

LAWS
OF THE
STATE OF DELAWARE

ONE HUNDRED AND FOREITH
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 II

CHAPTER 268

FORMERLY

HOUSE BILL NO. 452

AN ACT TO AMEND CHAPTER 258, VOLUME 72, LAWS OF DELAWARE; AND RELATING TO THE
COMMUNITY REDEVELOPMENT FUND.

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

Section 1. Amend §3, Chapter 258, Volume 72, Laws of Delaware by deleting the phrase "Seventy Million Dollars (\$70,000,000)" as it appears therein and substituting in lieu thereof "Seventy Million Six Hundred Twenty Thousand Dollars (\$70,620,000)". Further amend §3, Chapter 258, Volume 72, Laws of Delaware by deleting the amount "\$65,000,000" as it appears therein and substituting in lieu thereof "\$65,620,000", and by recalculating all totals therein.

Section 2. Amend Chapter 258, Volume 72, Laws of Delaware by redesignating Sections 81 through 143 as Sections 82 through 144 and inserting a new Section 81 on page 35 to read as follows:

"Smyrna Readiness Center - Construction. With the exception of architectural design fees, none of the funds appropriated for the Smyrna Readiness Center - Construction may be expended until the appropriate Federal match has been authorized."

Section 3. Amend §3, Chapter 258, Volume 72, Laws of Delaware by deleting the following:

"		Maximum		
	<u>Purpose</u>	<u>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"
as it appears therein and by substituting in lieu thereof :				

"		Maximum		
	<u>Purpose</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Milford, Construct New Banneker				
	Elementary, (78/22)	317,742	89,615	407,357
Milford, Renovate Milford High (78/22)				
		3,682,258	1,038,585	5,128,200"

and further amend the Section 1 Addendum by adjusting the project listing as amended herein.

Section 4. The Metropolitan Wilmington Urban League is hereby deemed to have been operating as a non-profit organization for two years as of July 1, 1999 in order to receive Community Redevelopment funds pursuant to §6102A, Title 29, Delaware Code.

Approved February 04, 2000

CHAPTER 269

FORMERLY

SENATE BILL NO. 282

AN ACT TO AMEND TITLE 1 OF THE DELAWARE CODE BY ESTABLISHING A JUNETEENTH NATIONAL FREEDOM DAY.

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

WHEREAS, more that 130 years old, Juneteenth National Freedom Day is the oldest and only African-American holiday observance in the United States. Also known as "Emancipation Day," "Emancipation Celebration," "Freedom Day," "Jun-Jun" and "Juneteenth." Juneteenth National Freedom Day commemorates the strong survival instinct of African-Americans who were first brought to this country stacked in the bottom of slave ships in a month-long journey across the Atlantic Ocean known as the "Middle Passage."; and

WHEREAS, approximately eleven and one-half million African-Americans survived the voyage to the New World - the number that died is likely greater - only to be subjected to whipping, castration, branding and rape, and forced to submit to slavery for more than 200 years after arrival in the United States; and

WHEREAS, events in the history of the United States which led to the Civil War of 1861 centered around sectional differences between the North and South that were based on the economic and social divergence caused by the existence of slavery; and

WHEREAS, Abraham Lincoln was inaugurated as President of the United States in 1861. As President, Lincoln believed and stated that the paramount object of the Civil War was to save the Union rather than save or destroy slavery. Yet Lincoln has stated his wish that "all men everywhere could be free," thus adding to a growing anticipation by slaves that their ultimate liberation was at hand; and

WHEREAS, in 1862, the first clear signs that the end of slavery was imminent came when laws abolishing slavery in the territories of Oklahoma, Nebraska, Colorado and New Mexico were passed. In September of that same year, President Lincoln warned the eleven rebellious Confederate States that if they did not return to the Union by January 1, 1863, he would declare their slaves "forever free" via the celebrated "Emancipated Proclamation;" and

WHEREAS, enforcement of the "Emancipation Proclamation," however, only occurred in Confederate States under Union Army control. Congress subsequently passed the Thirteenth Amendment to the Constitution on January 31, 1865, abolishing slavery throughout the United States and its territories. News of this action reached the states at different times, and it was not until June 19, 1865, that the message of freedom reached the slaves in Texas, Oklahoma, Louisiana, Arkansas and California; and

WHEREAS, spontaneous celebration erupted throughout the country when African-Americans learned of their freedom. Juneteenth National Freedom Day demonstrates that slavery hated slavery and celebrated its abolishment with excitement and great joy. It is a reminder to all Americans of the status and importance of Americans of African descent as American citizens.

