTATION PROJECTS

TITLE	ACTIVITY	FUND	TOTAL COST	STATE SAUTH
PROGRAM DEVELOPMENT				
TTF Authorization Needed				3,000
FHWA Authorization				1,856
FTA Authorization				256
SYSTEM PRESERVATION				
Bridge Preservation Program	Co	St/Fed	12,711	8,710
BR 1B on Kennett Pike Over Railroad, East of SR141	R/W	St	50	50
BR 4A, on US 13A, at Derby Pond, South of Camden	Co	Fed	702	140
BR 5C, 5D on US 13 Over Murderkill River, South of Felton	R/W, Co	St/Fed	684	141
BR 9 on Smith's Branch Rd. (N221) Over Brandywine Creek	R/W, Co	St/Fed	342	72
BR 66 on Brecks Lane, North of Wilmington	R/W, Co	St/Fed	175	39
BR 67C on Road 67 Over Little River, East of Dover	R/W, Co	St/Fed	429	90
BR 74C on Darley Road Over Railroad	R/W	St	5	5
BR 75 Over Montchannin Road (SR100)	R/W, Co	St/Fed	262	68
BR 86A on Savannah Road (486) Over Muddy Branch, SE of Leipsie	R/W, Co	St/Fed	1,286	265
BR 89 on Snuff Mill Road	R/W	St	20	20
BR112 on SR404 Over Marshy Hope Creek, NW of Bridgeville	R/W, Co	St/Fed	455	95
BR144S on US 13 Over Art Branch, South of Greenwood	R/W, Co	St/Fed	290	62
BR151 on New Road, Elsmere	R/W, Co	St/Fed	283	61
BR158 on SR 4 Over Hershey Run	R/W	St	20	20
BR162 on Newport Gap Pike (SR141) Over Hyde Run	R/W, Co	St/Fed	355	79
BR208B on Mahan Comer Road (K208)	Co	Fed	402	80
BR211A, Still Road Over Choptank River, S. of Maryland	Co	Fed	528	0
BR217 on Thompson Road Over White Clay Tributary	R/W, Co	St/Fed	411	90
BR227 on Wesley Church Rd over Bucks Creek Tributary	R/W	St	10	10
BR348A, On Postles Comer Road, North East of DAFB	PE, R/W, Co	St/Fed	295	98
BR526 and 527 on S326 at Betts Pond, Millsboro	R/W	St	20	20
BR534 and BR535 on Ramsey Road, over Brandywine Creek	Co	Fed	469	94
BR575 on Market Street Bridge Over Brandywine River	R/W	St	10	10
BR591 on Phillips Hill Rd. Over Sunset Branch, West of Millsboro	R/W, Co	St/Fed	281	64
BR599 on Benge Road Over Small Creek	R/W	St	10	10
BR680 on SR141 Over US 13	R/W	St	150	150
BR715B Ramp B on SR273 Over I-95	Co	Fed	1,500	33
BR745 on I-95 Over Conrail	R/W	St	10	10
BR759 on I-95 Over Brandywine River	R/W	St	10	10
Dirt Roads	PE, Co	St	1,800	1,800
Environmental Improvements		St	800	800
Equipment Replacement	Pro	St	9,922	9,922
Grubb Road (N209), Naaman's to Seonset Drive	R/W	St	210	0
I-95, Wilmington Viaduct to PA Line	PE, Co, Tr	St/Fed	47,718	11,727
Materials and Minor Contracts for Infrastructure Preservation	PE, Co	St	450	450
Operations Facility Improvements	PE, Co	St	1,364	1,072
Other System Preservation Projects		St	2,212	652
Pavement Rehabilitation	PE, Co	St/Fed	6,000	2,070
Pavement Resurfacings (including surface treatment conversion)	PE, Co	St	30,000	23,513
Rail Preservation	PE, Co	St	1,847	1,778
Safety, Upper Pike Creek Road Slope Stabilization	Co	Fed	1,500	45
Transit Vehicle Replacement	Pro	Fed/St	4,647	1,116
TTF Authorization Needed				65,542
FHWA Authorization				22,994
FHWA Advanced Construction				2,903
FHWA Discretionary				21,000
FTA Authorization				3,142
FTA Discretionary				1,000
FAA Authorization				0
Other \$				0
All \$ X 1,000				

TITLE	ACTIVITY	FUND	TOTAL COST	STATE SAUTH
SYSTEM MANAGEMENT				
Churchman's Crossing Corridor Improvements	Pro, PE, Co	St./Fed	8,305	4,677
Corridor Preservation & Advanced R/W Acquisition	R/W	St/Fed	6,100	3,521
Integrated Transportation Management Systems	PE, Co	St/Fed	10,942	7,388
Lancaster Pike and Brackenville Road Intersection Improvements	R/W, Co	St/Fed	2,853	676
Lancaster Pike, Loveville Road to Hickory Spring Road	R/W	St	100	0
Mill Creek Road (N282), McKennans Church Road to SR 41	Co	St	420	0
Non-Motorized Transportation Projects	R/W, PE, Co	Fed	1,853	140
Other System Management Projects	R/W, PE, Co	Fed	1,458	0
Porter Road, SR896 to US 40	Co	Fed	4,795	959
Safety, Brackenville Road, SR 48 to Barley Mill Road	LOC, PE	St	927	937
Safety, Casho Mill Road Underpass Improvements, Newark	Co	Fed	394	78
Safety, Governor's Avenue, Webbs Lane to Water St.	PE	St	700	700
Safety, Intersection Improvements & Transportation Enhance.		St/Fed	4,520	936
Safety, McKee and Denny's Road Intersection	Co	Fed	415	30
Safety, North St, Millin Rd to West St, Dover	R/W	St	320	315
Safety, Rail Crossing, SR 4, West of SR 72	PE	St	30	30
Safety, Rail Crossing, US 13, South of Harrington	PE	St	33	33
Safety, Rail Crossing, US 40, East of SR 72	Co	Fed	350	70
Safety, Rail Crossing, US 113, Milford	Co	Fed	537	107
Safety, SR 24 and SR 5, Long Neck Road, Northeast of Millsboro, Intersection Improvements	PE	St	100	0
Safety, SR 26 & SR 17 Intersection Improvements	PE, R/W, Co	Other/Fed	587	108
Safety, SR141, North of US 13, beginning at Delaware to Jay Drive	R/W	Fed	455	46
Safety, SR 273, SR 72, SR 2, Newark Intersection Improvements	R/W, Co	St/Fed	831	82
Safety, S246 and S244 Intersection Improve., NE of Georgetown	Co	St	100	38
Safety, US 13, Dover, River Rd to Court St, Dover	Co	Fed	323	32
Safety, Walker Rd, Kenton Rd to Saulsbury Rd	PE	St	461	461
SR 54, S 58C to Ditch between Little Assawoman Bay and Assawoman Bay, Fenwick Island	ENV, Co	St/Fed	13,000	2,331
Sussex County Aviation	Co	St/Fed/Other	50	0
Transit Bus Equipment, Technology Equip., Security Equip.	Pro	St	885	328
Transit Passenger Facilities	PE, Co	St	320	295
US 40 Maryland Line to US 13, Corridor Improvements	R/W, PE, Co	St/Fed	5,000	1,347
Wilmington City Traffic Calming & Ped/Transit	PE, Co	Fed	5,949	0
Wilmington Riverfront	R/W, Co	St	7,190	7,031
TTF Authorization Needed				32,695
FHWA Authorization				27,287
FHWA Advanced Construction				6,307
FHWA Discretionary				0
FTA Authorization				0
FTA Discretionary				0
FAA Authorization				45
Other \$				208

All \$ X 1,000

TITLE	ACTIVITY	FUND	TOTAL COST	STATE SAUTH
SYSTEM EXPANSION				
Cherry Lane, Lukens Road to SR 9	Co	St	3,500	3,500
Churchman's Crossing Capacity Improvement	R/W, Co	St/Fed	200	0
Governor Printz to Philadelphia Pike Connector	Co	State	2,715	2,715
Other System Expansion Project	PE, Co	Fed/St	1,636	327
Scarborough Access Road, Dover	PE	St	250	165
SR 1, Corridor Capacity Preservation Impmts., Sussex Co	R/W, Co	St/Fed	166	0
SR 1, South of Dover to Chesapeake & Delaware Canal	ENV, PE, Co	St/Fed	52,065	7,987
SR 7 Area Improvements (Including Newtowne Road) US 40 to SR273	Plan	St	500	500
SR141, Kennett Pike to US202	PE	Fed	7,000	5,765
Southern New Castle County Improvements	PLAN	St	2,300	2,300
Transit Facilities Expansion - Statewide	PE, Co, Pro	St/Fed	10,554	7,547
Transit Facilities - Intermodal Rail Passenger	PE/Co	St/Fed	11,000	8,600
Transit Vehicle Expansion	Pro	Fed	240	48
TTF Authorization Needed				39,454
FHWA Authorization				13,837
FHWA Advanced Construction				25,259
FHWA Discretionary				0
FTA Authorization				1,828
FTA Discretionary				0
FAA Authorization				0
ENGINEERING AND CONTINGENCIES				7,680
SUBURBAN STREETS (includes \$1,550 of reprogrammed 56/00)				20,100
MUNICIPAL STREET AID				6,000
NEW PROGRAM AUTHORIZATION NEEDED				174,471
RESERVE ACCOUNT				1,660
TOTAL NEW CAPITAL (TTF) AUTHORIZATION NEEDED				176,131

All \$ X 1,000

ABBREVIATIONS NOTE:

Co (Construction)	PE (Preliminary Engineering)
Pro (Procurement)	R/W (Right-of-Way)
Env (Environmental)	Tr (Traffic)
	Plan (Planning)

Appendix B
FY 2000 Pavement and Rehabilitation Program

\$6,000,000

RD.NO	CTY	ROADNAME	FRONDESC	THRUDESC	REMEDY
220	NC	EDGEWOOD RD	RD 50 SB GOV. PRINTZ BLVD	PHILADELPHIA PIKE RD 24	CPR OF DISTRESSED PCC
19	NC	NEW CASTLE AVE	CHESTNUT ST.	SOUTH HEALD ST. RD 28	PCC PATCHING
50	NC	NORHEAST BLVD (SB)	GRUBB ROAD RD 309	PROSPECT DR	CPR OF DISTRESSED PCC
348	K	CANTERBURY RD	RT 14, CARPENTER BRIDGE	RD 34 RT-12, MIDSTATE RD	PATCHING, 3" HM OVERLAY, 4" WIDENING
14	S	OCEAN HIGHWAY	NASSAU BRIDGE	RD 16 DEL-16, BEACH HWY	PE ONLY
TOTAL PAVEMENT REHABILITATION					
RD.NO	CTY	ROADNAME	FRONDESC	THRUDESC	REMEDY
221	NC	BEAVER DAM RD	HY-POINT DAIRY	RD 4, CONCORD PIKE	MILL 1 1/2", PATCHING, 2" HM OVERLAY
221	NC	BEAVER DAM RD	RD 222, CREEK RD	RD 221A, RIDGE RD	MILL 1 1/2", PATCHING, 2" HM OVERLAY
469	NC	BLACK DIAMOND RD	1 MILE WEST OF RD 30, PADDOCK RD	RD 30, PADDOCK RD	PATCHING, 2" HM OVERLAY
273	NC	CENTREVILLE RD	RD 259 BARLEY MILL RD	RD 242, CAMPBELL RD	3" HM OVERLAY
184	NC	CHRISTIANA-NEWARK-	RD 3 WB CHRISTIANA BYPASS	RD 336 WILLIAM-CHRIST. BLVD	MILL 2", PATCHING, 2" HM OVERLAY
25	NC	COLDWELL CORNERS RD	RD 446 RAILROAD AVE	RD 14 DEL-71, SUNAMIT BRIDGE RD	MILL 3", 3" HM OVERLAY
4	NC	CONCORD PIKE NB & SB	RD 221 WB BEAVER VALLEY	PEAN STATE LINE	MILL 3", PATCHING, 3" SMA OVERLAY
293	NC	CROSSAN RD	RD 290, DOE RUN RD	1.00 MILE SOUTH	MILL 1", 2" HM OVERLAY
296	NC	DEARSEY LANE	RD 290 LANDEBURG WILMINGTON	END OF FORWARD DIRECTION	2" HM OVERLAY
1	NC	DUPONT PKWY NB	RD 463, BLACK DIAMOND RD	RD 14, SUNAMIT BRIDGE RD	MILL 1", 2" OVERLAY
34	NC	DUPONT PKWY NB & SB	ST. GEORGES	RT 72, WRANGLE HILL RD	MILL OPEN GRADE, PATCHING, 3" HM OVERLAY
1	NC	DUPONT PKWY SB	1000 FT SOUTH OF RD 471, BLACKBIRD FOREST	US 13 AND SR 1 SPLIT.	MILL 1", PATCHING, 2" OVERLAY
465	NC	EAGLES NEST LANDING RD	RD 1 NB, DUPONT PKWY	RD 30, PADDOCK RD	PATCHING, MICROSURFACE
270	NC	FAULKLAND RD	ELDER DR	RD 272 CENTREVILLE RD	MILL 1", 3" HM OVERLAY
391	NC	FRAZER ROAD	MCDANIEL LANE	RD 32 EB, PULASKI HWY	PATCHING, 3" HM OVERLAY
349	NC	GENDER RD	END	RD 348 SALEM CHURCH RD	MILL 1 1/2", PATCHING, 3" HM OVERLAY
302	NC	HOPKINS RD	RD 313 NEW LONDON RD	RD 53 MILFORD CROSSROADS	PATCHING, 3" HM OVERLAY
6044	NC	I-95 & DEL 273 RAMP	RAMP 6047	I-95 SB	HOT MIX OVERLAY
6047	NC	I-95 & DEL 273 RAMP	RD 18 WB	I-95 NB	RECONSTRUCT
390	NC	RONSIDE RD	RD 26 OLD BALTIMORE PIKE	RD 367 WELSH TRACK CHURCH RD	PATCHING, 3" HM OVERLAY
11	NC	KIRKWOOD HWY EB & WB	RD 31 NB LIMESTONE RD	RD 330 GREENBANK RD	MILL 2", 2" SMA OVERLAY
23	NC	MARSH RD EB & WB	END OF MEDIAN	RD 213 NB, CARR RD	MILL 2", PATCHING, 2" HM OVERLAY
283	NC	MERMAID STONEY BAITER	NEW JOINT	RD 282 MILL CREEK RD	MILL 1 1/2", 3" HM OVERLAY
261	NC	MT CUBA RD	RD 258 / RD 259, BARLEY MILL	RD 269 HILLSIDE MILL RD	PATCHING, 2" HM OVERLAY
17	NC	NAAMANS RD NB & SB	RD 4 NB, CONCORD PIKE US 202	GRUBB RD RD 209	MILL 2", 2" HM OVERLAY
336	NC	OLD BALTIMORE PIKE	RD 3 EB, DE 273, CHRISTIANA BY	RD 18A, MAIN ST	MILL 2", 2" HM OVERLAY
316	NC	OLD COACH RD	RD 328 POLY DRUMMOND HILL RD	NEW PAVEMENT JOINT	MILL 1" TRAVELWAY, 2" SLDR, PATCH, 2" HM OVERLAY
408	NC	OLD COOCHES BRIDGE RD	NEW JOINT	RD 386, EGGARTS LANE	PATCHING, 3" HM OVERLAY, WEDGE
350	NC	OLD NEWARK RD	RD 366 CHESTNUT HILL RD	RD 351 MARRONS LANE	MILL 1", 2" HM OVERLAY
13	NC	PAPER MILL RD	MARGARET ST / RD 309	RD 310 OLD PAPERMILL RD	MILL 2", PATCHING, 2" HM OVERLAY
295	NC	PIKE CREEK RD	END OF SLOPE STABILIZATION	RD 13 CURTIS MILL RD	MILL OVERLAY
316	NC	PIKE CREEK RD	NEW PAVEMENT JOINT	ROUTE 2 RD-11, KIRKWOOD HWY	MILL 2", 2" HM OVERLAY
32	NC	PULASKI HWY EB & WB	MARYLAND LINE	RD 387 NEW ROUTE 86	MILL 2", 3" HM OVERLAY
1016	NC	QUEBLEY BLVD	US 13	RT 273, FRENCHTOWN PIKE	PATCHING
263	NC	ROLLING MILL RD	RD 259 BARLEY MILL RD	RD 259 BARLEY MILL RD	MILL 2" HM OVERLAY
442	NC	SILVER LAKE RD	RD 38, NOXONTOWN RD	MIDDLETOWN LIMITS	RECONSTRUCT SHOULDERS

TITLE	ACTIVITY	FUND	TOTAL COST	STATE SOUTH
SYSTEM EXPANSION				
Cherry Lane, Lukens Road to SR 9	Co	St	3,500	3,500
Churchman's Crossing Capacity Improvement	R/W, Co	St/Fed	200	0
Governor Printz to Philadelphia Pike Connector	Co	State	2,715	2,715
Other System Expansion Project	PE, Co	Fed/St	1,636	327
Scarborough Access Road, Dover	PE	St	250	165
SR 1, Corridor Capacity Preservation Improvements	R/W, Co	St/Fed	166	0
SR 1, South of Dover to Chesapeake & Delaware Canal	ENV, PE, Co	St/Fed	52,065	7,957
SR 7 Area Improvements (Including Newtowne Road) US 40 to SR273	PE	St	500	500
SR 141, Kennett Pike to US202	PLAN	Fed	7,000	5,765
Southern New Castle County Improvements	PE, Co, Pro	St	2,300	2,300
Tanasi Facilities Expansion - Statewide	PE, Co, Pro	St/Fed	10,554	7,547
Tanasi Facilities - Intermodal Rail Passenger	PE/Co	St/Fed	11,000	8,609
Tanasi Vehicle Expansion	Pro	Fed	240	48
TTF Authorization Needed				
FHWA Authorization			39,454	13,837
FHWA Advanced Construction			25,259	0
FHWA Discretionary			0	1,528
FTA Authorization			0	0
FTA Discretionary			0	0
FAA Authorization			0	0
ENGINEERING AND CONTINGENCIES				
SUBURBAN STREETS (includes \$1,550 of reprogrammed 56/00)			7,680	7,680
MUNICIPAL STREET AID			20,100	20,100
NEW PROGRAM AUTHORIZATION NEEDED			6,000	6,000
RESERVE ACCOUNT			174,471	174,471
TOTAL NEW CAPITAL (TTF) AUTHORIZATION NEEDED			1,660	1,660
All \$ X 1,000			176,131	176,131