NOW THEREFORE:

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

Section 1. Amend Chapter 6, Title 1 of the Delaware Code by adding a new section to read as follows:
"Section 604. Juneteenth National Freedom Day

The following day shall be commemorated in this State by appropriate ceremonies: The third Saturday of June, known as Juneteenth National Freedom Day."

Approved February 18, 2000

CHAPTER 270

FORMERLY

SENATE BILL NO. 283

AN ACT TO AUTHORIZE AND APPROVE THE TRANSFER OF CERTAIN REAL PROPERTY IN THE TOWN OF GEORGETOWN, SUSSEX COUNTY, COMMONLY REFERRED TO AS THE "BRICK HOTEL".

WHEREAS, the State of Delaware acquired property formerly owned by Wilmington Trust Company on the Circle in Georgetown, DE, commonly referred to as the "Brick Hotel", with the intention of developing a new Court of Chancery facility; and

WHEREAS, certain physical characteristics of the "Brick Hotel" are not ideal for conversion for the purposes of the judiciary without extensive modification to the original structure; and

WHEREAS, there has proven to be substantial sentiment within the community toward seeing the structure remain intact; and

WHEREAS, a satisfactory substitute property is available within close proximity; the owners of said property are desirous of exchanging their property for that of the State; and the owners have confirmed their intention of preserving the "Brick Hotel" structure.

NOW THEREFORE:

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

Section 1. Notwithstanding any provisions to the contrary, including those contained in Title 29, Chapter 94 of the Delaware Code relating to surplus property, the Department of Administrative Services is authorized to negotiate the disposition of the former Wilmington Trust property (including all or part of tax parcels 1-35-14.20.154 and 146) in exchange for that of the H.P. Layton Family Partnership (identified as tax parcel 1-35-14.20.197).

Section 2. The Department of Administrative Services is further authorized and empowered to execute and deliver to the H.P. Layton Family Partnership or its designee such documents as shall be necessary to complete the exchange of properties.

Section 3. As a condition of the transaction described herein, the Brick Hotel structure shall be protected by a preservation easement pursuant to the provisions of Chapter 69 of Title 7 of the Delaware Code in a form and substance which is acceptable to the Division of Historical and Cultural Affairs and the Partnership. The preservation easement shall be granted to and held by the State or a qualified non-profit organization.

Section 4. This bill shall become effective upon enactment.

Approved February 18, 2000

CHAPTER 271

FORMERLY

HOUSE BILL NO. 373
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO POLICE OFFICERS' AND
FIREFIGHTERS' EMPLOYMENT RELATIONS ACT.

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

Section 1. Amend § 1602(h), Title 19 of the Delaware Code by striking this section in its entirety and substituting in lieu thereof the following:

"(h) 'Binding Interest Arbitration' means the procedure by which the Public Employment Relations Board shall make written findings of fact and a decision for final and binding resolution of an impasse arising out of collective bargaining."

Section 2. Amend § 1613(b), Title 19 of the Delaware Code by striking the word "fact-finders" in the first and second sentence and substituting in lieu thereof the words "binding interest arbitrators".

Section 3. Amend § 1614(c), Title 19 of the Delaware Code by striking the word "fact-finding" in the first, second and third sentence and substituting in lieu thereof the words "binding interest arbitration".

Section 4. Amend § 1615, Title 19 of the Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"§ 1615. Binding Interest Arbitration.

"(a) Within 7 working days of receipt of a petition or recommendation to initiate binding interest arbitration, the Board shall make a determination, with or without a formal hearing, as to whether a good faith effort has been made by both parties to resolve their labor dispute through negotiations and mediation and as to whether the initiation of binding interest arbitration would be appropriate and in the public interest; except that any discretionary subject shall not be subject to binding interest arbitration.

(b) Pursuant to Section 4006(f), Title 14 of this Code, the Board shall appoint the Executive Director or his/her designee to act as binding interest arbitrator. Such delegation shall not limit a party's right to appeal to the Board.

(c) The binding interest arbitrator shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute and to render a decision on unresolved contract issues. The hearings shall be held at times, dates and places to be established by the binding interest arbitrator in accordance with rules promulgated by the Board. The binding interest arbitrator shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on the binding interest arbitrators' own behalf.

(d) The binding interest arbitrator shall make written findings of facts and a decision for the resolution of the dispute; provided however, that the decision shall be limited to a determination of which of the parties' last, best, final offers shall be accepted in its entirety. In arriving at a determination, the binding interest arbitrator shall specify the basis for the binding interest arbitrator's findings, taking into consideration, in addition to any other relevant factors, the following:

(1) The interests and welfare of the public.

(2) Comparison of the wages, salaries, benefits, hours and conditions of employment of the employees involved in the binding interest arbitration proceedings with the wages, salaries, benefits, hours and conditions of employment of other employees performing the same or similar services or requiring similar skills under similar working conditions in the same community and in comparable

communities and with other employees generally in the same community and in comparable communities.

(3) The overall compensation presently received by the employees inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the public employer.

(6) The financial ability of the public employer based on existing revenues, to meet the costs of any proposed settlements; provided that, any enhancement to such financial ability derived from savings experienced by such public employer as a result of a strike shall not be considered by the binding interest arbitrator.

(7) Such other factors not confined to the foregoing which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, binding interest arbitration or otherwise between parties, in the public service or in private employment.

In making determinations, the binding interest arbitrator shall give due weight to each relevant factor. All of the above factors shall be presumed relevant. If any factor is found not to be relevant, the binding interest arbitrator shall detail in the binding interest arbitrator's findings the specific reason why that factor is not judged relevant in arriving at the binding interest arbitrator's determination. With the exception of paragraph (6) of this subsection, no single factor in this subsection, shall be dispositive.

(g) Within 30 days after the conclusion of the hearings but not later than 120 days from the day of appointment, the binding interest arbitrator shall serve the binding interest arbitrator's written determination for resolution of the dispute on the public employer, the certified exclusive representative and the Board. The decision of the binding interest arbitrator shall become an order of the Board within five (5) business days after it has been served on the parties.

(h) The cost of binding interest arbitration shall be borne equally by the parties involved in the dispute.

(i) Nothing in this chapter shall be construed to prohibit or otherwise impede a public employer and certified exclusive representative from continuing to bargain in good faith over terms and conditions of employment or from using the services of a mediator at any time during the conduct of collective bargaining. If, at any point in the impasse proceedings invoked under this chapter, the parties are able to conclude their labor dispute with a voluntarily reached agreement, the Board shall be so notified, and all impasse resolution proceedings shall be forthwith terminated."

Section 5. Amend §1609 of Title 19 of the Delaware Code by inserting 'or §1615' after '1608' and before 'of' in the first sentence of that section.

Section 6. Amend § 1609(a) of Title 19 of the Delaware Code by inserting the words "or party" after the word "person" and by inserting "or § 1615" between "1608 and "of" in the first sentence thereof.

Section 7. Amend § 1609(b) of Title 19 of the Delaware Code by inserting the words "or § 1615" between "1608" and "of" in that section.

Section 7. This Act shall sunset four years after it is enacted into law.

Approved March 28, 2000

CHAPTER 272

FORMERLY

HOUSE BILL NO. 375
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE PUBLIC EMPLOYMENT
RELATIONS ACT.

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

Section 1. Amend § 1302(j), Title 19 of the Delaware Code by striking this section in its entirety and substituting in lieu thereof the following:

"(j) 'Binding Interest Arbitration' means the procedure by which the Public Employment Relations Board shall make written findings of fact and a decision for final and binding resolution of an impasse arising out of collective bargaining."

Section 2. Amend § 1313(b), Title 19 of the Delaware Code by striking the word "fact-finders" in the first and second sentence and substituting in lieu thereof the words "binding interest arbitrators".

Section 3. Amend § 1314(c), Title 19 of the Delaware Code by striking the word "fact-finding" in the first, second and third sentence and substituting in lieu thereof the words "binding interest arbitration".

Section 4. Amend § 1315, Title 19 of the Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"§ 1315. Binding Interest Arbitration.

"(a) Within 7 working days of receipt of a petition or recommendation to initiate binding interest arbitration, the Board shall make a determination, with or without a formal hearing, as to whether a good faith effort has been made by both parties to resolve their labor dispute through negotiations and mediation and as to whether the initiation of binding interest arbitration would be appropriate and in the public interest; except that any discretionary subject shall not be subject to binding interest arbitration.

(b) Pursuant to Section 4006(f), Title 14 of this Code, the Board shall appoint the Executive Director or his/her designee to act as binding interest arbitrator. Such delegation shall not limit a party's right to appeal to the Board.

(c) The binding interest arbitrator shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute and to render a decision on unresolved contract issues. The hearings shall be held at times, dates and places to be established by the binding interest arbitrator in accordance with rules promulgated by the Board. The binding interest arbitrator shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on the binding interest arbitrators' own behalf.

(d) The binding interest arbitrator shall make written findings of facts and a decision for the resolution of the dispute; provided however, that the decision shall be limited to a determination of which of the parties' last, best, final offers shall be accepted in its entirety. In arriving at a determination, the binding interest arbitrator shall specify the basis for the binding interest arbitrator's findings, taking into consideration, in addition to any other relevant factors, the following:

(1) The interests and welfare of the public;

(2) Comparison of the wages, salaries, benefits, hours and conditions of employment of the employees involved in the binding interest arbitration proceedings with the wages, salaries, benefits, hours and conditions of employment of other employees performing the same or similar services or requiring similar skills under similar working conditions in the same community and in comparable

communities and with other employees generally in the same community and in comparable communities.