ABBREVIATIONS NOTE:
 Co (Construction)
 Pro (Procurement)
 Env (Environmental)
 PE (Preliminary Engineering)
 R/W (Right-of-Way)
 Tr (Traffic)
 Plan (Planning)

Appendix B
 FY 2000 Pavement and Rehabilitation Program

RD.NO	CTY	ROADNAME	FROMDESC	THRUDESC	REMEDY
220	NC	EDGEWOOD RD	RD 50 SB GOV. PRINTZ BLVD	PHILADELPHIA PIKE RD 24	CPR OF DISTRESSED PCC
19	NC	NEW CASTLE AVE	CHESTNUT ST.	SOUTH HEALD ST., RD 28	PCC PATCHING
50	NC	NORTHEAST BLVD (SB)	GRUBB ROAD, RD 209	PROSPECT DR	CPR OF DISTRESSED PCC
388	K	CANTERBURY RD	RT 14, CARPENTER BRIDGE	RD 34 RT-12, MIDSTATE RD	PATCHING, 3" HM OVERLAY, 4' WIDENING
14	S	OCEAN HIGHWAY	NASSAU BRIDGE	RD 16 DEL-16, BEACH HWY	PE ONLY
TOTAL PAVEMENT REHABILITATION					\$6,000,000
RD.NO	CTY	ROADNAME	FROMDESC	THRUDESC	REMEDY
221	NC	BEAVER DAM RD	HY-POINT DAIRY	RD 4, CONCORD PIKE	MILL 1 1/2", PATCHING, 2" HM OVERLAY
221	NC	BEAVER DAM RD	RD 222, CREEK RD	RD 221A, RIDGE RD	MILL 1 1/2", PATCHING, 2" HM OVERLAY
469	NC	BLACK DIAMOND RD	1 MILE WEST OF RD 30, PADDOCK RD	RD 30, PADDOCK RD	PATCHING, 2" HM OVERLAY
273	NC	CENTERVILLE RD	RD 259 BARLEY MILL RD	RD 242 CAMPBELL RD	3" HM OVERLAY
18A	NC	CHRISTIANA-NEWARK-	RD 3 WB CHRISTIANA BYPASS	RD 336 WILM.-CHRIST. BLVD	MILL 2", PATCHING, 2" HM OVERLAY
25	NC	COLDWELL CORNERS RD	RD 446 RAILROAD AVE	RD 14 DEL-71, SUMMIT BRIDGE RD	MILL 3", 3" HM OVERLAY
4	NC	CONCORD PIKE NB & SB	RD 221 WB BEAVER VALLEY	PENN STATE LINE	MILL 3", PATCHING, 3" SMA OVERLAY
293	NC	CROSSAN RD	RD 290, DOE RUN RD	1.00 MILE SOUTH	MILL 1", 2" HM OVERLAY
296	NC	DEMPSEY LANE	RD 290 LANDENBURG WILMINGTON	END OF FORWARD DIRECTION	2" HM OVERLAY
1	NC	DUPONT PKWY NB	RD 469, BLACK DIAMOND RD	RD 14, SUMMIT BRIDGE RD	MILL 1", 2" OVERLAY
34	NC	DUPONT PKWY NB & SB	ST. GEORGES	RD 72, WRANGLE HILL RD	MILL OPEN GRADE, PATCHING, 3" HM OVERLAY
1	NC	DUPONT PKWY SB	1000 FT SOUTH OF RD 471, BLACKBIRD FOREST	US 13 AND SR 1 SPLIT	MILL 1", PATCHING, 2" OVERLAY
465	NC	EAGLES NEST LANDING RD	RD 1 NB, DUPONT PKWY	RD 30, PADDOCK RD	PATCHING, MICROSURFACE
270	NC	FAULKLAND RD	ELDER DR	RD 272 CENTERVILLE RD	MILL 1", 3" HM OVERLAY
391	NC	FRAZER ROAD	MCDANIEL LANE	RD 32 EB, PULASKI HWY	PATCHING, 3" HM OVERLAY
349	NC	GENDER RD	END	RD 348 SALEM CHURCH RD	MILL 1 1/2", PATCHING, 3" HM OVERLAY
302	NC	HOPKINS RD	RD 313 NEW LONDON RD	RD 53 MILFORD CROSSROADS	PATCHING, 3" HM OVERLAY
6044	NC	I-95 & DEL 273 RAMPS	RAMP 6047	I-95 SB	HOT MIX OVERLAY
6047	NC	I-95 & DEL 273 RAMPS	RD 18 WB	I-95 NB	RECONSTRUCT
390	NC	IRONSIDE RD	RD 26 OLD BALTIMORE PIKE	RD 367 WELSH TRACK CHURCH RD	PATCHING, 3" HM OVERLAY
11	NC	KIRKWOOD HWY EB & WB	RD 31 NB LIMESTONE RD	RD 330 GREENBANK RD	MILL 2", 2" SMA OVERLAY
23	NC	MARSH RD EB & WB	END OF MEDIAN	RD 213 NB CARR RD	MILL 2", PATCHING, 2" HM OVERLAY
283	NC	MERMAID STONEY BATTER	NEW JOINT	RD 282 MILLCREEK RD	MILL 1 1/2", 3" HM OVERLAY
261	NC	MT CUBA RD	RD 258 / RD 259, BARLEY MILL	RD 269 HILLSIDE MILL RD	PATCHING, 2" HM OVERLAY
17	NC	NAAMANS RD NB & SB	RD 4 NB CONCORD PIKE US 202	GRUBB RD, RD. 209	MILL 2", 2" HM OVERLAY
336	NC	OLD BALTIMORE PIKE	RD 3 EB DE 273 CHRISTIANA BY	RD 18A, MAIN ST	MILL 2", 2" HM OVERLAY
316	NC	OLD COACH RD	RD 328 POLY DRUMMOND HILL RD	NEW PAVEMENT JOINT	MILL 1" TRAVELWAY, 2" SLD, PATCH 2" HM OVERLAY
408	NC	OLD COOCH'S BRIDGE RD	NEW JOINT	RD 386, EGGARTS LANE	PATCHING, 3" HM OVERLAY, WEDGE
350	NC	OLD NEWARK RD	RD 366 CHESTNUT HILL RD	RD 351 MARROWS RD	MILL 1", 2" HM OVERLAY
13	NC	PAPER MILL RD	MARGARET ST / RD 309	RD 310 OLD PAPERMILL RD	MILL 2", PATCHING, 2" HM OVERLAY
295	NC	PIKE CREEK RD	END OF SLOPE STABILIZATION	RD 13 CURTIS MILL RD	MILL, OVERLAY
316	NC	PIKE CREEK RD	NEW PAVEMENT JOINT	ROUTE 2 RD-11, KIRKWOOD HWY	MILL 2", 3" HM OVERLAY
32	NC	PULASKI HWY EB & WB	MARYLAND LINE	RD 387 NEW ROUTE 896	MILL 2", 3" HM OVERLAY
1016	NC	QUIGLEY BLVD	US 13	RT 273, FRENCHTOWN PIKE	PATCHING
263	NC	ROLLING MILL RD	RD 237 LANCASTER PIKE	RD 259 BARLEY MILL RD	MILL, 2" HM OVERLAY
442	NC	SILVER LAKE RD	RD 38, NOXONTOWN RD	MIDDLETOWN LIMITS	RECONSTRUCT SHOULDERS

Appendix B
FY 2000 Pavement and Rehabilitation Program

RD.NO	CTY	ROADNAME	FROMDESC	THRUDESC	REMEDY
485	NC	SMYRNA LANDING RD	RD 488, BRICK STORE LANDING	RD 30 PADDOCK RD	PATCHING, 3" HM OVERLAY
247	NC	SNUFF MILL RD	RD 257 YORKLYN RD	RD 243 OLD KENNETT PIKE	PATCHING, 3" HM OVERLAY
312	NC	WEDGEWOOD RD	RD 41 NOTTINGHAM RD	RD 313, NEW LONDON RD	PATCHING, 3" HM OVERLAY
336	NC	WILMINGTON CHRISTIANA PIKE	INTERSECTION AT RT 7	INTERSECTION AT RT 4	MILL 2", 2" HM OVERLAY, PATCHING
380	K	ANDREWS LAKE RD	RD 33, CANTERBURY RD	RD 385, CHADNEY HILL RD	PATCHING, 1 1/2" HM OVERLAY
385	K	ANDREWS LAKE RD	RD 380, ANDREWS LAKE RD	RD 5 N.B. US 13, S. DUPONT HWY	PATCHING, 1 1/2" HM OVERLAY
61	K	ANDREWVILLE RD	RD 312, FLAT IRON RD	RD 114, TODDS CHAPEL RD	MILL 1", PATCHING, 3" HM OVERLAY, 1' WIDENING EACH SIDE
7	K	BAY RD SB	RD 7-A, TRAP SHOOTERS RD	NEW JOINT	MILL 1", 2" HM OVERLAY
99	K	COLLEGE RD	R&R CROSSING	BRIDGE	MILL 2", 3" HM OVERLAY
41	K	DE 15	RD 90, SUNNYSIDE DR	RD 39 DE 6, MAIN ST	PATCHING, 3" HM OVERLAY
100	K	DENNYS RD	RD 156, MCKEE RD	PVMT JOINT 500'W OF DELTECH	PATCHING, 3" HM OVERLAY, 2' EACH SIDE WIDENING
73	K	HAZLETTVILLE RD	NEW PAVEMENT JOINT	ROSE VALLEY SCHOOL RD, RD 198	PATCHING, 2 1/2" HM OVERLAY
156	K	MCKEE RD	RD 155 CENTRAL CHURCH	RD 45 DE 42, SEVEN HICKORIES	MILL CURB SECTION, 3" HM OVERLAY, WIDEN 2' EACH SIDE
2	K	NORTH DUPONT HWY SB	RD 65, MAIN ST	RD 149, HICKORY RIDGE RD	MILL 1", 2" HM OVERLAY, 4' WIDENING
195	K	RAILROAD AVENUE	RD 74 SOUTHERN BLVD	RD 193 FRONT ST	MILL 2", PATCHING, 2" HM OVERLAY
286	K	REEVES CROSSING RD	RD 284, LITTLE MASTENS CORNER	RD 5 S.B., S. DUPONT HWY	PATCHING, 3" HM OVERLAY
29	K	RISING SUN RD	DE 10 RD 356 E.B., W.LEBANON RD	RD 27 US 113A, SOUTH STATE ST	PATCHING, 2" HM OVERLAY
6	K	SOUTH DUPONT HWY NB & SB	RD 315, TOWER HILL RD	RD 36 DEL-14, MILFORD-HARRINGTON	MILL 1", PATCH 2" OVERLAY
25	K	SOUTH STATE ST	LOTUS ST,	WATER ST. RD 72	MILL, 2" HM OVERLAY
60	K	VERNON RD	50' EAST OF US 13 NB, S. DUPONT HWY	NEW PAVEMENT JOINT	MILL, PATCHING, 2" HM OVERLAY
443	K	WILLIAMSVILLE RD	RD 444, BLAIRS POND RD	RD 36 DEL-14, MILFORD-HARRINGTON	PATCHING, 3" HM OVERLAY
30	S	ATLANTA RD	RD 21, STEIN HWY	RD 555, OWLS NEST RD	MILL 3", 3" HM OVERLAY
285	S	BEAVER DAM RD	RD 22 DE 5, INDIAN MISSION RD	RD 48, HOLLYMOUNT RD	PATCHING, 3" HM OVERLAY, 4' WIDENING EACH SIDE
583	S	COCKED HAT RD	BRIDGEVILL TOWN LIMITS	RD 584, NEWTON RD	3" HM OVERLAY
318	S	COLONY RD	SOUTH OF VETERANS CEMETERY	RD 86, STOCKLEY RD	WEDGE, 2" HM OVERLAY
18	S	E. MARKET ST	RD 22 DE 5, HARBESON RD	RD 261, SWEETBRIAR RD	PATCHING, 3" HM OVERLAY
58C	S	HARPOON HANNA RD	RD 58 DE 54	APPROX 400' SOUTH OF DE 54	MILL, 2" HM OVERLAY
38	S	JEFFERSON/	RD 224, FLEATOWN RD	RD 212 DEL-30, CEDAR CREEK	WEDGE, 2" HM OVERLAY
71	S	KING ST (LAUREL)	RD 70 SIXTH ST	RD 24, LAUREL RD	MILL 2", 3" HM OVERLAY
225	S	MARSHALL ST	RD 207	RD 211	2" OVERLAY SHOULDERS ONLY
24	S	MILLSBORO HIGHWAY	RD 25, MILLSBORO HWY	KENDALL STREET	PATCHING, 3" HM OVERLAY
69	S	OAK LANE	RD 13 CENTRAL AVE	RD 70, SIXTH ST	MILL 1", 2" HM OVERLAY
50	S	OCEAN HIGHWAY NB&SB	FIFTH STREET	BRIDGE APPROACH SLAB	MILL 1", PATCHING 3" HM OVERLAY
376	S	PEPPER RD	RD 58, FENWICK RD	RD 377, CEMETERY RD	MILL 2", PATCHING, 2" HM OVERLAY
404	S	SEASHORE HIGHWAY	RD 17 MARKET ST	MARYLAND LINE	PATCHING, 3" HM OVERLAY
95	S	SOUTH EAST SECOND ST	RD 225, MARSHALL ST	RD 14 REHOBOTH BLVD	MILL 2", 2" HM OVERLAY
546	S	SPECK RD	RD 534 / RD 543, ROSS STATION RD	RD 18, BOWDENS GARAGE RD	3" HM OVERLAY, 2' WIDENING EACH SIDE
86	S	STOCKLEY RD	RD 113 N.B., DUPONT BLVD	RD 318, COLONY RD	PATCHING, 3" HM OVERLAY
62	S	TRAP POND RD	RD 20 DE 20, HARDCRABBLE RD	RD 329, WHALEYS CORNER	PATCHING, 3" HM OVERLAY

\$25,350,000

Appendix B
FY 2000 Pavement and Rehabilitation Program

CENTRAL DISTRICT SURFACE TREATMENT PROGRAM

Road No	Road Name	From Road	To Road
55	KNIFE BOX RD	MD LINE	RD 60 DE 14
82	LIGHTHOUSE RD	RD 319 / RD 318	RD 320 DE 9
86	SAVANNA RD	RD 15 DE 9	RD 333
93	PEARSONS GROVE RD	MD LINE	MD LINE
111	BROWNSVILLE RD	RD 455	RD 300
122	BENNETTS PIER RD	RD 19-A	0.43 BEYOND RD 418
123	SCOTTS CORNER RD	RD 19	RD 124
123	SCOTTS CORNER/TORBERT RD	RD 414	RD 19
145	RABBIT CHASE LA	RD 42	RD 90
147	HILLYARD RD	RD 42	RD 41 DE 300
222	SANDY BEND RD	RD 224	RD 50 DE 8
224	PARKERS CHAPEL RD	RD 208	RD 222
272	WHITE MARSH BRANCH	RD 271	RD 57 DE 12
278	WOLFPIIT RIDGE RD	RD 277	RD 59
279	PINEPITCH RD	RD 275	RD 78
280	BLACK SWAMP RD	RD 58	RD 57 DE 12
295	PEAR TREE LA	RD 296	RD 111
309	GREENWOOD RD	RD 62	RD 61
312	FLATIRON RD	RD 61 MAIN ST	RD 311 / RD 311 / RD 313
326	HURD RD	END	RD 83
348	HORSEFOND RD	RD 17 DE 9	END OF FORWARD DIRECTION
373	MULBERRIE POINTE RD	RD 8 N.B. US 113 / RD 7 N.	RD 375
375	OLD BOWERS RD	RD 18	RD 373
386	SCRAP TAVERN RD	RD 384	RD 34
392	BLUEJAY RD	RD 388	RD 393
393	HOLLENGER RD	RD 391	RD 392
398	SANDBOX RD	RD 397	RD 384
402	OLD CEMETERY RD	RD 119	RD 8 S.B. US 113
422	PRITCHETT RD	RD 423	RD 421
446	SOUTH FRONT ST	RD 384	RD 447
447	HOLLY HILL RD	RD 443	RD 36 DE 14
449	MURFFS RD	RD 59	RD 271
14	FAST LANDING RD - (SHOULDERS ONLY)	RD 14C	BRIDGE 14B
18C	WHITWELLS DELIGHT RD	RD 18	RD 18
206	WESTVILLE RD	RD 208	RD 218
332	EAST DENNEYS RD	RD 14 DE 42	NEW HOT-MIX 0.48 N.OF RD 331
NC 423	MCDONOUGH RD	RD 422	END OF FORWARD DIRECTION
NC 431	OLD SCHOOLHOUSE RD	RD 435	RD 39
NC 444	MIDDLE NECK RD	RD 443 US 301	END OF FORWARD DIRECTION
NC 461	MD-DELAWARE LINE RD	RD 25	RD 458
NC 475	MCKAYS CORNER RD	MD LINE	RD 476

Appendix B
FY 2000 Pavement and Rehabilitation Program

SOUTH DISTRICT SURFACE TREATMENT PROGRAM

Road No	Road Name	From Road	To Road
31	Dublin Hill Rd	568	575A
42	N. Union Church Rd	594	625
44	Blacksmith Shop Rd	36	16
78	Woodland Ferry Rd	79	20
79	Woodland Church Rd	537	Md Line
84	Central Ave	352	370
198	Truitt Rd	14/1	222
200	Sharps Rd	206	14
206	Cedar Neck Rd	14	200
224	Staytonville Rd	36	42
238	Saw Mill Rd	240	16
249	Shingle Point Rd	22/5	18/9
284	Mulberry Knoll Rd	24	End
288	Wil King Rd	280B	287
290	Cool Spring Rd	280	9
293	Doddstown Rd	294	5
295	Hollis Rd	293	30
326	Bethesda Rd	48	432
338	Radiah Rd	409	82
343	Wingate Rd	54	26
351	Club House Rd	26	End
362	Parker House Rd	361	363
365	Powell Farm Rd	26	52
374	Blackwater Rd	54	353
384	Bayard Rd	370	382
389	Dickerson Rd	396	390
390	Bunting Rd	389	54
393	Stump Creek Rd	343	End
396	West Line Rd	387	389
397	Bishopville Rd	58	Md Line
407	Hudson Rd	408	411A
409	Lewis Rd	410	408
424	Pear Tree Rd	421	24
447	Johnson Rd	467A	446
463	Hitch Pond Rd	451	24
466	Waller Rd	446	475
472	Phillips Hill Rd	431	432
472	Phillips Hill Rd	432	412A
479	Fire Tower Rd	467	20
488	Airport Rd	489	479
489	Dilliards Rd	480	488
501	Saint George Rd	13	54