(3) The overall compensation presently received by the employees inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the public employer.

(6) The financial ability of the public employer based on existing revenues, to meet the costs of any proposed settlements; provided that, any enhancement to such financial ability derived from savings experienced by such public employer as a result of a strike shall not be considered by the binding interest arbitrator.

(7) Such other factors not confined to the foregoing which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, binding interest arbitration or otherwise between parties, in the public service or in private employment.

In making determinations, the binding interest arbitrator shall give due weight to each relevant factor. All of the above factors shall be presumed relevant. If any factor is found not to be relevant, the binding interest arbitrator shall detail in the binding interest arbitrator's findings the specific reason why that factor is not judged relevant in arriving at the binding interest arbitrator's determination. With the exception of paragraph (6) of this subsection, no single factor in this subsection, shall be dispositive.

(g) Within 30 days after the conclusion of the hearings but not later than 120 days from the day of appointment, the binding interest arbitrator shall serve the binding interest arbitrator's written determination for resolution of the dispute on the public employer, the certified exclusive representative and the Board. The decision of the binding interest arbitrator shall become an order of the Board within five (5) business days after it has been served on the parties.

(h) The cost of binding interest arbitration shall be borne equally by the parties involved in the dispute.

(i) Nothing in this chapter shall be construed to prohibit or otherwise impede a public employer and certified exclusive representative from continuing to bargain in good faith over terms and conditions of employment or from using the services of a mediator at any time during the conduct of collective bargaining. If, at any point in the impasse proceedings invoked under this chapter, the parties are able to conclude their labor dispute with a voluntarily reached agreement, the Board shall be so notified, and all impasse resolution proceedings shall be forthwith terminated."

Section 5. Amend § 1309 of Title 19 of the Delaware Code by inserting 'or § 1315' after '1308' and before 'of' in the first sentence of that section.

Section 6.. Amend §1309(b) of Title 19 of the Delaware Code by inserting the words "or §1315" between "1308" and "of" in that section.

Section 7. This Act shall sunset four years after it is enacted into law.

Approved March 28, 2000

CHAPTER 273

FORMERLY

HOUSE BILL NO. 150

AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF CORRECTIONS.

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

Section 1. Amend Title 29 of the Delaware Code by enacting the following as a new section 8926 entitled "Correctional Officer Education Assistance Fund" as follows:

"§ 8926. Correctional Officer Education Assistance Fund.

(a) Any correctional officer below the rank of Captain may avail themselves of the provisions of this act to reimburse the tuition costs for higher education related to their position.

(b) The classes will be reimbursed at 100% of the tuition paid following completion of the course with a grade of "C" or better at a college or university within the State for classes related to corrections, public safety, criminal justice, psychology or sociology or related fields. Related fields shall include any courses necessary to complete a degree program in Criminal Justice, Corrections, Public Safety, Psychology or Sociology.

(c) In the event that the Department's annual appropriation for purposes of education reimbursement is not sufficient to provide total reimbursement to all eligible employees, the Department shall pro-rate the funds so that each eligible employee receives a share of the total annual appropriation equal to the individual employee's reimbursable expenditure divided by the total reimbursable expenditure of all employees in the Department multiplied by the annual appropriation." Section 2. The provisions of this Act shall be applied retroactively to July 1, 1999.

Approved April 04 2000

CHAPTER 274

FORMERLY

HOUSE BILL NO. 322

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

AN ACT TO AMEND SECTION 1916 OF TITLE 14 OF THE DELAWARE CODE TO ESTABLISH A DEADLINE FOR SCHOOL DISTRICTS TO FIX THE RATE OF TAXATION.

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

Section 1. Amend § 1916(d), Title 14 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(d) The board shall, no later than the second Thursday in July, deliver its warrant, with a duplicate of the assessment list, to the receiver of taxes and county treasurer of the county or counties where the district is located."

Section 2. This act shall become effective January 1, 2000.

Approved April 04, 2000

CHAPTER 275

FORMERLY

HOUSE BILL NO. 409
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS AND VOTING.

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

Section 1. Amend §1906, Title 15 of the Delaware Code by striking the words "10 days" wherever they appear and substituting in lieu thereof the words "20 days".

Section 2. Amend §2011(b), Title 15 of the Delaware Code by striking all the words after the phrase "applicant shall sign the application" in the last sentence and substituting in lieu thereof the words "and one registration officer shall sign his or her name in the space provided for that purpose on the application."

Section 3. Amend §2021(a), Title 15 of the Delaware Code by striking the words "The department for each county shall conduct mobile registrations throughout its county on a regularly scheduled year-round basis;" in the first sentence and substituting in lieu thereof the words "The department of election for each county shall conduct mobile registration as it deems appropriate;"

Section 4. Amend §2047, Title 15 of the Delaware Code by adding a new subsection thereto as follows:

"(6) The commissioner of elections shall promulgate rules and procedures by which the departments of election may accept transfers of address from registered voters between the closing of registration and the day of a primary, presidential primary, and general election both within their offices and at other locations within their respective counties. Such rules and procedures shall contain a provision by which a person so transferring his or her address in accordance with those rules and procedures may appear at his or her proper polling place and vote without completing the eligibility affidavit or envelope at the polling place as required in subsections (1), (2) or (3) of this section. The departments of elections in receipt of such transfers shall process them as soon as practical."

Section 5. Amend § 2048, Title 15 of the Delaware Code by adding a new subsection thereto as follows:

"(c) The commissioner of elections shall promulgate rules and procedures by which the departments of election may accept changes of name from registered voters between the closing of registration and the day of a primary, presidential primary, and general election both within their office and at other locations within their respective counties. Such rules and procedures shall contain a provision by which a person so changing his or her name in accordance with those rules and procedures may appear at his or her proper polling place and vote without completing the voter registration application at the polling place as required in subsection (a) of this section. The departments of elections in receipt of such applications to change persons' names shall process them as soon as practical."

Section 6. Amend § 2049, Title 15 of the Delaware Code by adding a new section "(c)" to read as follows:

"(c) Applications received that change a person's political party affiliation during a period which a person may not change his or her political party affiliation in accordance with provisions of this title shall be held by the department of elections receiving the application and processed when the period to change a person's political party affiliation reopens."

Section 7. Amend § 2050 (a) (4), Title 15 of the Delaware Code by deleting the last sentence in said subsection and inserting in lieu thereof the following:

"If the applicant desires not to register to vote, the transmission of an electronic record will notify the Department of Elections of the applicant's intention."

Section 8. Amend § 5503, Title 15 of the Delaware Code by striking said section *in its entirety* and substituting in lieu thereof the following:

“§5503. Affidavits required of persons applying for absentee ballots.

(a) Any voter desiring to receive an absentee ballot because he qualifies under any of the reasons set forth in §5502 of this title shall file an affidavit with the department of elections for the county in which he/she is domiciled (hereinafter referred to as the department), subscribed and sworn to by the voter before an officer authorized by law to administer oaths; provided, however, that the affidavit of any voter desiring to receive an absentee ballot because the person qualifies under any of the reasons set forth in § 5502 (1), § 5502 (2) or § 5502 (4) may be self-administered. The affidavit shall be dated during the calendar year in which the election is to be held except that when a presidential primary election is scheduled, the affidavit shall not be dated prior to August 15 of the year prior to the year in which a President of the United States is to be elected. The voter shall indicate on the affidavit for which election or elections he/she is requesting an absentee ballot. If the voter does not indicate the election or elections for which he/she is requesting an absentee ballot, it shall be presumed that the affidavit is for the next scheduled primary, special or general election in which the voter is eligible to vote. An affidavit on which the person indicates that the reason he/she is requesting to vote by absentee ballot is that he/she is temporarily or permanently physically disabled or that he or she qualifies under any of the reasons set forth § 5502 (1) or § 5502 (2) of this title shall be presumed to be for all elections in a calendar year unless otherwise indicated on the affidavit. If the department is unable to determine the election and/or elections for which a person is requesting an absentee ballot, they shall attempt to contact the person in order to determine the person's intent. If time is of the essence and the department is unable to contact the voter, the department's Administrative Director and Deputy Administrative Director shall confer and determine the proper course of action.

(b) The affidavit shall include places for the voter's name; the address of his/her domicile in the State; the address to which the voter requests that the absentee ballot be mailed; the voter's date of birth; the voter's social security number (optional); the person's political party affiliation; the reason that the voter cannot appear at the regular polling place for his/her election district on the day of the election; the voter's expected location on election day to include, if available, a telephone number to assist in resolving any challenge; and the voter's signature.

(c) The affidavit shall be promulgated by the commissioner of elections and personally approved by the attorney general of the State. The Federal Post Card Application or its successor as promulgated by the Federal Voting Assistance Program or its successor shall also be considered an affidavit as used in this chapter.

(d) Affidavits for absentee ballots shall be filed at the department of elections for the county in which the person filing the affidavit is domiciled.

(e) Affidavits on which the voter's domicile is different than the address at which the person is registered to vote within the State shall be used to transfer the person's registration even if the affidavit is received after the last day to transfer registrations as prescribed in Chapter 20 of this title.