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Appendix B
FY 2000 Pavement and Rehabilitation Program

508	White Deer Rd	507	504
511	Jackson Rd	501	510
526	Hastings Farm Rd	527/516	529
527	Gravelly Branch Rd	526	579
554	Baker Rd	30	561
556	Chapel Branch Rd	547	21
Road No	Road Name	From Road	To Road
562	Epworth Church Rd	563A	34
590	Mile Stretch Rd	32	583
592	Russel Rd	42	565
599	Sugar Hill Rd	600	600
600	Fawn Rd	565	598
612	Woodyard Rd	13	End
631	Mennonite School Rd	36	16
16A	S. Bay Shore Drive	16	End
279A	Waterview Rd	279	279
382A	Johnson Store Rd	382	382
467A	E. Elliotts Dam Rd	466	446
487A	Beagle Club Rd	78	493
505A	Waycross Rd	505	End
508A	Walters Rd	508	End
509A	Blackwater Branch Rd	76	509
549B	Willin Rd	549	Md Line
78A	Old Sailor Rd	28A	78
TOTAL SURFACE TREATMENT PROGRAM			\$1,500,000

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Appendix B
FY 2000 Pavement and Rehabilitation Program

PATCHING PROGRAM

RDNU	ROAD NAME	FROM	TO
73	HAZELVILLE RD	RD 195, WYOMING MILL RD	RD 156, SALISBURY RD
131	BLACKISTON CHURCH RD	RD 132, SUDLERS ROW	RD 39, DE 6, MILLINGTON RD
330	DENNYS RD	RD 2, ROUTE 13	BUSH DRIVE
356	LEBANON RD	RD 7	RD 356B
372	SKEETER NECK RD	RD 8, BAY RD	RD 18, BOWERS BEACH RD
N39	SUMMIT BRIDGE RD	N438, MAIN STREET	N427, CEDAR LANE RD
N427	CEDAR LANE RD	N39, SUMMIT BRIDGE RD	N429, ARMSTRONG CORNER RD
N47	VANDYKE GREENSPRING RD	N471, BLACKBIRD FOREST RD	N483, ALLEY MILL RD
N478	LONGRIDGE RD	KENT LINE	N47, VANDYKE GREENSPRING RD
N478A	DELANEY CHURCH RD	N478, LONGRIDGE RD	N47, VANDYKE GREENSPRING RD

TOTAL PATCHING PROGRAM \$300,000

TOTAL PAVEMENT RESURFACING PROGRAM

PAVEMENT RESURFACING	\$25,350,000
SURFACE TREATMENT	\$1,500,000
PATCHING	\$300,000
STORMWATER MANAGEMENT	\$50,000
NEW TECHNOLOGIES AND TREATMENTS	\$800,000

TOTAL PAVEMENT RESURFACING PROGRAM \$28,000,000

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Appendix B
FY 2000 Pavement and Rehabilitation Program

KENT COUNTY SURFACE TREATMENT CONVERSION

RD NO	ROADNAME	FROMDESC	THRUDESC	REMEDY
198	ROSE VALLEY SCHOOL RD	RD 73	RD 51	HOT MIX
165	DINAHS CORNER RD	RD 100	RD 166	HOT MIX
125	DE 15 DUNDEE RD	RD 54 DE 10-A MAIN ST	RD 53 DE 10	HOT MIX
482	CLAYTON GREENSPRING RD	RD 40	RD 47 DE 15	HOT MIX
434	GUN ROD CLUB RD	RD 116	RD 384	HOT MIX

SUSSEX COUNTY SURFACE TREATMENT CONVERSION

RD NO	ROADNAME	FROMDESC	THRUDESC	REMEDY
279	CAMP ARROWHEAD RD	RD 277	END	MICROSURFACE
224	BRICK GRANERY RD	RT 30	RT 1	HOT MIX
392	GUM RD	RT 17	RD 382	HOT MIX
413B	S413B	S 24	S 25	HOT MIX
346	HOLTS LANDING RD	RD 26	HOLTS LAN	MICROSURFACE
22C		RD 22	END	MICROSURFACE
206	WILKENS RD	RD 207	RT 30	HOT MIX
84	CENTRAL AVE	RD 370	RD 26	HOT MIX

TOTAL SURFACE TREATMENT CONVERSION \$2,000,000



STATE OF DELAWARE
DEPARTMENT OF FINANCE
OFFICE OF THE SECRETARY

CARVEL STATE BUILDING
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DOVER, DELAWARE 19901
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DEBT LIMIT STATEMENT FOR FISCAL YEAR 2000

This Debt Limit Statement is to be attached to the Fiscal Year 2000 Bond and Capital Improvements Act as required by §7422, Title 29, Delaware Code.

- (1) **Estimated Net General Fund revenue** for the fiscal year ending June 30, 2000 as per the joint resolution of the House and Senate which will be signed by the Governor in connection with the adoption of the annual Budget Appropriation Bill for that fiscal year. \$ 2,213.1 million
- (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, 2000. \$ 110.7 million
- (4) Less: Aggregate principal amount of previously authorized tax-supported obligations subject to debt limit. \$ _____ 0
- (5) **AVAILABLE DEBT LIMIT** prior to appended legislation (Line 3 minus Line 4). \$ 110.7 million
- (6) Less: Aggregate principal amount of new tax-supported obligations subject to debt limit to be authorized pursuant to appended legislation. \$ 70.0 million
- (7) **REMAINING DEBT LIMIT** (Line 5 minus Line 6). \$ 40.7 million

John C. Carney, Jr.
July 28, 1999

APPENDIX C - Suburban Street Program

106 W. 24th Street	00-1306	5,766
106 W. 28th Street	00-1309	3,229
107 W. 18th Street	00-1307	1,580
1101-1115 "A" Street	00-1303	14,796
127 W. 20th Street	00-1305	2,804
1801 N. West Street	00-1312	4,527
1804 N. West Street	00-1313	3,193
210 W. 31st Street	00-1302	2,909
211 W. 19th Street	00-1310	1,239
215 W. 18th Street	00-1308	985
216 W. 19th Street	00-1311	1,153
Arundel - Arundel Dr. from Duvall Ct. to Bardell Dr.	00-987	26,125
Arundel - Arundel Drive	99-64	28,500
Camden-Weeks Drive from Old North Rd (K193) To End	00-940	27,250
Carrcroft	00-1211	4,000
Carrcroft - Covington Drive	99-945	10,113
Chapelcroft - Burnett Road	00-32	14,000
Chapelcroft - Creighton Road	00-33	6,438
City of New Castle	00-1201	40,000
City of Wilmington	98-1301	130,000
Clermont - Clermont Rd from Wilson Rd to end	00-373	36,750
Colmar Manor - Manor Drive from Carter Rd. (K137) to Roxann Ave.	00-889	19,375
Colmar Manor - Roxann Ave. from Manor Dr. to end	00-890	12,375
Corner of 31st and West Sts.	00-1304	2,973
Delaware Greenways	00-1205	10,000
Division of Historical & Cultural Affairs	00-1217	6,000
DNREC Statewide Greenways	00-1206	10,000
Edenridge III - Westcliff Road	98-447	28,435
Edgenoor Gardens - S. Pennewell Drive	99-825	21,875
Fairfax - Waverly Road	99-463	35,000
Fairfield Farms - south Fairfield Dr. from intersection of Old Mill	00-858	3,125
Foulk Woods- Dogwood Lane	00-687	3,375
Foxmeadow - Wesley Drive	99-369	12,175
Gateway Farms - Gateway Rd. from House #733 to end	00-981	10,750
Gateway Farms - Waterford Ct. from Broadhaven Dr. to end	00-980	6,125
Gwynhurst - Holly Oak Road from Harrison Rd to Garfield Rd	00-671	35,600
Gwynhurst - Delaware Ave	99-948	9,250
Gwynhurst - Delaware Ave	99-949	15,000
Gwynhurst - Garfield Ave	99-950	22,125
Heatherton - Carolyn Ct. from Evanston Rd. to end	00-979	12,250
Hickory Hills (Gateway Farms) - Cabot Drive at House #518	00-857	750
Historic Markers	00-1216	6,000
Holly Oak - Holly Oak Rd from Gov. Printz to Phila. Pike	00-455	21,750
KCCD	00-1203	18,750
Klair Estates - Moncia Blvd	00-995	11,750
Larchmont - Larchmont Road	99-464	17,000
Leipsic	00-458	2,375
Limestone Hills - Steeplechase Road	99-1061	6,875
Limestone Hills - Middleton Road	99-1080	26,000
Little Creek Mitigation Project	00-1204	10,000
Mendenhall Village - Chimney Hill Lane	99-52	8,375
Mendenhall Village - Cold Springs Circle	99-1082	8,125
Mendenhall Village - Woodridge Dr. at House #20	00-851	1,250

APPENDIX C - Suburban Street Program

NCCD	00-1202	25,000
NCCD - 21st Century Fund	00-1222	20,000
NCCD - LePark Condo	00-1210	27,000
NCCD 21 Century Fund	00-1207	27,000
NCCD 21st Century Fund	00-1208	16,650
NCCD 21t Century Fund	00-1209	1,800
Newark	00-1213	43,000
Penn Acres - Morrison Ave.	99-1073	16,875
Scarborough Rd. Phase II	00-1215	23,750
Sherwood Park II	99-1074	21,500
Sherwood Park II - Toby Ct. from Pecksniff Rd. to end	00-974	7,000
Tarleton - S. Lori	97-220	28,600
Tavistock - Aldham Court	99-822	8,500
Taylorstown Spencer Court	97-541	7,000
Town of Clayton	00-1214	22,000
Town of Smyrna	00-1219	16,000
Town of Smyrna	00-1220	43,893
Town of Smyrna - Duck Creek Parkway	00-1221	13,000
Traffic - Shipley Road (N214) at Windley Road/Coachman Drive signal	00-1003	15,000
University of DE	00-1212	28,000
Wellington Hills - Arthur Drive	99-61	38,250
Westwood Manor -- Beachwood Drive	99-546	15,875
Wilmington - 1116 N. Heald St	00-10	3,451
Wilmington - 1118 N. Heald St	00-11	2,958
Wilmington - 1122 N. Heald St	00-12	2,505
Wilmington - 1124 N. Heald St	00-13	2,575
Wilmington - 1126 N. Heald St	00-14	2,122
Wilmington - 1132 N. Heald St	00-15	3,680
Wilmington - 1134 N. Heald St	00-16	3,280
Wilmington - 1325 Vandever Ave	00-9	4,135
Wilmington - 1918 West St	00-18	12,268
Wilmington - 954 E. 17th St	00-17	3,122
Wilmington - North Market St and Superfine Ave	00-406	2,700
Windybush - Wollaston Road	99-308	26,875
Wm Penn High School	00-1200	10,000
Woodbrook - Falkirk Road	99-130	35,000
Wyoming Broad Street from Layton Ave to Railroad Crossing	00-382	33,375

Bellewood - Bellewood Road from Wilson Rd to Foulk Rd	00-476	9,813
Bellewood - Sharpley Lane from Bellewood Road to Wilson Road	00-475	13,625
Birch Knoll - Birch Knoll Drive	98-277	18,125
Cedarbrook Acres - Cedarbrook Dr. from Sunnyside Rd. (K90) to end	00-887	9,000
Cedarbrook Acres - Morris Lane from Cedarbrook Dr. to end	00-888	7,500
Chalfont - Fairlee Rd from Eaton Rd to Manet Rd	00-454	14,000
Channin - Wexford Dr from Chanin Dr to Chanin Dr	00-547	26,375
Claridge Court bus stop sidewalk	00-856	16,200
Colmar Manor - Greenway Ave. from Manor Dr. to end	00-891	10,125
Crofton (Rivers End) - Bynum Place at House #224-226	00-279	3,063
Crofton (Rivers End) - West Bynum Pl. at intersection with Bynum Pl	00-280	1,375

APPENDIX C - Suburban Street Program

Darley Woods-Darley Woods Rd from Darley Rd to North Dolton	00-911	10,000
Darley Woods-Linda Rd from Rockwell Rd to end	00-909	10,000
Dartmouth Woods - Neponset Rd. from Manchester Lane to Dartmouth	00-748	22,188
Dartmouth Woods II - Sturbridge Rd from Ramblewood Drive	00-492	22,125
Foulkside - Lanside Drive, from Foulk Road to end	00-118	20,000
Glendale Village (townhouses) - David Place from Edward Ct to end	00-848	13,685
Greenview - Tischler Dr from Lebanon Rd (SR 10) to W. Greenview Dr	00-457	8,688
Gwynhurst - Delaware Ave	99-948	4,625
Hickory Woods - Hickory Dr from Porter Rd to House #412	00-357	22,500
KCD - 21st century - Southern Blvd, Wyoming/Rt. 10	00-385	12,500
KCD - 21st Century Fund - Wyoming - Southern Blvd, Rt. 10	00-399	12,500
Kingscroft - Castle Run	99-688	26,875
Kingsridge - Kingsridge Dr. from Jamaica Dr. to Empire Dr.	00-879	20,000
Linden Heath-Ault Court from Hogan Dr To End	00-969	2,375
Linden Heath-Hogan Drive from Mermaid Blvd. To Ault Court	00-971	625
Linden Heath-Inverness Ct from Mermaid Blvd to End	00-972	250
Linden Heath-Mermaid Blvd. From Queens Court to Pennington Ct.	00-967	3,188
Linden Heath-Pennington Ct. from Mermaid Blvd. to End	00-968	688
Linden Heath-Queens Lane from Mermaid Blvd to End	00-973	938
Linden Heath-Ryder Ct from Hogan Drive to End	00-970	1,438
Llangolan Estates - Hodgkins Place from Schafer Blvd to cul de sac	00-623	35,000
Londonderry - Emerald Place from end to end	00-742	9,062
Longview Farms - Merribrook Rd from Naamans Rd to Stonewall Rd	00-372	10,000
NCC - Harwyn Road	98-652	10,000
NCC - Harwyn Road	98-651	10,000
NCC - Kynwyd Road	98-654	10,000
NCCD - 21st Century Fund - Persimmon Run - Hunter Forge Rd design	00-97	5,000
NCCD - 21st Century - Montchanin - Route 100	00-426	5,000
NCCD - 21st Century - Montchanin - Kirk Rd	00-425	16,875
NCCD - 21st Century - Perkins Run	00-431	11,875
NCCD - 21st Century Fund - Mill Creek - Old Wilmington Road	00-96	5,125
NCCD - Sharpless Rd between Concord and Delaware Aves	00-569	7,000
NCCD -21st Century - Williamsburg Ct. - off Grubb Rd	00-432	5,650
Northminister - Broadbent Drive	98-24	1,750
Northminister - Tonbridge Drive	98-25	688
Penn Acres South - Saratoga Dr from Valley Forge Rd to Shenandoah	00-285	21,938
Penn Acres South - Valley Forge Rd from House #72 to House #74	00-284	3,750
Weber - Clearview Ave from Naamans Rd to Lloyd Place	00-579	4,937
Wilmington Manor Gardens - Colgate Ave from Booth Dr to Yale Ave	00-548	12,625
Wrangel Hill - Greybull Rd. from Laramie Dr. to Laramie Dr.	00-902	30,375
Wyoming-Southern Blvd from Rail Rd to Camden Wyoming Ave	00-938	41,500

APPENDIX C - Suburban Street Program

1st Representative District	00-701	300,000
1st Senatorial District	00-801	300,000
2nd Representative District	00-702	300,000
2nd Senatorial District	00-802	82,050
3rd Representative District	00-703	300,000
3rd Senatorial District	00-803	300,000
4th Senatorial District	00-804	90,149
5th Representative District	00-705	300,000
5th Senatorial District	00-805	17,937
6th Representative District	00-706	115,125
6th Senatorial District	00-806	40,265
7th Representative District	00-707	300,000
7th Senatorial District	00-807	300,000
8th Representative District	00-708	300,000
8th Senatorial District	00-808	187,673
9th Representative District	00-709	300,000
9th Senatorial District	00-809	300,000
10th Representative District	00-710	300,000
10th Senatorial District	00-810	300,000
11th Representative District	00-711	293,000
11th Senatorial District	00-811	300,000
12th Representative District	00-712	300,000
12th Senatorial District	00-812	13,739
13th Representative District	00-713	300,000
13th Senatorial District	00-813	300,000
14th Representative District	00-714	300,000
14th Senatorial District	00-814	300,000
15th Representative District	00-715	300,000
15th Senatorial District	00-815	300,000
16th Representative District	00-716	300,000
16th Senatorial District	00-816	300,000
17th Representative District	00-717	300,000
17th Senatorial District	00-817	271,250
18th Representative District	00-718	300,000
18th Senatorial District	00-818	300,000
19th Representative District	00-719	300,000
19th Senatorial District	00-819	300,000
20th Representative District	00-720	192,575
20th Senatorial District	00-820	300,000
21st Representative District	00-721	300,000
21st Senatorial District	00-821	300,000
22nd Representative District	00-722	300,000
23rd Representative District	00-723	300,000
24th Representative District	00-724	300,000
25th Representative District	00-725	300,000
26th Representative District	00-726	300,000
27th Representative District	00-727	300,000
28th Representative District	00-728	108,607
29th Representative District	00-729	300,000

APPENDIX C - Suburban Street Program

30th Representative District	00-730	300,000
31st Representative District	00-731	300,000
32nd Representative District	00-732	300,000
33rd Representative District	00-733	300,000
34th Representative District	00-734	161,062
35th Representative District	00-735	300,000
36th Representative District	00-736	300,000
37th Representative District	00-737	300,000
38th Representative District	00-738	300,000
39th Representative District	00-739	300,000
40th Representative District	00-740	300,000
41st Representative District	00-741	300,000
Gibraltar Restoration	00-1515	25,000
NCCD - 4th District	00-1517	20,000
NCCD - Chestnut Valley - Renne Lane	00-1401	15,000
NCCD - Plum Run-	00-1402	15,125
Streetscape Improvements	00-1514	25,000
Streetscape Improvements	00-1505	15,000
Streetscape Improvements	00-1513	6,500
Streetscape Improvements	00-1512	25,000
Streetscape Improvements	00-1511	15,000
Streetscape Improvements	00-1510	20,000
Streetscape Improvements	00-1509	20,000
Streetscape Improvements	00-1508	15,000
Streetscape Improvements	00-1507	20,000
Streetscape Improvements	00-1506	15,000
Washington Street Streetscape I	00-1516	10,000
Westover Hills	00-1502	3,500
Westover Hills	00-1501	25,000
Wilmington - Drainage	00-1503	20,000
Wilmington Parks - Van Buren & S. Park Drive	00-1504	20,000

CHAPTER 259
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 6

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO PRESCRIPTION DRUG
PAYMENT ASSISTANCE FOR LOW-INCOME RESIDENTS.