(f) Affidavits on which a voter indicates that he/she has legally changed his/her name shall be taken as authorization to transfer the voter's previous registration information including his/her voting record to the new name. The department shall then use the affidavit to make the change on the department's records even if the affidavit is received after the last day to change names as prescribed in Chapter 20 of this title.

(g) Affidavits on which a person indicates a change in political party affiliation received during a period in which changes in political party affiliation are closed shall be used to change the person's political party affiliation when the period for changing political party affiliation re-opens.

(h) By filing an affidavit for an absentee ballot the voter is affirming under penalty of perjury that the information on the affidavit is correct and true.

(i) The department shall mail or deliver the official ballot, envelopes and instructions to the voter as soon as possible after receiving an affidavit for an absentee ballot but within three business days of such receipt."

(j) Section 9. Amend § 208(b), Title 15 of the Delaware Code, by striking that section in its entirety and substituting in lieu thereof the following:

"The Board of Elections for each county may conduct an organizational meeting for calendar year 2000 on February 7, 2000, or as soon as practicable thereafter, and at that meeting shall elect one of their members to be president and shall at the same time elect one of their members to be the secretary whose function other than that of a member shall be to record the minutes of the meeting of the board, and the president and secretary shall serve until the next organizational meeting scheduled in accordance with this section. Thereafter, the Board of Elections in each county shall establish a schedule of meetings for the following calendar year at a meeting scheduled between October 1 and December 31 of each year. Once established, the aforesaid schedule shall be subject to change as deemed necessary by the respective boards. The schedule shall include an organizational meeting scheduled between February 1 and June 30 of each year at which time members of each Board of Elections for each county shall meet and organize by electing one member to be president and one member to be secretary whose function other than that of a member shall be to record the minutes of the meetings of the board. The terms of office for each office shall be until the organizational meeting scheduled in the following year or until a successor is elected."

Approved April 04, 2000

CHAPTER 276

FORMERLY

HOUSE BILL NO. 421

AN ACT TO AMEND 72 LAWS OF DELAWARE, CHAPTER 25, RELATING TO THE NORTHEAST INTERSTATE DAIRY COMPACT.

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

Section 1. Amend 72 Laws of Delaware, Chapter 25, by striking Section 4 thereof in its entirety and substituting in lieu thereof the following:

"Section 4. This Act shall take effect upon federal reauthorization of the Northeast Interstate Dairy Compact."

Approved April 04, 2000

CHAPTER 277

FORMERLY

HOUSE BILL NO. 431

AN ACT TO AMEND SECTION 17, CHAPTER 158, VOLUME 36, LAWS OF DELAWARE, RELATING TO ORDINANCES IN THE CHARTER OF THE CITY OF DOVER.

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 17, Chapter 158, Volume 36, Laws of Delaware by striking the phrase "One Hundred Dollars" as it appears therein and by substituting in lieu thereof the phrase "One Thousand Dollars".

Approved April 04, 2000

CHAPTER 278

FORMERLY

HOUSE BILL NO. 483

AN ACT TO REINCORPORATE THE TOWN OF MILLVILLE.

WHEREAS it is deemed advisable that the Charter of the Town of Millville set forth in Chapter 217, Volume 24, Laws of Delaware, enacted in 1907, with subsequent amendments, be consolidated into one complete Act and in certain respects be further amended and revised.

NOW THEREFORE:

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

Section 1. The inhabitants of The Town of Millville within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided are hereby declared to be a body politic incorporated in law and equity and shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of judicature whatsoever by the corporate name of "The Town of Millville".

The Town shall have perpetual succession and shall succeed to own or possess all property, whether real, personal or mixed, tangible or intangible, or whatever kind and nature, and all the powers, rights, privileges or immunities now or heretofore belonging to, possessed or enjoyed by the Town of Millville previously incorporated at Chapter 217, Volume 24, Laws of Delaware, as amended.

TERRITORIAL LIMITS

Section 2. The present boundaries and limits of The Town of Millville are hereby established and declared to be, as follows:

TRACT 1

The Plot of Millville, Delaware, as laid out by the Commissioners in June, 1908, and recorded in the Office of the Recorder of Deeds, in and for Sussex County, in Georgetown, Delaware, in Deed Book 165, page 600.

TRACT 2

ALL that piece and parcel of land annexed to the Town of Millville by an amendment enacted in Volume 25, Chapter 204, Laws of Delaware, dated April 15, 1909, amending the Charter enacted in Volume 24, Chapter 217, Laws of Delaware.