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

Section 1. Amend Title 16, Delaware Code by adding thereto a new chapter to read as follows:

"Chapter 30. Prescription Drug Payment Assistance Program

§3001. Short title.

This act shall be known and may be cited as the 'Delaware Prescription Drug Payment Assistance Program'.

§3002. Purpose.

The purpose of this chapter is to provide payment assistance for prescription drugs to Delaware's low-income senior and disabled citizens who are ineligible for, or do not have, prescription drug benefits or coverage through federal, state, or private sources.

§3003. Definitions.

a. 'Department' shall mean the Department of Health and Social Services.

b. 'Eligible Person' shall mean a person eligible for the Delaware Prescription Drug Payment Assistance Program pursuant to §3004 of this Chapter.

c. 'Prescription drugs' shall mean drugs and supplies that have been approved as safe and effective by the Federal Food and Drug Administration or are otherwise legally marketed in the United States, including items related to diabetes management, if not covered by Medicare, that a physician has deemed medically necessary for the diagnosis and/or treatment of the patient. For the purposes of this Chapter, prescription drugs may include cost effective over-the-counter pharmaceutical products if prescribed by a health care provider authorized to prescribe prescription drugs as an alternative to more costly drugs. Prescription drugs covered under this Chapter shall be limited and subject to the provisions of §3005 and the rules and regulation adopted pursuant thereto.

d. The 'Program' shall mean the Prescription Drug Payment Assistance Program.

e. 'Secretary' shall mean the Secretary of the Department of Health and Social Services.

§3004. Eligibility.

To be eligible for payment assistance for prescription drugs a person must:

- (1) be a U.S. citizen or a lawfully admitted alien;
- (2) have income that is less than 200% of the Federal Poverty Level (FPL) or have prescription drug expenses that exceed 40% of his or her annual income;
- (3) be a resident of the State of Delaware;
- (4) be ineligible for Medicaid prescription benefits;
- (5) be ineligible for Nemours Health Clinic Pharmaceutical benefit as defined on 1/1/99;
- (6) be ineligible for and/or not receiving a prescription drug benefit through a Medicare supplemental policy or any other third party payer prescription benefit; and

(7) be an individual aged 65 or over or be an individual between the ages 19 and 64 who is otherwise eligible for benefits under Title II of the Social Security Act (Federal Old Age, Survivors, and Disability Insurance Benefits).

§3005. Program administration.

(a) The Delaware Prescription Drug Payment Assistance Program shall be administered by the Department. The Department shall promulgate and adopt rules and regulations as are necessary to implement the Program in a cost-effective manner and to ensure the Program is the payer of last resort for prescription drugs. Rules and regulations shall include the following:

(1) Payment assistance shall not exceed \$2,500 per State fiscal year to assist each eligible person in the purchase of prescription drugs.

(2) The Department shall restrict covered prescription drugs covered under the Program to those manufactured by pharmaceutical companies that agree to provide manufacturer rebates. The Department shall establish a State rebate program to collect rebates from pharmaceutical manufacturers in an amount consistent with the Medicaid rebate of 15.1% of Average Manufacturer (AMP) for innovator/brand name products and 11% of Average Manufacturer Price (AMP) for non-innovator/generic products.

(3) The Department shall develop a co-payment requirement which shall not exceed 25% of the acquisition cost but shall be no lower than \$5.00. Co-payment amounts may vary when a generic drug is purchased by eligible persons in the Program. The co-pay may be waived in cases of severe hardship.

(4) The Secretary or the Secretary's designee shall provide a clear, written explanation defining the scope of the Program's coverage, the amount of the cost-sharing requirements and any limitations on access to covered prescription drugs. The Department shall provide notice, when 75% of the cap has been expended. The Department will also notify persons of the process to appeal a decision denying reimbursement for prescription drugs or denying a person's eligibility for the Program. Services shall begin on the 1st day of the month, following the month that eligibility is determined. Eligible individuals will receive an identification card for the Program.

(5) No drug prescription may exceed 100 dosing units or a 34-day supply, whichever is greater.

(6) No system of administration shall make a direct cash payment to any eligible person.

(7) The Department shall require a mandatory point-of-sale claims submission within 14 days unless extenuating circumstances, as defined by the Department, exist.

(b) The Department may promulgate and adopt rules and regulations consistent with the following:

(1) Limiting application to the Program to a specific open-enrollment period, with coverage effective as of the date the application is approved.

(2) Imposing an annual enrollment fee in an amount not to exceed \$20.00 to be paid by all eligible persons in the Program to defray administrative expenses. Payment of any such fee shall be credited to a special fund to be designated as the Prescription Assistance Fund. For each fiscal year, the maximum unencumbered balance which shall remain in the Prescription Assistance Fund at the end of any fiscal year shall be no more than the administrative cost of the program in the subsequent fiscal year.

(3) Determining income eligibility of a person by any reasonable means, including, but not limited to a review of the person's most recent federal and state income tax returns and copies of income checks. Residency and age/disability eligibility may be verified by submission of such documents as the Secretary or the Secretary's designee deems reasonable.

(4) Rules and Regulations the Secretary deemed necessary to implement the Program consistent with the purposes outlined herein and appropriations provided to implement this Program.

§3006. Semi-Annual Report.

The Department shall maintain data to evaluate the cost and effectiveness of the Program and shall produce a semi-annual report summarizing participant demographics, utilization, utilization review results, and such other available information as may be needed to evaluate the costs and benefits of the Program.

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§3007. Pharmacist duty.

A pharmacist shall not dispense or provide a covered prescription drug to an eligible person until the eligible person makes the required co-payment."

Section 2. The provisions of this Act shall be subject to appropriations. It is the intent of the General Assembly that some of the funds received by the State pursuant to the National Tobacco Settlement, known as the Master Settlement Agreement, may be utilized to help fund this Act. The General Assembly may also appropriate such other funds as may be required as it deems appropriate. Nothing in this legislation precludes application of federal dollars for purposes contained in this bill should such funds become available.

Section 3. The Department of Health and Social Services may use existing suppliers to implement this Act until July 1, 2002.

Section 4. Manufacturer rebates shall be used for overhead and administrative costs for the implementation of this Act. Any excess manufacturer rebates shall be used for program costs.

Section 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 6. This Act shall become effective on or before January 1, 2000.

Approved August 31, 1999

CHAPTER 260

FORMERLY

HOUSE BILL NO. 346
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO STATE PARKS.

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

Section 1. Amend § 4701(a)(7), Title 7 of the Delaware Code by striking said paragraph and substituting in lieu thereof the following:

"(7) Enter into agreements with proper persons or corporations for periods of not to exceed 10 years for operation of services on the areas it administers."

Approved January 25, 2000

CHAPTER 261

FORMERLY

HOUSE BILL NO. 353
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO THE DELAWARE
STANDARDBREDED BREEDER'S PROGRAM FUND.

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

Section 1. Amend Chapter 100, Title 3, Delaware Code by inserting a new Subchapter V to read as follows:
"Subchapter V. Delaware Standardbred Breeder's Program Fund.

§ 10081. Title and Established.

(a) This Section shall be referred to as the Delaware Standardbred Breeder's Program Fund Act of 1999.

(b) (1) A special fund of the State is hereby established in the Department of Agriculture to be known as the 'The Delaware Standardbred Breeder's Fund'. Funds reserved for the Delaware Standardbred Breeder's Program pursuant to § 4815(b)(3)a. and § 4815(b)(3)b.2.D. of Title 29 of this Code shall be transferred to the Delaware Standardbred Breeder's Program Fund. The Secretary of Finance and the Secretary of Agriculture shall deposit or transfer all other monies, including gifts, bequests, grants, or other funds from private and public sources specifically designated for the Delaware Standardbred Breeder's Program Fund. The General Assembly at any time may appropriate additional monies to the Delaware Standardbred Breeder's Program Fund.

(2) Monies from the Delaware Standardbred Breeder's Program Fund shall be expended in accordance with the Delaware Standardbred Breeder's Program Plan approved pursuant to § 4815(b)(3)b.2.D., of Title 29 of this Code.

(3) The Delaware Standardbred Breeder's Program Fund shall be invested by the State Treasurer consistent with the investment policies established by the Cash Management Policy Board. All income earned shall be reinvested in the Delaware Standardbred Breeder's Program Fund.

(4) No monies shall be expended from the Delaware Standardbred Breeder's Program Fund except pursuant to an appropriation incorporated in the State's Bond and Capital Improvements Act or annual Appropriations Act.

(5) The transfer of funds from the Delaware Standardbred Breeder's Program Fund shall be approved by the Secretary of Finance, the Secretary of Agriculture, and the Chair of the Delaware Harness Racing Commission. Such expenditures shall only be made upon the satisfaction of the specific requirements established by law and the plan and rules adopted by the Delaware Standardbred Breeder's Fund Board to govern expenditures for this purpose. Unexpended cash balances in the Delaware Standardbred Breeder's Program Fund shall be interest-earning and such interest shall be credited to the Delaware Standardbred Breeder's Program Fund."

Section 2. This Act shall be effective beginning July 1, 1999.

Approved January 25, 2000

CHAPTER 262

FORMERLY

HOUSE BILL NO. 135

AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE PRACTICE OF
TELEMARKETING AND ESTABLISHING REGISTRATION AND STANDARDS OF CONDUCT FOR
PERSONS ENGAGING IN TELEMARKETING IN THIS STATE.

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, designated as Chapter 25A, which new chapter shall read as follows:

"Chapter 25A. Telemarketing Registration and Fraud Prevention.

§2501A. Purpose; short title.

The purpose of this chapter shall be to set standards of conduct for organized commercial telemarketing in or into the State of Delaware and to protect consumers from unfair, deceptive, or abusive practices by telemarketers and companies using established telemarketing methods to promote and sell products, services, and investments. This chapter may be cited as the 'Delaware Telemarketing Fraud Act.'

§2502A. Definitions.

As used in this chapter, unless the context requires otherwise:

(1) 'Advertisement' shall have the same meaning as defined in § 2511 of Chapter 25 of this Title.

(2) 'Customer' means a person who is or may be required to pay for merchandise offered through telemarketing by a seller, telemarketer, or telemarketing business.

(3) 'Investment' means any property, real or personal, tangible or intangible, that is offered for sale, sold or traded based wholly or in part on representations, express or implied, that the property may or will generate income or profit or appreciate in value.

(4) 'Merchandise' shall have the same meaning as defined in Section 2511 of Chapter 25 of this Title. Additionally, 'merchandise' includes loans, services related to a person's credit worthiness, leases of personal property, prizes from prize promotions, long-distance telephone services and investments.

(5) 'Person' shall have the same meaning as defined in Section 2511 of Chapter 25 of this Title.

(6) 'Prize' means anything offered, or purportedly offered, and given, or purportedly given, to a person by chance. In addition to its ordinary meaning, for this purpose, 'by chance' includes circumstances whereby a person is guaranteed to receive merchandise or anything of value, and at the time of the offer or purported offer the telemarketer does not identify the specific item that the person will receive.

(7) 'Prize promotion' means a sweepstakes or other game of chance or an oral or written representation, express or implied, that a person has won, or has been selected to receive or is eligible to receive a prize or purported prize.

(8) 'Sale' shall have the same meaning as defined in Section 2511 of Chapter 25 of this Title.

(9) 'Seller' means any person who or which utilizes telemarketing or engages the services of a telemarketing business to promote, advertise, sell or distribute merchandise.

(10) 'Telemarketer' means a natural person who, from any location, in connection with telemarketing, initiates or receives, or causes the initiation or receipt of telephone calls to or from a customer who is located in the State of Delaware. A person 'causes the initiation or receipt' of telephone calls if the person manages, directs or supervises the activities of persons engaged in telemarketing.

(11) 'Telemarketing' is an organized activity, program or campaign by one or more telemarketers that is conducted for solicitation of a sale of merchandise through the use of one or more telephones to contact customers.

(12) 'Telemarketing business' means any person who or which engages in telemarketing on behalf of any seller in exchange for any consideration or compensation.

(13) 'Solicitation' means a written or oral notification, advertisement or offer that consists of any one or more of the following characteristics:

a. Transmitted to a customer by or on behalf of a seller by any printed, audio, video, cinematic, telephonic or electronic means, including a computer; or

b. In the case of a transmission to a customer by any means other than by telephone, any one of the following occurs:

(i) the original communication is followed by a telephone call from a telemarketer or seller in connection with the notification, advertisement or offer;

(ii) the original communication invites a response by telephone and through that response, a telemarketer attempts a sale of merchandise to the customer; or

(iii) the original communication invites a customer to call a 900-line service or similar telephone number for any reason.

§ 2503A. Registration of Sellers, Telemarketers and Telemarketing Businesses.

(a) Unless exempted under this section or § 2505A of this Title, no person shall transact any business with any customer who is located in the State of Delaware through telemarketing as a seller or a telemarketing business without having first filed a Registration Statement with the Director of the Consumer Protection Unit of the Department of Justice (hereinafter 'Director') in accordance with this section.

(b) Any person required by this section to file a Registration Statement (hereinafter 'registrant') shall file the statement at least 30 days prior to transacting any business with any customer who is located

in the State of Delaware. An original Registration Statement shall be renewed by the registrant on or before July 1 of each successive calendar year following the date of the original filing, or within 30 calendar days of the registrant's discovery of any material change in any information required to be disclosed by this section. For this purpose, a registrant discovers a material change in information when the registrant or any person employed by the registrant as a manager or director of the registrant knows or should know of the material change in information.

(c) The Registration Statement or any renewal thereof shall include, but not be limited to, the following information:

(1) The registrant's true name, current address, telephone number, and principal place of business, including each fictitious or business name under which the registrant intends to engage in telemarketing;

(2) Each occupation or business that the registrant has engaged in for two years immediately preceding the date of registration;

(3) With respect to the registrant, any person employed by the registrant as a telemarketer, manager, or director and, if the registrant is not a natural person, the registrant's owners; whether any person so designated has been convicted of, or pled guilty to, or is being prosecuted in any jurisdiction for racketeering, violation of state or federal securities laws, theft, fraud, forgery or any other offense involving falsehood or deception;

(4) With respect to the registrant, any person employed by the registrant as a telemarketer, manager, or director and, if the registrant is not a natural person, the registrant's owners; whether any person so designated is or has been subject to any pending or final cease and desist order, assurance of discontinuance, injunction, restraining order or judgment under this chapter or Chapter 25 of this Title or in any other civil or administrative action in any other jurisdiction, involving telemarketing, consumer or securities fraud, deceptive trade practices, racketeering or any other civil enforcement statute involving fraud or deception;

(5) With respect to the registrant, or if the registrant is not a natural person, the registrant's owners or directors; whether at any time during the previous seven years any person so designated has filed for bankruptcy, been adjudged bankrupt or been reorganized because of insolvency;

(6) When disclosing matters under paragraph (3), (4) or (5) of subsection (c) of this section, the registrant shall include the following information:

a. The name and address of the court having jurisdiction in the matter;

b. The name and address of any governmental agency, prosecutor's office, probation office, or law enforcement agency involved in the matter;

c. The case, docket or identification numbers as used by the court having jurisdiction over the matter; and

d. Where relevant, whether and to what extent the registrant is on probation or owes any restitution, fines, penalties or assessments to any person or governmental authority;

(7) If the registrant is a seller, the legal name, address, phone number, business name, and state of incorporation (including name, address, and phone number of any registered agent) of any telemarketing business hired by the registrant for telemarketing to customers located in the State of Delaware; if the registrant is a telemarketing business, the legal name, address, phone number, business name and state of incorporation (including name, address, and phone number of any registered agent) of the seller that has hired the telemarketing business to engage in telemarketing to customers located in the State of Delaware;

(8) Where pertinent, the names, including any fictitious names, current home addresses, dates of birth, and social security numbers of the following persons employed by the registrant:

a. The owners and directors of any telemarketing business;

b. All telemarketers employed by the registrant; and

c. All persons participating in or responsible for the management of the telemarketing business or telemarketing activities.

(9) The name and address of every financial institution where proceeds of telemarketing sales are to be deposited;

(10) Representative copies of any scripts, outlines or presentation materials to be used by the telemarketer when soliciting. Representative copies of all written materials to be provided by the seller to a customer in connection with any solicitation; and

(11) A sworn and notarized statement that the information contained in the Registration Statement is the product of a diligent and reasonable investigation and is true and accurate to the best of the registrant's information and belief.

(d) **Security Requirements:** Every registrant shall file with the Director a corporate surety bond in the principal sum of \$50,000 in a form satisfactory to the Director with surety provided by a corporation authorized to do business in this State. The bond shall run to the Director and shall be conditioned upon the registrant's compliance with the provisions of this chapter. The bond shall pay to customers all monies that become due and owing for violations of this chapter. The aggregate liability of the surety on the bond shall in no event exceed the amount of such bond. In lieu of requiring the filing of a surety bond, the Director may, at the Director's discretion, accept from a registrant a letter of credit in the amount of \$50,000 running in favor of the Director for payments to customers of all monies that become due and owing for violations of this chapter, with draws available by sight drafts thereunder in amounts determined by the Director, up to the aggregate amount of \$50,000, if the registrant shall fail to comply with this chapter. Any such letter of credit shall be issued by a financial institution, and shall be in a form satisfactory to the Director.