BEGINNING at the point of intersection of the easterly line of the land of George J. Derickson and the northerly line of the land of George Hocker; thence easterly along said northerly line of the land of George Hocker and the northerly line of the land of Horace Harman to the westerly line of the land of George James "also the westerly line of the Town of Ocean View"; thence therewith in a southerly direction along said line of George James to the center of the county road leading from Millville to Ocean View; and thence wherewith along the center line of said road in an easterly direction to the center of the road leading to Roxana; thence along the center line of said road in a southerly direction to a line between the lands of Isaac Bennett and Lemuel Holt; and thence therewith westerly along said line to the intersection of said line with the easterly line of the land of Stephen E. Evans; thence therewith northerly along said easterly line of lands of Stephen E. Evans and George Derickson to the place of beginning.

TRACT 3

ALL that piece and parcel of land annexed to the Town of Millville by an amendment enacted in Volume 69, Chapter 194, Laws of Delaware, as Tract 1, dated March 24, 1994, amending the Charter enacted in Volume 24, Chapter 217, Laws of Delaware.

BEGINNING at a point located on the southeasterly R.O.W. of County Road 349 on the Town of Millville line as scaled from current Sussex County Tax Map #1-34-12:

THENCE along a curve to the right, by and with the southeasterly R.O.W. of County Road 349, having a radius of 1065.25 feet, a central angle of 003 degrees 38 minutes 05 seconds, an arc length of 67.58 feet, and a chord which bears North 46 degrees 27 minutes 34 seconds East to an iron pipe;

THENCE with a curve to the right having a radius of 25.00 feet, a central angle of 093 degrees 01 minutes 06 seconds, an arc length of 40.59 feet, and a chord which bears South 85 degrees 12 minutes 51 seconds East to an iron pipe;

THENCE along a curve to the left, by and with the southwesterly R.O.W. of East Millstone Lane, having a radius of 139.11 feet, a central angle of 037 degrees 27 minutes 48 seconds, an arc length of 90.96 feet, and a chord which bears South 57 degrees 26 minutes 14 seconds East to an iron pipe;

THENCE South 76 degrees 10 minutes 06 seconds East a distance of 186.55 feet to an iron pipe;

THENCE along a curve to the right having a radius of 246.85 feet, a central angle of 025 degrees 00 minutes 36 seconds, an arc length of 107.75 feet, and a chord which bears South 63 degrees 39 minutes 49 seconds East to an iron pipe;

THENCE along a curve to the right having a radius of 25.00 feet, a central angle of 090 degrees 00 minutes 00 seconds, an arc length of 39.27 feet, and a chord which bears South 06 degrees 09 minutes 30 seconds East to an iron pipe;

THENCE South 38 degrees 50 minutes 30 seconds West, by and with the northwesterly R.O.W. of Doc's Place, a distance of 72.00 feet to an iron pipe;

THENCE along a curve to the right having a radius of 475.00 feet, a central angle of 018 degrees 59 minutes 24 seconds, an arc length of 157.43 feet, and a chord which bears South 48 degrees 20 minutes 12 seconds West to an iron pipe;

THENCE South 57 degrees 49 minutes 54 seconds West a distance of 110.00 feet to an iron pipe;

THENCE along a curve to the left having a radius of 315.00 feet, a central angle of 000 degrees 19 minutes 23 seconds, an arc length of 1.78 feet, and a chord which bears South 57 degrees 40 minutes 12 seconds West to a point;

THENCE North 27 degrees 40 minutes 14 seconds West, by and with the Town of Millville line as scaled from current Sussex County Tax Map #1-34-12, a distance of 396.91 feet to the Point of Beginning, said parcel contains 2.09 Acres of land, being the same, more or less.

TRACT 4 - Beebe Medical Center

ALL that piece and parcel of land annexed to the Town of Millville by an amendment enacted in Volume 69, Chapter 194, Laws of Delaware, as Tract 2, dated March 24, 1994, amending the Charter enacted in Volume 24, Chapter 217, Laws of Delaware.

BEGINNING at a point located on the northerly R.O.W. of State Rt. 26, said point being a corner for this parcel and lands N/F Renal F. Bryner, Jr., et ux.;

THENCE, North 64 degrees 40 minutes 06 seconds West, by and with the northerly R.O.W. of State Rt. 26, a distance of 450.00 feet to a point;

THENCE, along a curve to the right, by and with the southeasterly R.O.W. of Doc's Place, having a radius of 25.00 feet, a central angle of 090 degrees 00 minutes 00 seconds, an arc length of 39.27 feet, and a chord which bears North 19 degrees 40 minutes 06 seconds West to a point;

THENCE, along a curve to right having a radius of 265.00 feet, a central angle of 032 degrees 30 minutes 00 seconds, an arc length of 150.32 feet, and a chord which bears North 41 degrees 34 minutes 54 seconds East to a point;

THENCE North 57 degrees 49 minutes 54 seconds East a distance of 110.00 feet to a point of curve;