(1) The surety bond or letter of credit shall remain in effect for three (3) years from the period the person ceases to operate in this State. A registrant who or which has ceased operating in this State may apply to the Director, in writing, for a waiver of this residual security requirement. In deciding whether to grant a waiver, the Director shall consider the length of time said registrant has operated in this State, the record of said registrant's compliance with this chapter and the nature and frequency of complaints concerning the registrant's operations within or outside of this State.

(2) The Registration Statement of any person shall be deemed to be lapsed if, at any time, the surety bond or letter of credit expires or becomes ineffective for any reason.

(3) A customer's claim against a bond or letter of credit shall be deemed payable as 'due and owing' upon entry of a final judgment of civil liability in favor of the customer or the issuance of a criminal sentencing order awarding restitution to the customer pursuant to Chapter 41 of Title 11. A customer may make claims against such bond or letter of credit for the amounts awarded as compensatory damages in any civil action under this chapter or as restitution pursuant to § 4106 of Title 11.

(e) This section shall not apply to any corporation having shares of stock that are traded on any public exchange or subsidiary of any corporation when not less than 60 percent of the voting power of its shares is owned by the qualifying corporation or corporations or to any not-for-profit corporation within the exemption of § 501(c)(3) or (6) of the United States Internal Revenue Code, provided that one of the following two conditions are and remain satisfied;

(1) the corporation is organized and existing under the laws of the State of Delaware; or

(2) the corporation is a foreign corporation authorized to do business in this State and has complied with all of the requirements of §§ 371, 372, and 374, of Title 8 of the Delaware Code. irrespective of any available exceptions under § 373 of Title 8.

(f) This section shall not apply to any telemarketing business engaging in telemarketing for or on behalf of a corporation exempted from this section, provided the telemarketing business is engaging in telemarketing under and in accordance with a written contract or agreement whereby the telemarketing business expressly agrees and is obligated under its terms to engage in telemarketing only in conformance with all prevailing laws, rules and regulations of this State or of the United States pertaining to telemarketing. A telemarketing business shall not be entitled to this exemption if twenty-five percent or more of its gross revenue from telemarketing services in any twelve-month period beginning on January 1 of each year is derived from sellers required to be registered and bonded under this section.

(g) This section shall not apply to:

(1) A seller or telemarketing business that solicits contracts for the maintenance or repair of merchandise previously purchased from the seller authorizing the solicitation.

(2) A seller or telemarketing business operating within the jurisdiction of the Public Service Commission.

(3) A seller who has been operating for at least one year a retail business establishment situated in this State under the same trade name as that used in telemarketing, and both of the following conditions are satisfied:

a. Merchandise is displayed and offered for sale at the business establishment; and,

b. Greater than fifty percent of the seller's annual sales of merchandise in any calendar year is derived from the sale and delivery of merchandise at the seller's business location.

(4) A seller of books, videotapes, audio recordings or multimedia products under a contractual plan or multimedia club otherwise regulated by the Federal Trade Commission's regulation concerning "use of negative option plans by sellers in commerce or which provide for the sale of books, audio recordings, videos, multimedia products or other goods including continuity plans, subscription arrangements, standing order arrangements, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive such merchandise on a periodic basis".

(5) A seller of food products where the actual or intended cost of the food product sold to a single address does not exceed one hundred dollars (\$100).

(6) A person subject to and licensed by the Delaware Real Estate Commission acting within the scope of his, her or its active and valid license.

(7) A seller soliciting the sale of services provided by a cable television system operating under authority of a franchise or permit.

(8) A seller primarily soliciting the sale of a magazine or newspaper of general circulation, either by the publisher or the publisher's agent by written agreement.

(h) The following are deemed violations of this chapter and of § 2513 of Chapter 25 of this Title:

(1) Failing to satisfy the registration or security requirements of this section;

(2) Submitting false or misleading information in a registration statement; and

(3) Failing to disclose any information required to be disclosed in a registration statement.

(i) Any person required by this chapter to file an original or renewed Registration Statement shall submit with each filing an administrative fee of \$100 made payable to the 'Consumer Protection Fund' to cover the costs of registration.

(j) Subject to §§ 281 through 284 of Title 11 of the Delaware Code, and in addition to any other civil or criminal liabilities provided by law, any natural person, corporation, partner, or high managerial agent of an unincorporated association required to be registered under this section, who engages in or authorizes telemarketing with customers who are located in the State of Delaware and who intentionally violates this section shall be guilty of a class G felony.

§ 2504A. Record-keeping Requirements.

(a) Any seller or telemarketing business shall preserve its individual records for a period of 24 months from the date the records are produced. A record, to the extent the seller or telemarketing business, or both, created in the ordinary course of business, shall be kept in the form, manner, format, or place as

such record is maintained in the ordinary course of its business. Records to be preserved shall include, but not be limited to:

- (1) All substantially different advertising, brochures, telemarketing scripts, and promotional materials;
 - (2) The name and last known address of each prize recipient and the description of the prize awarded for prizes represented to have a value of \$25.00 or more;
 - (3)) The name and last known address of each prize recipient and the description of the prize awarded for any prize in connection with a consumer call to a 900 number and any prize promotion when the consumer is told that the consumer will definitely win one of several prizes and any of the prizes is represented to have a value of \$25.00 or more;
 - (4) The name and last known address of each customer, the merchandise purchased, the date such merchandise was ordered and shipped or provided, and amount of merchandise ordered and shipped or provided, and the amount paid by the customer;
 - (5) The name, any fictitious name used, the last known home address and telephone number and the job title for each current and former employee directly involved in the telemarketing activities; and
 - (6) All written or recorded authorizations required to be provided or received under this chapter; including, but not limited to any express verifiable authorization as defined in § 2507A.
- (b) The seller and any telemarketing business calling on behalf of the seller may, by written agreement, allocate responsibility between themselves for the record-keeping required by this chapter. When a seller and a telemarketing business have entered into such an agreement, the written terms of that agreement shall determine and govern each party's respective obligations under this chapter. If no agreement exists, or such written agreement is unclear as to which party must create and maintain a record, the seller shall be deemed the responsible party under this chapter.
- (c) In the event of any dissolution or termination of the operations of any business employing telemarketers or the telemarketing business, the principal owners or directors of the entity shall maintain all records as required under this chapter. In the event of any sale, assignment, or other change in ownership of the seller or telemarketing business, the buyer or successor shall maintain all records required under this chapter.

§ 2505A. Exempt Practices.

This chapter shall not apply to the following business practices by a seller, telemarketer or a telemarketing business, except as otherwise provided in this section:

- (1) Solicitations in which the sale of merchandise is not completed and payment or authorization for payment is not required until after a face-to-face sales presentation to the customer by the telemarketer, seller, telemarketing business or its representatives.
- (2) Communications by telephone or other forms of media initiated by a customer that are not the result of any solicitation by the telemarketer, seller or telemarketing business.
- (3) Solicitations, telemarketing or the use of telephone equipment in connection with any sale of goods or services by a business supplier to a business or between businesses.
- (4) Use of telephones or telemarketing by or on behalf of a charitable/fraternal organization in connection with charitable/fraternal solicitations as those terms are defined in § 2593 of Title 6; provided, however, that a corporation claiming exemption pursuant to § 2593(1)(iii) of Title 6 must also satisfy the requirements of § 2503A(e) of this chapter.
- (5) Use of telephones or telemarketing for fund-raising and other non-commercial purposes, by religious, charitable, political, educational, labor, and social organizations or entities not otherwise regulated by §§ 2591 through 2597 of Title 6.
- (6) Use of telephones or telemarketing by or on behalf of a licensed insurance broker, agent, customer representative or solicitor when making solicitations is within the scope of the person's license.

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For this purpose, a 'licensed' person is one who or that is authorized by the Insurance Commissioner to conduct business within the State pursuant to Title 18 of the Delaware Code.

(7) Use of telephones or telemarketing by or on behalf of a person lawfully registered with the Delaware Securities Commissioner pursuant to § 7313 of this Title and acting within the scope of the person's registration as a broker-dealer, investment advisor or agent.

(8) Use of telephones or telemarketing by or on behalf of a supervised financial institution or parent, subsidiary or affiliate thereof. For purposes of this exemption, 'supervised financial institution' shall mean any bank, trust company, savings bank, credit card institution, building and loan association, building and industrial development corporation, licensed mortgage loan broker, licensed lender, licensed check seller or money transmitter, licensed cashier of checks, licensed motor vehicle sales finance company, licensed transporter of money and valuables, licensed pre-need burial contractor, credit union, industrial loan company, or other institution engaged in a business similar to any of the foregoing; provided, however, that such institution is subject to supervision and regulation by the Delaware State Banking Commission, or any official or agency of any state, or of the United States. For purposes of this exemption, 'subsidiary' and 'affiliate' shall have the meanings specified in § 101 of Title 5 of the Delaware Code.

(9) Soliciting sales through the distribution of a catalog which:

- a. contains a written description, picture or illustration and price of each item of merchandise offered for sale;
- b. includes the business address of the company;
- c. is distributed in more than one state;
- d. includes at least 10 pages of written material or illustration;
- e. is issued not less frequently than once a year;
- f. has an annual circulation of not less than 100,000 consumers; and
- g. the company's use of telephones is solely for the receipt of calls initiated by customers in response to the catalog and during those calls the person representing the company takes orders for merchandise only without further solicitation. For this purpose, 'further solicitation' does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog which prompted the customer's call or in a substantially similar catalog.

(10) The sale of goods or services for which the terms and conditions of offering or sale are subject to regulations by the Public Service Commission or the Federal Communications Commission; such sales being governed by the provisions of applicable rate sheets, tariffs or rules of those Commissions.

§ 2506A. Disclosure and Contract Requirements.

(a) A telemarketer shall provide all of the following information when contacting a consumer:

(1) At the beginning of the call and prior to any sales pitch, the telemarketer shall disclose to the customer:

- (A) that the purpose of the telephone call is to sell specific merchandise;
- (B) the telemarketer's name and the name of the seller on whose behalf the solicitation is being made; and
- (C) accurate information concerning the nature and description of the merchandise being offered for sale.

(2) Before completion of the initial sales call and before payment is requested the telemarketer shall disclose to the customer:

- (A) The total amount of money to be paid by the customer for the merchandise that is the subject of the telemarketing sales call;
- (B) Any restrictions, limitations, or conditions applicable to the purchase of the merchandise that is the subject of the telemarketing sales call;

(C) Any material aspect of the performance, quality, efficacy, nature or basic characteristics of the merchandise that is the subject of the telemarketing sales call;

(D) Any material aspect of the nature or terms of the refund, cancellation, exchange, or repurchase policies;

(E) Any material aspect of any investment being offered, including benefits, the price of the investment, the location of the investment, and the reasonable likelihood of success of the investment opportunity;

(F) Any material element of a prize promotion, including:

1. an accurate description of the prize;
2. its market value;
3. all material conditions to receive or redeem the prize;
4. the actual number of prizes to be awarded;
5. the odds of being able to receive the prize and, if the odds are not calculable in advance, the factors and methods used in calculating the odds;
6. the fact that no purchase or payment of any kind is required to win a prize or to participate in a prize promotion; and
7. instructions on how to participate or an address or local or toll-free telephone number to which customers may write or call for information on how to participate in the prize promotion.

(b) The following requirements shall apply to each sale of merchandise by a telemarketer:

(1) The telemarketer's sales transaction shall only be considered final seven business days after the customer has received a written notice as required by this subsection.

(2) The telemarketer shall furnish the customer, in the same language as that principally used in the sales presentation, said written notice, which shall contain in not less than twelve-point boldface type, a statement in substantially the following form:

'You, the purchaser, may cancel this transaction without any penalty or obligation at any time prior to midnight of the seventh business day after receipt of this notice. If you cancel, any payments made by you under the sale will be returned within ten business days following receipt by the seller of your written notice of cancellation and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any merchandise delivered to you under this contract of sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the merchandise available to the seller and the seller does not pick the merchandise up within twenty days of the date of your notice of cancellation, or agree to pay the expense for its return, you may retain or dispose of the merchandise without any further obligation. If you fail to make the merchandise available to the seller, or if you agree to return the merchandise to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a written notice of cancellation or send a telegram to (name of seller) at the following address (address of seller). The effective time of any cancellation is deemed to be the postmarked date upon which the notice was mailed to the seller, the date upon which the notice was delivered to any commercial document or parcel service for delivery to the seller or the date upon which any telegram was sent to the seller.'

(3) The telemarketer or telemarketing business shall notify the customer of the seller's name, address and phone number and the name, address and phone number of the person to whom any notice of cancellation is to be given if different from the seller.

The seller is additionally required to furnish the customer with the date of the telephone solicitation and a description of the telephone solicitation.

(c) Exempt from the requirements of 2506.A.(b) is any sale in which the consumer is given a full refund for the return of undamaged and unused goods, or the merchant guarantees full satisfaction or a cancellation of services notice, when the consumer has at least 7 days to review goods or services after receipt of the goods or services by the consumer, and the seller shall process the refund within 30 days after receipt of returned merchandise or cancellation of services by the consumer. The seller must disclose the review, return, and refund policy to the buyer orally by telephone or in writing with advertising or promotional material, or with delivery of goods or services. A seller must disclose a return address in writing where the consumer may return goods or cancel services. A seller who discloses in writing that a sale provides 'satisfaction guaranteed' or 'free inspection,' or 'no risk guarantee,' or similar words or phrases shall be deemed to meet the requirements of the review and refund policy.

(d) It is a violation of this chapter and of § 2513 of Chapter 25 of this Title for a seller, telemarketer or telemarketing business to fail to comply with or to misrepresent the requirements of this section.

(e) It is a violation of this chapter and of § 2532 of Chapter 25 of this Title for any seller, telemarketer or telemarketing business to engage in any unfair or deceptive conduct which would create a likelihood of confusion or misunderstanding to any reasonable consumer in connection with this section.

§ 2507A. Prohibited Acts and Practices.

(a) It is a prohibited telemarketing act or practice and a violation of this Chapter and § 2513 of Chapter 25 of this Title for any person to:

(1) Obtain or submit for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, share, or similar account, without that person's express verifiable authorization. For this purpose, 'express verifiable authorization' means:

a. a written statement signed by the customer expressly authorizing the payment;

b. the customer's signature on the negotiable instrument;

c. an oral authorization by the customer which is tape recorded and made available upon request to the customer's bank which evidences both the customer's authorization of a payment for the specific merchandise sold and the customer's receipt of the following information:

(i) the date of the draft;

(ii) the amount of the draft;

(iii) the payor's name;

(iv) the number of draft payments if more than one;

(v) a telephone number for customer inquiry that is answered during normal business hours; and

(vi) the date of the customer's oral authorization; or

d. Written confirmation of the transaction, sent to the customer prior to submission for payment of the customer's check, draft, or other form of negotiable paper, that includes all of the information required to be given under any oral tape-recorded authorization described in this section.

e. Any otherwise valid 'express verifiable authorization' shall be deemed invalid if said authorization was induced by fraud, false pretenses, misrepresentation, false promises, or failure to disclose material information.

(2) Advertise or represent that registration as a telemarketer equals an endorsement or approval by any government or governmental agency of any state;

(3) Willfully call or contact any customer by telephone for any purpose connected with or related to the sale or advertising of merchandise for 10 years after having been directed, orally or in writing, by the customer or any person acting on behalf of the customer with said customer's authorization, to cease and desist from said calls or contacts. For purpose of this section, a call or contact is 'willful' if the person making or initiating the call or contact knows or should know of the customer's instruction to not call or contact;

(4) Assist, support, or provide substantial assistance to any seller, telemarketer or telemarketing business when the person knew or should have known that the seller, telemarketer or telemarketing business was engaged in any act or practice in violation of this chapter;

(5) Request or receive payment in advance from a person, to recover or otherwise aid in the return of money or any other item lost by the customer in a prior telemarketing transaction; or

(6) Use the services of any professional delivery, courier or other pick-up service to obtain receipt or possession of a customer's payment, unless the merchandise is delivered with the opportunity to inspect it before any payment is collected.

(b) Nothing in this chapter shall prevent the Attorney General from seeking any other civil remedy or criminal sanction for any violation of this chapter as otherwise provided by law. Any person who violates § 1401 or § 1402 of Title 11 in connection with telemarketing shall, in addition, be guilty of a class F felony.

§ 2508A. Customers' Remedies.

(a) The sale of any merchandise by an unregistered, non-exempt seller or an unregistered, non-exempt telemarketing business shall be voidable.

(b) Any customer who suffers a loss or harm as a result of a violation or prohibited act or practice under this chapter, in addition to any other rights of action allowed by law, may recover actual and punitive damages, attorney's fees, court costs, and any other remedies provided by law, including equitable relief.

§ 2509A. Enforcement.

All enforcement actions under this chapter by the Attorney General shall be undertaken in accordance with Chapter 25 of Title 29."

Approved January 28, 2000

CHAPTER 263

FORMERLY

SENATE BILL NO. 259

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND 63 LAWS OF DELAWARE, CHAPTER 64, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF OCEAN VIEW IN SUSSEX COUNTY, DELAWARE" PERMITTING THE TOWN COUNCIL, BY ORDINANCE, TO ESTABLISH ELECTION DISTRICTS.

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

Section 1. Amend Section 2.113, 63 Laws of Delaware, Chapter 64, as amended, relating to Elections, by redesignating former subsection (a) as new subsection (c) and inserting the following as new subsections (a) and (b):

"(a) The Town Council shall, by Ordinance, create and establish four (4) representative districts within the Town of Ocean View. Thereafter, the Town Council may redistrict within one (1) year of the annexation of new territory within the Town limits or of the completion of the U.S. decennial census.

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- (b) Four (4) members of the Town Council shall be nominated and elected from the several districts in which they reside and one (1) member shall be nominated and elected from the Town at large."

Section 2. Amend Section 2.113, 63 Laws of Delaware, Chapter 64, as amended, relating to Elections, by redesignating former subsection (b) as new subsection (d) and deleting the first sentence thereof and inserting in lieu thereof, the following:

"One (1) Councilman shall be elected from each district and one (1) Councilman shall be elected at large. Councilmen shall be elected from their respective districts, as follows: The Councilman from District 4 shall be elected in the first year; the next following year, the Councilmen from Districts 1 and 2; and the third year, the Councilman from District 3 and the at Large Councilman."

Section 3. Amend Section 2.114, 63 Laws of Delaware, Chapter 64, as amended, relating to Ballots by deleting the second sentence thereof and inserting in lieu thereof, the following:

"Upon such ballots the names of the candidates for the office to be filled shall appear and the district from which they seek election or if at large arranged alphabetically by district and at large, and immediately below each group of names, instructions to vote for one from each of the several districts and one at large."

Section 4. Amend Section 2.116, 63 Laws of Delaware, Chapter 64, as amended, relating to Filing for Office, by deleting the first sentence thereof and inserting in lieu thereof, the following:

"No person shall be voted upon as a candidate for the office of Councilman, unless at least thirty (30) days before the date set for the election he shall have filed with the Secretary or the Mayor a letter or other certification setting forth:

- (a) That he will be a candidate for a certain designated office;
- (b) That he has been a bona fide resident of the Town of Ocean View at least six (6) months and of the district in which he seeks election, if not running at large, and
- (c) That he is at least eighteen (18) years of age."

Approved February 02, 2000

CHAPTER 264

FORMERLY

SENATE BILL NO. 261

AN ACT TO AMEND CHAPTER 64, VOLUME 63, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF OCEAN VIEW IN SUSSEX COUNTY, DELAWARE" TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF OCEAN VIEW.

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

Section 1. Amend Section 1.104, 63 Laws of Delaware, Chapter 64, as amended, by adding the following at the end of Section 1.104:

"The limits and bounds of the Town of Ocean View are further extended to include the following:

BEGINNING at a concrete monument found at a point formed by the intersection of the northerly right-of-way line of County Road 84, 60' wide, with the southwesterly line of a plot entitled "Villagers, Inc., Final Lot and Road Plan", as recorded in the Office of the Recorder of Deeds, in and for Sussex County and the State of Delaware, in Plot Book 8, Page 621, thence running,

- 1) by and with said northerly right-of-way line of County Road 84 the following three courses, North 85 degrees 54 minutes 57 seconds East 245.40 feet to a point of curvature, thence running,

- 2) by and with the arc of a circle, deflecting to the left, having an arc length of 448.42 feet, a radius of 966.40 feet and a chord bearing and distance of North 71 degrees 42 minutes 08 seconds East 444.41 feet to a point of tangency, thence running,
- 3) North 61 degrees 15 minutes 57 seconds East 280.73 feet to a point opposite the westerly line of the lands of, now or formally, Frank E. and Lois J. Lathbury as recorded in the aforesaid Office of the Recorder of Deeds in Deed Record Book 2054, Page 227, thence running,
- 4) crossing said County Road 84 and running by and with said lands of, now or formerly, Frank E. and Lois J. Lathbury, the following four courses, South 32 degrees 35 minutes 00 seconds East 801.00 feet to a point, thence running,
- 5) South 28 degrees 23 minutes 22 seconds West 985.59 feet to an iron pipe found, thence running,
- 6) South 53 degrees 47 minutes 55 seconds East 73.08 feet to a point, thence running,
- 7) South 18 degrees 45 minutes 09 seconds West 125.45 feet to a concrete monument found on the northerly line of the lands of, now or formerly, C.F.L. Enterprises, Inc. as recorded in the aforesaid Office of the Recorder of Deeds in Deed Record Book 1111, Page 8, thence running,
- 8) By and with said lands of, now or formerly, C.F.L. Enterprises, Inc. the following eight courses, South 18 degrees 45 minutes 09 seconds West 961.12 feet to an iron rod with cap set, thence running,
- 9) South 25 degrees 26 minutes 39 seconds East 51.05 feet to an 18" oak tree, thence running,
- 10) South 28 degrees 42 minutes 03 seconds East 507.26 feet to an iron rod with cap found, thence running,
- 11) South 35 degrees 38 minutes 49 seconds East 261.84 feet to a nail set in the base of a tree, thence running,
- 12) South 48 degrees 39 minutes 55 seconds East 182.19 feet to an iron rod with cap found, thence running,
- 13) South 52 degrees 31 minutes 38 seconds East 185.00 feet to an iron rod with cap found, thence running,
- 14) South 64 degrees 48 minutes 03 seconds East 34.52 feet to a concrete monument found, thence running,
- 15) South 73 degrees 26 minutes 03 seconds East 45.54 feet to a point on the westerly line of lands of Shady Dell Park, as recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 9, Page 72, and Plot Book 8, Page 803, thence running,
- 16) by and with said Shady Dell Park the following four courses, South 65 degrees 41 minutes 25 seconds East 227.09 feet to a point, thence running,
- 17) South 69 degrees 30 minutes 21 seconds East 538.04 feet to a point, thence running,
- 18) South 04 degrees 25 minutes 49 seconds West 498.32 feet to a point, thence running,
- 19) South 72 degrees 26 minutes 51 seconds West 898.50 feet to an iron pipe found on the westerly line of the lands of, now or formerly, Mabel E. Layton, as recorded in the Office of the Recorder of Wills, in and for Sussex County and the State of Delaware, in Will Record Book 128, Page 310, thence running,
- 20) by and with said lands of, now or formerly, Mabel E. Layton the following six courses, South 74 degrees 40 minutes 12 seconds West 250.17 feet to a point, thence running,
- 21) South 74 degrees 38 minutes 04 seconds West 468.27 feet to a point, thence running,
- 22) South 31 degrees 15 minutes 10 seconds East 214.30 feet to a point, thence running,
- 23) South 33 degrees 29 minutes 08 seconds East 527.95 feet to a point, thence running,
- 24) South 34 degrees 06 minutes 46 seconds East 284.13 feet to a point, thence running,
- 25) South 51 degrees 11 minutes 55 seconds West 75.28 feet to a point on the northerly right-of-way line County Road #368, 50' wide, thence running,

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- 26) By and with said right-of-way line County Road #368 the following fifteen courses, South 72 degrees 04 minutes 27 seconds West 1107.80 feet to a point, thence running,
- 27) South 73 degrees 20 minutes 24 seconds West 101.82 feet to a point, thence running,
- 28) By and with the arc of a circle, deflecting to the right, having an arc length of 207.10 feet, a radius of 242.55 feet and a chord bearing and distance of North 82 degrees 12 minutes 07 seconds West 200.87 feet to a point of tangency, thence running,
- 29) North 57 degrees 44 minutes 26 seconds West 110.92 feet to a point, thence running,
- 30) North 55 degrees 33 minutes 05 seconds West 118.21 feet to a concrete monument found, thence running,
- 31) North 55 degrees 29 minutes 19 seconds West 731.79 feet to a concrete monument found, thence running,
- 32) North 55 degrees 33 minutes 01 seconds West 511.51 feet to a point, thence running,
- 33) By and with the arc of a circle, deflecting to the right, having an arc length of 121.23 feet, a radius of 787.62 feet and a chord bearing and distance of North 51 degrees 09 minutes 05 seconds West 121.11 feet to a point of tangency, thence running,
- 34) North 46 degrees 44 minutes 30 seconds West 345.71 feet to a point, thence running,
- 35) North 46 degrees 44 minutes 30 seconds West 300.01 feet to an iron rod with cap set, thence running,
- 36) North 46 degrees 46 minutes 36 seconds West 27.10 feet to a point, thence running,
- 37) North 46 degrees 33 minutes 29 seconds West 673.72 feet to an iron pipe found, thence running,
- 38) By and with the arc of a circle, deflecting to the left, having an arc length of 325.94 feet, a radius of 4842.00 feet and a chord bearing and distance of North 49 degrees 23 minutes 51 seconds West 325.87 feet to a point of tangency, thence running,
- 39) North 51 degrees 19 minutes 34 seconds West 564.37 feet to a point, thence running,
- 40) North 50 degrees 56 minutes 33 seconds West 677.36 feet to a point on the easterly right-of-way line of the aforementioned County Road #84, thence running,
- 41) By and with said right-of-way line of County Road #84 the following nine courses, North 44 degrees 41 minutes 50 seconds East 1321.75 feet to a point, thence running,
- 42) By and with the arc of a circle, deflecting to the left, having an arc length of 353.22 feet, a radius of 1002.00 feet and a chord bearing and distance of North 34 degrees 35 minutes 18 seconds East 351.40 feet to a point of tangency, thence running,
- 43) North 24 degrees 29 minutes 22 seconds East 757.88 feet to a point, thence running,
- 44) By and with the arc of a circle, deflecting to the right, having an arc length of 339.62 feet, a radius of 568.00 feet and a chord bearing and distance of North 41 degrees 33 minutes 53 seconds East 335.62 feet to a point of tangency, thence running,
- 45) North 58 degrees 44 minutes 54 seconds East 210.66 feet to a point, thence running,
- 46) By and with the arc of a circle, deflecting to the left, having an arc length of 459.71 feet, a radius of 1907.23 feet and a chord bearing and distance of North 51 degrees 50 minutes 35 seconds East 458.60 feet to a point of tangency, thence running,
- 47) North 44 degrees 56 minutes 17 seconds East 120.15 feet to a point, thence running,
- 48) By and with the arc of a circle, deflecting to the right, having an arc length of 399.04 feet, a radius of 556.00 feet and a chord bearing and distance of North 65 degrees 29 minutes 54 seconds East 390.53 feet to a point of tangency, thence running,
- 49) North 86 degrees 03 minutes 31 seconds East 902.98 feet to an iron rod with cap found, thence running,
- 50) Crossing said County Road #84, North 04 degrees 09 minutes 14 seconds West 59.08 feet to a point on the northerly right-of-way line of said County Road #84, thence running,

51) By and with said northerly right-of-way line of County Road 84, North 85 degrees 54 minutes 57 seconds East 323.47 feet to the point and place of beginning; CONTAINING 457 acres of land, more or less."

Approved February 02, 2000

CHAPTER 265

FORMERLY

SENATE BILL NO. 209

AN ACT TO AMEND CHAPTER 27, TITLE 24 OF THE DELAWARE CODE RELATING TO LAND SURVEYORS AND TITLE 29 OF THE DELAWARE CODE.

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

Section 1. Amend Title 24 of the Delaware Code by striking Chapter 27 in its entirety and substituting in lieu thereof the following:

"CHAPTER 27. PROFESSIONAL LAND SURVEYORS

Subchapter I. Board of Professional Land Surveyors.

§2701. Objectives.

The primary objective of the Board of Professional Land Surveyors, 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.

§2702. 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 Professional Land Surveyors established in this Chapter.
- (2) 'Division' shall mean the State Division of Professional Regulation.
- (3) 'Excessive use or abuse of drugs' shall mean any use of narcotics, controlled substances, or illegal drugs without a prescription from a licensed physician, or the abuse of alcoholic beverage such that it impairs his or her ability to perform the work of a professional land surveyor.
- (4) 'Person' shall mean a corporation, company, association and partnership, as well as an individual.
- (5) 'Practice of land surveying' shall mean professional services or work involving special knowledge and application of the principles of mathematics and related sciences and the relevant requirement of law in connection with the use and development of land, as described herein:
 - (a) the act of measuring, locating, establishing or re-establishing corners, lines, boundaries, angles, elevations, contours and natural and man-made features in the air, on the surface or subsurface of the earth, within underground workings and on the beds or surface of bodies of water for the purpose of determining or establishing facts of size, area, shape, topography, tidal datum planes, legal or geodetic location or relocation and orientation of improved or unimproved real property and appurtenances thereto;
 - (b) The horizontal and vertical control for aerial surveys and photogrammetric compilation; Global Positioning System Surveying (GPS), as related to boundary surveying, and as defined as determining the horizontal and vertical location of an object on the earth's surface with respect to the center of the earth by observing satellites with

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equipment capable of acquiring, analyzing and managing the data collected; polaris and solar observations for the determination of the true azimuth; the monumentation and re-monumentation of boundaries of land, divisions of land, tracts, parcels and lots; the measurement and preparation of plans showing existing improvements after construction; the layout of proposed improvements and the preparation of descriptions and plans for use in legal instruments of conveyance of real property and property rights; and

(c) the design, preparation and furnishing of subdivision plans, land development plans, sedimentation and erosion control plans, grading plans, condominium plans, record plats and horizontal alignments, profiles and typical sections for roads, streets, utilities, sanitary sewers and storm drainage systems. This shall not be construed so as to permit the professional land surveyor to include the design of sewage disposal stations, lift stations, commercial and industrial buildings, pumping stations, and bridges, or to prepare plans for the construction of engineering and architectural projects.

(6) 'Professional land surveyor' shall mean an individual who holds a valid license to practice land surveying under this Chapter, and in addition:

- a. is a professional specialist in the technique of measuring land;
- b. is educated in the principles of mathematics and related sciences;
- c. is experienced in the application of the principles of mathematics and the related sciences;
- d. understands the relevant requirements of law for the presentation of adequate evidence relating to property descriptions and the surveying of real property.

(7) 'Responsible charge' shall mean the direct control and personal direction of the investigation, operation and execution of land surveying work requiring initiative, professional skill and independent judgment as a party chief or survey manager.

(8) 'State' shall mean the state of Delaware.

§2703. Board of Professional Land Surveyors; appointments; qualifications; term; vacancies; suspension or removal; unexcused absences; compensation.

(a) There is created a State Board of Professional Land Surveyors that shall administer and enforce this Chapter.

(b) The Board shall consist of seven members appointed by the Governor, who are residents of this state: Four shall be land surveyors licensed under this Chapter; at least one of whom, but not more than three, shall be appointed from each county of this State; and three public members. The public members shall not be, nor ever have been, land surveyors, nor members of the immediate family of a land surveyor; shall not have been employed by a land surveyor; shall not have a material interest in the providing of goods and services to land surveyors; nor have been engaged in an activity directly related to land surveying. 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 land surveyors; 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 deemed to have resigned his or her appointment. The Director of the Division shall have the responsibility to enforce this provision. Upon the determination by the Director that a vacancy exists due to this provision, the Governor may appoint a new member as provided in subsection (c) of this section.

(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.

§2704. 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 four members of the Board.

(d) Minutes of all meetings shall be recorded, and the Division of Professional Regulation shall maintain copies. At any hearing where evidence is presented, a record from which a verbatim transcript can be prepared shall be made. The person requesting it shall incur the expense of preparing any transcript.

§2705. Records.

The Division of Professional Regulation shall keep a register of all approved applications for license as a land surveyor, 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.

§2706. Powers and duties.

(a) The Board of Professional Land Surveyors 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 process all applications;

(3) Designate a written, standardized, national examination prepared by either the national professional association or by a recognized national testing service, and approved by the Division, to be taken by all persons applying for licensure; the national examination shall be taken by all persons applying for licensure, except applicants who qualify for licensure by reciprocity;

(4) Designate a written, two-hour examination on drainage and the Delaware law, prepared by an independent testing agency, and approved by the Director of the Division. All persons applying for licensure, including those applicants for licensure by reciprocity, shall take the examination on drainage and Delaware law;

(5) Adopt the administration, grading procedures, and passing score set by the national professional association or testing service;

(6) Evaluate the credentials of all persons applying for a license to practice land surveying in Delaware, in order to determine whether such persons meet the qualifications for licensing set forth in this Chapter.

(7) Grant licenses to, and renew licenses of, all persons who meet the qualifications for licensure and/or renewal of licenses;

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

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

(10) Refer all complaints from licensees and the public concerning licensed land surveyors, 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;

(11) Conduct hearings and issue orders in accordance with procedures established pursuant to the Administrative Procedures Act (Chapter 101 of 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.

Subchapter II. License

§2707. License required.

(a) No person shall engage in the practice of land surveying or hold himself or herself out to the public in this State as being qualified to practice land surveying, 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 land surveying, unless such person has been duly licensed under this Chapter.

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

§2708. Qualifications of applicant; report to Attorney General; judicial review.

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

(1) has satisfied one of the following requirements:

a. Is a graduate of a surveying curriculum of four years or more and has had at least three years of combined office and field experience in responsible charge of land surveying projects performed under the direct supervision of a licensed land surveyor in the active practice of land surveying. The required experience shall not be achieved concurrently with the education requirement; or

b. is a graduate of a surveying or related science curriculum of four years or more, and has had at least five years of combined office and field experience in responsible charge of land surveying projects performed under the direct supervision of a licensed land surveyor in the active practice of land surveying. The required experience shall not be achieved concurrently with the education requirement; or

c. has successfully completed a 32-semester hour, or its academic equivalent, course of study in land surveying or survey-related subjects, and has had at least six years of combined office and field experience in responsible charge of land surveying projects performed under the direct supervision of a licensed land surveyor in the active practice of land surveying; or

d. has had at least ten years of combined office and field experience in responsible charge of land surveying projects performed under the direct supervision of a professional land surveyor in the active practice of land surveying.

(2) has achieved the passing score on the written standardized national examination developed by the national professional association, and the written two-hour examination on drainage and Delaware law;

(3) Shall not have been the recipient of any administrative penalties regarding his or her practice of land surveying, 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. The Board may determine, after a hearing, whether such administrative penalty is grounds to deny licensure.

(4) shall not have any impairment related to drugs, alcohol, that would limit the applicant's ability to undertake the practice of land surveying in a manner consistent with the safety of the public;

(5) Shall not have been convicted of a felony;

(6) 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 land surveying. Applicants who have criminal conviction records or pending criminal charges shall request 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 land surveying.

(7) shall not have engaged in any of the acts or offenses that would be grounds for disciplinary action under this Chapter; and has no disciplinary proceedings or unresolved complaints pending against him or her in any jurisdiction where the applicant has previously been or currently is licensed or registered as a land surveyor.

(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. The appeal shall be treated as an appeal of an administrative agency decision pursuant to the Administrative Procedures Act, Chapter 101, Title 29 of the Delaware Code.

§2709. 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, whose standards for licensure are substantially similar to those of this State, and who meets the following criteria:

(1) his or her license is in good standing as defined in §2708(a)(3), (4), (5), (6), and (7) of this Chapter; and

(2) has achieved the passing score on the two-hour written examination on drainage and the Delaware law.

(b) An applicant, who is licensed or registered in a state whose standards are not substantially similar to those of this State, shall have practiced for a minimum of five years after licensure; provided, however, that he or she meets all other qualifications for reciprocity in this section.

§2710. 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 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, 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.

§2711. Issuance and renewal of licenses.

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The Board shall issue a license to each applicant, who meets the requirements of this Chapter for licensure as a land surveyor and who pays the fee established under §2710 of this Chapter.

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

The Division or its designee shall notify every licensee of the date of expiration of his/her license and the amount of the fee that shall be required for renewal at least one month prior to the expiration thereof. Failure to give or receive such notice shall not prevent the license from becoming invalid after its expiration date.

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

§2712. Grounds for discipline.

(a) A practitioner licensed under this Chapter shall be subject to disciplinary actions set forth in §2714 of this Chapter, if, after a hearing, the Board finds that the land surveyor:

(1) has employed or knowingly cooperated in fraud or material deception in order to acquire a license as a land surveyor; 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 a land surveyor to represent himself or herself as a land surveyor;

(2) Has been convicted of a felony; a copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence thereof;

(3) Has excessively used or abused drugs;

(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 engaged in illegal, incompetent or grossly negligent conduct in the practice of land surveying;

(6) has violated a lawful provision of this Chapter, or any lawful regulation established thereunder;

(7) has had his or her license, certification, or registration as a land surveyor suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record, and the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute one or more of the acts defined in this Chapter. Every person licensed as a land surveyor in this state shall be deemed to have given consent to the release of this information by the Board or other comparable agencies in another jurisdiction and to waive all objections to the admissibility of previously adjudicated evidence of such acts or offenses;

(8) has failed to notify the Board that his or her license or registration as a land surveyor 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; or

(9) while acting as a supervising land surveyor, has failed to supervise and take reasonable steps to see that unlicensed persons, acting under the supervising land surveyor's direction or control, perform services responsibly, competently, and ethically, in accordance with rules and regulations established by the Board. Supervising land surveyors 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 unlicensed persons acting under the supervising land surveyor's direction or control.

(b) 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 land surveying 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.

§2713. Complaints.

(a) 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.

(b) When it is determined that an individual is engaging in the practice of land surveying or is using the title land surveyor 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.

§2714. 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 §2712 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 that 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 of reinstatement of a suspended license, or removal from probationary status, the Board may impose such disciplinary or corrective measures as are authorized under this Chapter.

§2715. Hearing Procedures.

(a) If a complaint is filed with the Board pursuant to §8807 of Title 29 of the Delaware Code, alleging violation of §2714 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.

§2716. 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.

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(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.

§2717. Penalty.

A person not currently licensed under this Chapter as a land surveyor, when guilty of engaging in the practice of land surveying, 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 land surveying, such offender shall be guilty of a misdemeanor. Upon the first offense, he or she shall be fined not less than \$500.00 dollars or more than \$1000.00 dollars for each offense. For a second or subsequent conviction, the fine shall be not less than \$1000.00 or more than \$2000.00 for each offense. Superior Court shall have jurisdiction over all violations of this Chapter.

Subchapter III. Other Provisions

§2718. Applicability of Chapter.

Nothing in this Chapter shall be construed as preventing or restricting the practice, services, or activities of:

- (1) any person(s) licensed to practice engineering or architecture in Delaware;
- (2) any person(s) engaged solely in the teaching of land surveying or courses related to land surveying;
- (3) Any employee of the United States government while engaged in the practice of land surveying for said government within this State;
- (4) Any person(s) engaged in the practice of land surveying under the direct supervision of a professional land surveyor, who is licensed in this State, and who assumes responsibility for the activities of the unlicensed person(s).

§2719. Seal.

Every land surveyor licensed in this State shall have a seal of a design authorized by the Board by regulation and which bears the licensed land surveyor's name. All technical submissions prepared by such land surveyor, or under his or her direct supervision, shall be stamped with the impression of the licensed land surveyor's seal. No licensed land surveyor shall impress his or her seal on any technical submission unless it has been prepared under his or her direct supervision.

§2720. Public works.

Neither this State, nor any of its political subdivisions, such as counties, incorporated cities and towns, or other political entities or legally constituted boards, commissions, or authorities, or officials, or employees thereof, shall permit the commencement or continuance of any public work involving land surveying unless the field surveying shall be directly supervised by, and all drawings and documents as a result thereof, shall be prepared or certified by, a professional land surveyor licensed under this Chapter, or a person authorized under Chapter 28 of this Title to practice professional engineering in this State."

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. Reorganized Board appointments.

Members of the reorganized Board shall be appointed so that the terms of one professional member and one public member shall expire one year after the initial appointment; the terms of one professional member and one public member shall expire two years after the initial appointment; and the terms of two professional members and one public member shall expire three years after the initial appointment; thereafter, appointments shall be made for a term of three years.

Section 4. Administrative Procedures Act.

Amend paragraph 31, subsection (a), §10161, Title 29 of the Delaware Code by striking the words "Registration for" as the same appear in said paragraph.

Section 5. Division of Professional Regulation.

Amend paragraph (16), subsection (a), §8807, Title 29 of the Delaware Code by striking the words "Registration for" as the same appear in said paragraph.

Section 6. 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 February 04, 2000

CHAPTER 266

FORMERLY

SENATE BILL NO. 214

AN ACT TO AMEND CHAPTER 37, TITLE 24 OF THE DELAWARE CODE RELATING TO SPEECH PATHOLOGISTS, AUDIOLOGISTS AND HEARING AID DISPENSERS.

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 37, Title 24 of the Delaware Code by striking said Chapter in its entirety and by substituting the following in lieu thereof:

"CHAPTER 37. SPEECH/LANGUAGE PATHOLOGISTS, AUDIOLOGISTS,
AND HEARING AID DISPENSERS

Subchapter 1. Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers.

§3701. Objectives.

The primary objective of the Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers 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 licensed practitioners.

§3702. Definitions.

(a) 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) 'Audiologist' shall mean a person, who is licensed to practice audiology pursuant to this Act and who offers such services to the public under any title or description of services incorporating the words 'audiologist,' 'hearing clinician,' 'hearing therapist,' 'aural rehabilitator,' or any other similar title or description of service.

(2) 'Audiology aide' shall mean a person, who is certified by the Council of Accreditation of Occupational Hearing Conservationists, or its equivalent, and whose supervising licensed audiologist annually shall register such person with the Board. The audiology aide shall perform services only under the direct supervision of an audiologist licensed in this State.

(3) 'Board' shall mean the State Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers established in this Chapter.

(4) 'Division' shall mean the state Division of Professional Regulation.

(5) 'Excessive use or abuse of drugs' shall mean any use of narcotics, controlled substances, or illegal drugs without a prescription from a licensed physician, or the abuse of alcoholic beverage such that it impairs his or her ability to perform the work of a speech/language pathologist, audiologist, or hearing aid dispenser.

(6) 'Hearing aid' shall mean any personal, wearable instrument or device designed for, offered for the purpose of, or represented as, aiding persons with, or compensating for, impaired hearing.

(7) 'Hearing aid dispenser' shall mean a person licensed to dispense hearing aids pursuant to this Act and who is engaged in the evaluation or measurement of the power or range of human hearing by means of an audiometer or any other means devised for the purpose of selecting, adapting and distributing or selling of hearing aids. Testing shall not include medical diagnosis or audiologic evaluation. Licensed hearing aid dispensers may provide instruction, orientation and counseling on the use and operation of a hearing aid; and they may use an otoscope or 'ear light' to evaluate the feasibility and use of ear molds and ear mold impressions.

(8) 'Person' shall mean a corporation, company, association and partnership, as well as an individual. Licenses shall be issued only to individuals under this chapter.

(9) 'Practice of audiology' shall mean the application of principles, methods and procedures of measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation and rehabilitation related to hearing and disorders of hearing for the purpose of evaluating, identifying, preventing, ameliorating or modifying such disorders and conditions in individuals and/or groups. For the purpose of this subsection, the terms 'habilitation' and 'rehabilitation' shall include, but are not limited to, hearing aid evaluation, recommendation, and fitting.

(10) 'Practice of speech/language pathology' shall mean the application of principles, methods and procedures for measurement, testing, evaluation, prediction, counseling, instruction, habilitation or rehabilitation related to the development and disorders of speech, language, voice, rate or rhythm for the purpose of evaluating, preventing, ameliorating or modifying such disorders in individuals and/or groups.

(11) 'Speech/language pathologist' shall mean a person, who is licensed to practice speech/language pathology pursuant to this Act and who offers such services to the public under any title or description of services incorporating the words 'speech/language pathologist,' 'speech pathologist,' 'language pathologist,' 'speech and/or language therapist,' 'speech and/or language correctionist,' 'speech and/or language clinician,' 'voice therapist,' 'communicologist,' 'aphasiologist,' or any other similar title or description of service.

(12) 'Speech pathology aide' shall mean a person, who meets minimum qualifications that the Board may establish, which permit such an aide to assist speech/language pathologists in their professional endeavors, but only while under the direct supervision of a licensed speech/language pathologist.

(13) 'State' shall mean the state of Delaware.

§3703. Board of Speech/Language Pathologists, Audiologists, and Hearing Aid Dispensers; appointments; composition; qualifications; term; vacancies; suspension or removal; unexcused absences; compensation.

(a) There is created a State Board of Speech/Language Pathologists, Audiologists, and Hearing Aid Dispensers, which shall administer and enforce this Chapter.

(b) The Board shall consist of nine members, appointed by the Governor, who are residents of this state: Two shall be speech/language pathologists licensed under this Chapter; two shall be audiologists licensed under this Chapter; two shall be hearing aid dispensers licensed under this Chapter, and three public members. Each professional member of the Board shall be a primary practitioner of his or her specialty. The public members shall not be, nor ever have been, speech/language pathologists, audiologists, or hearing aid dispensers; nor members of the immediate family of a speech/language pathologist, audiologist, or hearing aid dispenser; shall not have been employed by a speech/language pathologist, audiologist, or hearing aid dispenser; or a company engaged in the practice of speech/language pathology, audiology, or dispensing hearing aids; shall not have a material interest in the providing of goods and services to speech/language pathologists, audiologists, or hearing aid dispensers; nor have been engaged in an activity directly related to speech/language pathology, audiology, or dispensing hearing aids. 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 or 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 term has expired since such person last served.

(e) Any act or vote by a person appointed in violation of this section shall be invalid. An amendment or revision of this chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (d) of this section, unless such an amendment or revision amends this section to permit such an appointment.

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

(g) No member of the Board, while serving on the Board, shall hold elective office in any professional association of speech/language pathologists, audiologists, or hearing aid dispensers; this includes a prohibition against serving as head of a professional association's Political Action Committee (PAC).

(h) The provisions set forth in Chapter 58 of 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.

§3704. 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 one year, and shall not succeed himself or herself for more than two consecutive terms.

(c) A majority of the members shall constitute a quorum for the purpose of transacting business; and, no disciplinary action shall be taken without the affirmative vote of at least five members.

(d) Minutes of all meetings shall be recorded, and the Division of Professional Regulation shall maintain copies. At any hearing where evidence is presented, a record from which a verbatim transcript can be prepared shall be made. The person requesting it shall incur the expense of preparing any transcript.

§3705. Records.

The Division shall keep a register of all approved applications for license as a speech/language pathologist, audiologist, and hearing aid dispenser, 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.

§3706. Powers and duties; immunity.

(a) The Board of Speech/Language Pathologists, Audiologists, and Hearing Aid Dispensers 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 national, written, standardized examinations in speech/language pathology, audiology, and hearing aid dispensing, prepared by a national testing service(s), to be taken by all persons applying for licensure as speech/language pathologists, audiologists, and/or hearing aid dispensers; applicants who qualify for licensure by reciprocity shall have achieved a passing score on all parts of the designated written national examination in the applicant's specialty.

(4) Evaluate the credentials of all persons, applying for a license to practice speech/language pathology, audiology, or to dispense hearing aids in this State, or to act as audiology aides or speech pathology aides, in order to determine whether such persons meet the qualifications set forth in this Chapter.

(5) Grant licenses to, and renew licenses of, all persons who meet the qualifications for licensure, including those persons who apply for temporary licensure.

(6) Establish by rule and regulation continuing education standards required for license renewal.

(7) Evaluate certified records to determine whether an applicant for licensure, who previously has been licensed, certified, or registered in another jurisdiction to practice speech/language pathology, audiology, and dispense hearing aids, 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.

(8) Refer all complaints from licensees and the public concerning persons licensed in this Chapter, or concerning practices of the Board or of the profession, to the Division 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.

(9) Conduct hearings and issue orders in accordance with procedures established pursuant to Chapter 101 of Title 29 of the Delaware Code.

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

(11) Adopt and publish a code of ethics for each professional specialty and promulgate within 60 days of adoption.

(12) Establish and publish standards for electronic equipment used for the purpose of measuring hearing, and require written proof of calibration for such equipment annually.

(b) No member shall participate in any action of the Board involving directly or indirectly any person related in any way by blood or marriage to said member.

Subchapter II. License.

§3707. License required.

(a) No person shall engage in the practice of speech/language pathology, audiology, or dispense hearing aids, or hold himself or herself out to the public in this State as being qualified to practice the same; 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 speech/language pathology, audiology, or dispense hearing aids, unless such person has been duly licensed under this Chapter.

(b) Whenever a license to practice as a speech/language pathologist, audiologist, hearing aid dispenser in this State has expired or been suspended or revoked, it shall be unlawful for the person to practice speech/language pathology, audiology, or dispense hearing aids in this State.

(c) The Board may issue separate licenses in speech/language pathology, audiology and for hearing aid dispensers. A person may be licensed in more than one specialty if such person meets the requirements of each specialty for which he or she has applied for licensure.

§3708. Qualifications of applicant; 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) For licensure as a speech/language pathologist or audiologist, has met the national requirements for certification of clinical competence issued by the American Speech/Language and Hearing Association (ASHA), the requirements include:

a. Possession of a master's degree, or its equivalent, from an accredited college or university, with major emphasis in speech/language pathology, audiology, communication disorders or speech/language and hearing science.

b. A supervised clinical practicum in accordance with the Board's rules and regulations.

c. Completion of nine-months' full-time or 18-months' part time supervised clinical fellowship year, begun after fulfilling academic and clinical practicum requirements.

d. Successful completion of a national examination in the area of applicant's specialty prepared by a national testing service and approved by the Division.

(2) For licensure as a hearing aid dispenser, shall submit evidence, verified by oath and satisfactory to the Board, that such person has met the current standards promulgated by the National Institute for Hearing Instrument Studies, or its successor; in addition, the applicant shall:

a. Provide verification of a high school diploma, or its equivalent.

b. Provide proof of successful completion of a national examination prepared by a national testing service and approved by the Division.

c. Provide notarized signature of Delaware-licensed hearing aid dispenser sponsor providing direct supervision and training of applicant.

(b) All applicants shall meet the following conditions:

(1) Shall not have been the recipient of any administrative penalties regarding their practice of speech/language pathology, audiology or dispensing of hearing aids, 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. The Board, after a hearing, may determine whether such administrative penalty is grounds to deny licensure.

(2) 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 his or her practice in a manner consistent with the safety of the public.

(3) Shall not have been convicted of a felony.

(4) Shall not have a criminal conviction record, nor pending criminal charge relating to an offense, the circumstances of which substantially relate to their licensed practice. Applicants, who have criminal conviction records or pending criminal charges, shall request appropriate authorities to provide information about the conviction or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the conviction or charge is substantially related to the applicant's area of practice.

(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.

§3709. Examination.

(a) In the event an applicant for licensure has not successfully completed the examinations required by this Chapter, the Board shall administer or authorize the administration of such examinations described in §3708(a)(1) d. and/or §3708(a)(2) b. of this title. All examinations shall be graded by the testing service providing the examinations. The passing score for all examinations shall be established by the testing agency.

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(b) The Board shall provide at least two dates annually for the administration of the examinations required by this section. The Board with the approval of the Division shall establish the time and place of the examinations.

(c) Persons, who fail an examination required by this section, may reapply for examination at the next possible date. Persons failing two examinations shall submit proof of additional education and/or training as may be required by the Board in the rules and regulations. Such persons may not be reexamined for a period of at least one year from the time of the second failure.

§3710. 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:

(1) An 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. A license in 'good standing' is defined in §3708(b)(1), (2), (3), and (4), of this Chapter.

(2) An applicant, who holds a current certificate of clinical competence from the American Speech/Language and Hearing Association in the area in which he or she is applying for licensure; and who, if licensed in another state(s), meets the requirements of §3708(b)(1), (2), (3), and (4) of this Chapter.

(b) An applicant, who is licensed or registered in a state whose standards are not substantially similar to those of this state, shall have practiced for a minimum of five years after licensure, provided, however, that he or she meets all other qualifications for reciprocity in this section.

(c) An applicant for licensure as speech/language pathologist or audiologist, who has received a master's degree or its equivalent from a foreign school, college or university shall submit a certified copy of his or her school, college or university record for evaluation.

(d) 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 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.

(e) Each application for licensure shall be accompanied by payment of the application fee.

§3711. 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 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, or any other state agency acting in its behalf, shall compute, for each separate service or activity, the appropriate Board fees for the licensure biennium.

§3712. Issuance and renewal of licenses.

(a) The Board shall issue a license to each applicant, who meets the requirements of this Chapter for licensure as a speech/language pathologist, audiologist and/or hearing aid dispenser and who pays the fee established under §3711 of this Chapter.

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

(c) The Board, in its rules and regulations, shall determine the period of time within which a licensee may still renew his or her license, notwithstanding the fact that such licensee has failed to renew on or before the renewal date provided, however, that such period shall not exceed one year.

(d) A licensee, upon written request, may be placed in an inactive status for no more than five years. Such person, who desires to reactivate his or her license, shall complete a Board-approved application form, submit a renewal fee set by the Division, and submit proof of fulfillment of continuing education requirements in accordance with the rules and regulations of the Board.

§3713. Temporary license.

(a) The Board may issue a temporary license to practice speech/language pathology or audiology in this State to an applicant, who completes the application and pays the temporary license fee; and who, in addition, has completed all academic and clinical practicum requirements in his or her specialty but who has not completed a clinical fellowship year (CFY). The notarized application shall be accompanied by a copy of the CFY plan signed by a sponsor holding a valid state license as a speech/language pathologist and/or audiologist.

(b) The Board may issue a temporary license to dispense hearing aids to an applicant, waiting to take the examination for licensure, who completes the application and pays the application fee. The notarized application shall be accompanied by a statement from a Delaware licensed audiologist or hearing aid dispenser, who affirms that he or she shall provide direct supervision and training of the applicant during the period of temporary licensure.

(c) The temporary license shall expire at the end of one year from issuance. The temporary license may be renewed once in accordance with the Board's rules and regulations.

§3714. Complaints.

(a) All complaints shall be received and investigated by the Division in accordance with §8807, 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 is engaging, or has engaged, in the practice of speech/language pathology, audiology, or dispensing of hearing aids, or is using the title 'speech/language pathologist,' 'audiologist,' or 'hearing aid dispenser' 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.

§3715. Grounds for discipline.

(a) A practitioner licensed under this Chapter shall be subject to disciplinary actions set forth in §3716 of this Chapter, if, after a hearing, the Board finds that the speech/language pathologist, audiologist, or hearing aid dispenser:

(1) Has employed or knowingly cooperated in fraud or material deception in order to acquire a license as a speech/language pathologist, audiologist, or hearing aid dispenser; has impersonated another person holding a license, or has allowed another person to use his or her license, or has aided or abetted a person not licensed as a speech/language pathologist, audiologist, or hearing aid dispenser; to represent himself or herself as a speech/language pathologist, audiologist, or hearing aid dispenser.

(2) Has illegally, incompetently or negligently practiced speech/language pathology, audiology, or hearing aid dispensing.

(3) Has been convicted of a felony.

(4) Has been convicted of any offense, the circumstances of which substantially relate to the practice of speech/language pathology, audiology, or the dispensing of hearing aids. A copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefor.

(5) Has excessively used or abused drugs either in the past two years or currently.

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

(7) Has violated a lawful provision of this Chapter, or any lawful regulation established thereunder.

(8) Has had his or her license as a speech/language pathologist, audiologist, or hearing aid dispenser suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record; and the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute one or more of the acts defined in this Chapter. Every person licensed as a speech/language pathologist, audiologist, or hearing aid dispenser in this State shall be deemed to have given consent to the release of this information by the Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers, or other comparable agencies in another jurisdiction and to waive all objections to the admissibility of previously adjudicated evidence of such acts or offenses.

(9) Has failed to notify the Board that his or her license as a speech/language pathologist, audiologist, or hearing aid dispenser in another jurisdiction has been subject to discipline, or has been surrendered,

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suspended or revoked. A certified copy of the record of disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof; or,

(10) Has a physical condition such that the performance of speech/language pathology, audiology, or dispensing of hearing aids is or may be injurious or prejudicial to the public.

(b) 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 speech/language pathology, audiology, or dispense hearing aids 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.

§3716. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that one of the conditions or violations set forth in §3715 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 that 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 that required such action have been remedied.

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

(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.

§3717. Hearing procedures.

(a) If a complaint is filed with the Board pursuant to §8807 of Title 29 of the Delaware Code, alleging violation of §3715 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 shall be 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.

§3718. 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) Where a license or registration has been suspended due to the licensee's inability to practice pursuant to this Chapter, the Board may reinstate such license, if, after a hearing, the Board is satisfied that the licensee is again able to perform the essential functions of a speech pathologist, audiologist, or hearing aid dispenser, with or without reasonable accommodations; and, there is no longer a significant risk of substantial harm to the health and safety of the individual or others.

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

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

Subchapter III. Other Provisions

§3719. Exemptions.

Nothing in this Chapter shall be construed to prevent:

(a) Any person from performing industrial hearing screenings under the supervision of a physician licensed in this State.

(b) Any person, who is not licensed under this Chapter, from engaging in the practice of speech/language pathology or audiology in this State, provided that such services are practiced in cooperation with a person licensed under this Chapter and shall be practiced for no more than 30 days in any calendar year. The speech/language pathologist or audiologist shall meet the qualifications and requirements for application for licensure described in this Chapter, or shall hold a valid license from another state which has requirements equivalent to this Chapter, or shall hold a certificate of clinical competence in speech/language pathology or audiology issued by the American Speech, Language and Audiology Association.

(c) Any person, who is licensed to practice speech/language pathology, audiology, or dispense hearing aids in any other state, district or foreign country who, as a practicing speech/language pathologist, audiologist, or hearing aid dispenser, from entering this State to consult with a licensed speech/language pathologist, audiologist, or hearing aid dispenser of this State. Such consultation shall be limited to examination, recommendation, and testimony in litigation.

(d) Any student of an accredited school or college of speech/language pathology or audiology from receiving practical training under the personal supervision of a licensed speech/language pathologist or audiologist in this State.

§3720. Penalty.

A person not currently licensed as a speech/language pathologist, audiologist, or dispenser of hearing aids under this Chapter, when engaging in the practice of speech/language pathology, audiology, and/or dispensing of hearing aids, 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 speech/language pathology, audiology, or dispense hearing aids, 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 \$1,000 dollars for each offense. For a second or subsequent conviction, the fine shall be not less than \$1,000.00 nor more than \$2,000.00 for each offense. Justice of the Peace Court shall have jurisdiction over all violations of this Chapter.

Section 2. Terms of office.

Persons who are members of the Board on the effective date of this Act shall complete their terms of office unless replaced by the Governor.

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.

Approved February 04, 2000

CHAPTER 267

FORMERLY

SENATE BILL NO. 220

AN ACT TO AMEND CHAPTER 30, TITLE 24 OF THE DELAWARE CODE RELATING TO PROFESSIONAL COUNSELORS.

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 30 in its entirety and substituting the following in lieu thereof:

"CHAPTER 30. PROFESSIONAL COUNSELORS

Subchapter 1. Board of Professional Counselors of Mental Health.

§3001. Objectives.

The primary objective of the Board of Professional Counselors of Mental Health, 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 licensee 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 licensees regulated by the Board; shall adjudicate at formal hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary against licensees.

§3002. 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 Professional Counselors of Mental Health established in this Chapter.

(2) 'Direct supervision' shall mean the face-to-face consultation, on a regularly scheduled basis, between the licensed associate counselor of mental health (LACMH) and the licensed professional counselor of mental health (LPCMH) as required by the nature of the work of the LACMH. The supervising LPCMH is responsible for insuring that the extent, kind and quality of the services rendered by the LACMH are consistent with the person's education, training and experience.

(3) 'Division' shall mean the state of Delaware Division of Professional Regulation.

(4) '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 licensee's ability to perform the work of a licensed professional counselor of mental health or a licensed associate counselor of mental health.

(5) 'Licensed Professional Counselor of Mental Health' (LPCMH) shall mean any individual duly licensed as a professional counselor of mental health under this statute, who publicly offers to render to individuals, groups, organizations, or the general public, a service involving the application of clinical counseling principles, methods, or procedures, to assist individuals in achieving more effective personal and social adjustment.

(6) 'Licensed Associate Counselor of Mental Health' (LACMH) shall mean any individual duly licensed as an associate counselor of mental health under this statute, for the purpose of obtaining the experience required for licensure as a LPCMH. The LACMH obtains experience only under the direct supervision of a licensed professional counselor of mental health or other mental health professional approved by the Board.

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

(8) 'State' shall mean the state of Delaware.

§3003. Board of Professional Counselors of Mental Health. Appointments; composition; qualifications; term; vacancies; suspension or removal, unexcused absences compensation.

(a) There is created a State Board of Professional Counselors of Mental Health, which shall administer and enforce this Chapter.

(b) The Board shall consist of seven members, appointed by the Governor, who are residents of this State: Four shall be licensed professional counselors of mental health, one of whom may be a licensed associate counselor of mental health, and three public members. The public members shall not be, nor ever have been, licensed professional counselors of mental health, nor members of the immediate family of a licensed professional counselor of mental health; shall not have been employed by a licensed professional counselor of mental health, or a company that holds itself out as providing licensed professional counseling of mental health; nor have been engaged in an activity directly related to licensed professional counseling of mental health. 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.

(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 term 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. misconduct, incompetence, or neglect of duty. A member subject to disciplinary hearing shall be disqualified from Board business until the charge is adjudicated or the matter is otherwise concluded. A Board member may appeal any suspension or removal to the Superior Court.

(g) No member of the Board, while serving on the Board, shall hold elective office in any professional association of counselors; this includes a prohibition against serving as head of a professional association's Political Action Committee (PAC).

(h) The provisions set forth in Chapter 58 of 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 who 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 of Professional Regulation 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.

§3004. 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, vice-president and secretary. Each officer shall serve for one year, and shall not succeed himself or herself for more than two consecutive terms.

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

(d) Minutes of all meetings shall be recorded and the Division of Professional Regulation shall maintain copies. 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.

§3005. Records.

The Division of Professional Regulation shall keep a register of all approved applications for license as a professional counselor of mental health and associate counselor of mental health, and complete records relating to meetings of the Board, 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.

§3006. Powers and duties.

(a) The Board of Licensed Professional Counselors of Mental Health 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 process all applications.

(3) Evaluate the credentials of all persons applying for a license as a professional counselor of mental health and as associate counselor of mental health in this State in order to determine whether such persons meet the qualifications for licensing set forth in this Chapter.

(4) Grant licenses to, and renew licenses of, all persons who meet the qualifications for licensure.

(5) Establish by rule and regulation continuing education standards required for license renewal.

(6) Evaluate certified records to determine whether an applicant for licensure, who previously has been licensed, certified, 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 the applicant for such acts or offenses.

(7) Refer all complaints from licensees and the public concerning licensed professional counselors of mental health or associate counselors of mental health, 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.

(8) Conduct hearings and issue orders in accordance with procedures established pursuant to Chapter 101 of Title 29 of the Delaware Code.

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

(b) The Board shall adopt the Code of Ethics of the National Board of Certified Counselors (NBCC) or its successor and any revisions or additions deemed appropriate by the Board.

Subchapter II. License.

§3007. License required.

No person shall hold himself or herself out to the public as a licensed professional counselor of mental health or licensed associate counselor of mental health unless the person is licensed in accordance with this Chapter. It shall be unlawful for any person or any business entity, its employees, agents or representatives to use in connection with the person's or business entity's name or business activity, the words 'licensed professional counselor of mental health,' 'licensed associate counselor of mental health,' or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that such person is licensed under this Chapter.

§3008. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant, who is applying for licensure as a professional counselor of mental health under this Chapter, shall complete a Board-approved application, submit the application fee and evidence verified by oath and satisfactory to the Board that such person:

(1) Is certified by the National Board for Certified Counselors, Inc. (NBCC), or the Academy of Clinical Mental Health Counselors, (ACMHC), or other national mental health specialty certifying organization acceptable to the Board.

(2) subsequent to the completion of a master's degree, has acquired the equivalent of two years of experience in professional counseling acceptable to the Board. The professional counseling experience shall consist of not less than 3,200 hours obtained over a period of not more than four years, at least 1,600 hours of which shall have been under professional direct supervision acceptable to the Board. Acceptable direct supervision shall mean supervision by a licensed professional counselor of mental health. When such direct supervision is not available, a licensed clinical social worker, a licensed psychologist, or a licensed physician specializing in psychiatry may supervise the applicant. An applicant may substitute 30 graduate semester hours, or more, attained beyond the master's degree, for up to 1,600 hours of the required experience, provided that such hours are clearly related to the field of counseling and are acceptable to the Board. In no case shall the applicant have less than 1,600 hours of the required post master's degree supervised professional experience.

(3) shall not have been the recipient of any administrative penalties regarding his or her actions as a licensed, registered, or certified mental health provider, 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, including any voluntary surrender of a license. The Board, after a hearing, may determine whether such administrative penalty is grounds to deny licensure.

(4) 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 act as a professional counselor of mental health or associate counselor of mental health in a manner consistent with the safety of the public.

(5) shall not have been convicted of a felony.

(6) shall not have a criminal conviction record, nor pending criminal charge relating to an offense, the circumstances of which substantially relate to actions as a licensed professional counselor of mental health or associate counselor of mental health. Applicants who have criminal conviction records or pending criminal charges shall request appropriate authorities to provide information about the conviction or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the conviction or charge is substantially related to actions as a licensed professional counselor of mental health or associate counselor of mental health.

(7) has not been penalized for any willful violation of the Code of Ethics or other professional mental health-counseling standard.

(b) Where the Board has found to its satisfaction that an applicant has been intentionally fraudulent, or has intentionally supplied false information, the Board 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.

§3009. Qualifications of applicant for licensed associate counselor of mental health.

(a) An applicant, who is applying for licensure as an associate counselor of mental health under this Chapter, shall submit a completed application form, the required application fee, and evidence, verified by oath and satisfactory to the Board, that such person has met all of the requirements established in §3008 of this Chapter for licensed professional counselors of mental health, except for §3008(a)(2) dealing with required experience.

(b) A plan for direct supervision of the associate counselor of mental health shall be submitted to and approved by the Board prior to the applicant's acquiring the professional counseling experience necessary for licensure as a professional counselor of mental health.

(c) The associate counselor of mental health license shall be effective for a period of two years. The license may be renewed once. A LACMH may submit an application for LPCMH upon fulfillment of the experience requirements of §3008(a)(2) of this Chapter.

§3010. 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, whose standards for licensure are substantially similar to those of this State; and shall present proof that his or her license is in good standing as defined in §3008(a)(3), (4), (5), (6), and (7), of this Chapter.

(b) An applicant, who is licensed in a jurisdiction whose standards are not substantially similar to those of this State, shall have had a license in good standing for a minimum of five years after licensure in the jurisdiction from which he or she is applying for reciprocal licensure, provided however, that he or she meets all other qualifications for reciprocity in this subsection.

(c) An applicant, who is licensed in a jurisdiction whose standards are not substantially similar to those of this State, and who lacks the minimum years of licensure as defined in §3010(b) of this Chapter, may apply for licensure as an associate counselor of mental health, in order to obtain the experience necessary to fulfill the requirements of §3008(a)(2) of this Chapter.

§3011. 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 licensure biennium.

§3012. Issuance and renewal of licenses.

(a) The Board shall issue a license to each applicant, who meets the requirements of this Chapter for licensure as a professional counselor of mental health and associate counselor of mental health and who pays the fee established under §3011 of this Chapter.

(b) 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, and proof that the licensee has met the continuing education requirements established by the Board. In addition each licensee shall submit proof of fulfilling the membership requirements of the National Board for Certified Counselors (NBCC), Academy of Clinical Mental Health Counselors (ACMHC), or other national mental health certifying organization acceptable to the Board.

(c) Notwithstanding the fact that a licensee has failed to renew his or her license on or before the renewal date, such licensee shall be granted a one-year period to renew his or her license. The Division shall set the fee for late renewal. A person, who fails to renew his or her license before the expiration of the one-year grace period, shall be required to re-apply as new a applicant, pay a fee set by the Division, and submit proof of fulfillment of continuing education requirements and the membership requirements of the National Board for Certified Counselors (NBCC), Academy of Clinical Mental Health Counselors (ACMHC), or other national mental health certifying organization acceptable to the Board, in accordance with the Board's rules and regulations.

(d) Any person licensed in this State as a LPCMH or LACMH, upon written request, may be placed on an inactive register. Provisions for resuming active status shall be established by the Board.

§3013. Grounds for discipline.

(a) A person licensed under this Chapter shall be subject to disciplinary sanctions set forth in §3015 of this Chapter, if, after a hearing, the Board finds that the licensee:

(1) has employed or knowingly cooperated in fraud or material deception in order to acquire a license as a professional counselor of mental health or associate counselor of mental health; has impersonated another person holding a license, or allowed another person to use his or her license, or aided or abetted a person not licensed as a professional counselor of mental health or associate counselor of mental health to represent himself or herself as a licensed professional counselor of mental health or associate counselor of mental health.

(2) has been convicted of a felony.

(3) has been convicted of any offense, the circumstances of which substantially relate to the licensee's actions as a counselor. A copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefor.

(4) has excessively used or abused drugs either in the past three years or currently.

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

(6) has violated a lawful provision of this Chapter, or any lawful regulation established thereunder.

(7) has had his or her license as a professional counselor of mental health or associate counselor of mental health suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record; and the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute one or more of the acts defined in this Chapter. Every person licensed as a professional counselor of mental health or associate counselor of mental health in this State shall be deemed to have given consent to the release of this information by the Board of Professional Counselors or other comparable agencies in another jurisdiction and to waive all objections to the admissibility of previously adjudicated evidence of such acts or offenses; or,

(8) has failed to notify the Board that his or her license as a professional counselor of mental health or associate counselor of mental health in another state has been subject to discipline, or has been surrendered, suspended or revoked. A certified copy of the record of disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof.

(b) Subject to the provisions of 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 licensee's right to hold himself or herself out as a licensed professional counselor of mental health or licensed associate counselor of mental health shall be limited by the Board until such licensee has been given notice, and an opportunity to be heard, in accordance with the Administrative Procedures Act.

§3014. Complaints.

(a) 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.

(b) When it is determined that an individual is using the title 'licensed professional counselor of mental health' or 'licensed associate counselor of mental health' or holding himself or herself out to the public as a 'licensed professional counselor of mental health' or 'licensed associate counselor of mental health' 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.

§3015. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that one of the conditions or violations set forth in §3013 of this Chapter applies to a person regulated by this Chapter:

(1) Issue a letter of reprimand.

(2) Censure a licensee.

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

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

b. limit all professional activities to those areas prescribed by the Board.

(4) Suspend any licensee's license.

(5) Revoke any licensee'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.

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(c) 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.

§3016. Hearing procedures.

(a) If a complaint is filed with the Board pursuant to §8807 of Title 29 of the Delaware Code, alleging violation of §3013 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 shall be 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 Board 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 licensee.

(c) Where the licensee 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.

(d) All decisions of the Board regarding suspension or revocation of a license shall be made public by the Division in a news release to major media outlets in this State. The release may include any information deemed public under the Delaware Freedom of Information Act and shall include a telephone contact number for the Division for further information.

§3017. 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 must pay the appropriate fees and submit documentation required by the Board as evidence that all the conditions of a suspension and/or probation have been met. Proof that the applicant has met the continuing education requirements of this Chapter shall 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. The Division shall establish a charge for such issuance.

§3018. Penalty.

A person, not currently licensed as a professional counselor of mental health or associate counselor of mental health under this Chapter, when guilty of 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 as a licensed professional counselor of mental health or associate counselor of mental health, 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 \$1,000 dollars for each offense. For a second or subsequent conviction, the fine shall be not less than \$1,000.00 nor more than \$2,000.00 for each offense. Justice of the Peace Courts shall have jurisdiction over all violations of this Chapter.

§3019. Privileged communications.

Communications between a licensed professional counselor of mental health or licensed associate counselor of mental health and client shall be considered confidential to the same extent as provided by Delaware Rule of Evidence 503."

Section 2. Rules and Regulations.

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

Section 3. Members of the Board.

Persons who are members of the Board on the effective date of this Act shall complete their terms of office.

Approved February 04, 2000

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