THENCE along a curve to the left having a radius of 525.00 feet, a central angle of 018 degrees 59 minutes 24 seconds, an arc length of 174.00 feet, and a chord which bears North 48 degrees 20 minutes 12 seconds East to a point;

THENCE South 37 degrees 00 minutes 00 seconds East, by and with Lots 52, 51, 50 and 49, Creckside Subdivision, a distance of 256.11 feet to a point;

THENCE South 64 degrees 40 minutes 06 seconds East, by and with Lots 49 and 48, a distance of 100.00 feet to an iron pipe;

THENCE South 29 degrees 09 minutes 35 seconds West, by and with lands N/F Renal F. Bryner, Jr., et ux., a distance of 301.34 feet to the Point of Beginning, said parcel contains 3.41 Acres of land, being the same, more or less.

ANNEXATION OF TERRITORY

Section 3. In the event it becomes feasible and necessary in the future for The Town of Millville to enlarge its then existing limits and territory, such annexation accomplished pursuant to the following procedures shall be lawful:

(a) If all of the property owners of a territory contiguous to the then existing corporate limits and territory of The Town of Millville, by written Petition with the signature of each such Petitioner duly acknowledged, shall request the Town Council to annex that certain territory in which they own property, the Mayor of The Town of Millville shall appoint a Committee composed of not less than three (3) of the members of the Town Council to

investigate the possibility of annexation. The Petition presented to the Town 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 Council of Millville. The Report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Millville and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Millville may then pass a Resolution annexing such territory to The Town of Millville. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the members of the Town Council. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the procedure to be followed shall be the same as hereinafter provided in Subsection (b) as if the annexation were proposed by five (5) or more property owners but less than all the property owners of a territory contiguous to the then limits and territory of The Town of Millville.

(b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of The Town of Millville by written Petition with the signature of each such Petitioner duly acknowledged shall request the Town Council to annex that certain territory in which they own property, the Mayor of The Town of Millville shall appoint a Committee composed of not less than three (3) of the members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. In the alternative the Town Council, by majority vote of the members thereof may, by Resolution, propose that a committee composed of not less than three (3) of the members of the Town Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of The Town of Millville.

(1) Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written Report containing its findings and conclusions to the Mayor and the Town Council of Millville. The Report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Millville and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, within thirty (30) days after receiving a report, a Resolution shall then be passed by the Town Council proposing to the property owners and residents of both The Town of Millville and the territory proposed to be annexed that the Town proposes to annex certain territory contiguous to its then limits and territory. 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. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution proposing annexation to the property owners and residents shall require the affirmative vote of two-thirds (2/3) of all the members of the Town Council. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the members of the Town Council, the territory proposed to be annexed shall not again be considered for annexation for a period of one (1) year from the date that the Resolution failed to receive the required affirmative vote. The Resolution adopted by the Town Council setting forth the above information shall be printed in a newspaper having a general circulation in The Town of Millville at least one (1) week prior to the date set for the public hearing, or, at the discretion of the Town Council, the said Resolution shall be posted in four (4) public places both in The Town of Millville and in the territory proposed to be annexed.

(2) Following the public hearing, but in no event later than thirty (30) days thereafter, a Resolution shall then be passed by a majority of the Town Council ordering a Special Election to be held not less than thirty (30) nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. Passage of this Resolution shall ipso facto be considered the determination of the Town Council to proceed with the matter of the proposed annexation.

(3) The notice of the time and place of said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in The Town of Millville, or, in the discretion of the Town Council, the said notice may be posted in four (4) public places, both in The Town of Millville and in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the said Special Election.

(4) At the Special Election, every property owner, whether an individual, partnership, a corporation or other entity, both in The Town of Millville and in the territory proposed to be annexed shall have one (1) vote. Every resident of either The Town of Millville or of the territory proposed to be annexed over the age of eighteen (18) years who is not a property owner shall have one (1) vote. In the case of property owned by more than

one (1) person, firm, corporation or other entity or any combination thereof whether as tenants in common, joint tenants, or as tenants by the entireties, each such joint owner shall have one (1) vote. In the event that a person owns property or has an ownership interest in property both in The Town of Millville and in the territory proposed to be annexed and resides in either place, he may vote only where he resides. In the event that a person owns property both in The Town of Millville and in the territory proposed to be annexed but does not reside in either place, he may vote only in The Town of Millville and not in the territory proposed to be annexed. Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of The Town of Millville in the case of property owners and residents of the Town and the books and records of the Board of Assessment of Sussex County in the case of property owners and residents of the territory proposed to be annexed shall be conclusive evidence of the right of such property owners and residents to vote at the Special Election.

(5) In the event that an individual holds an unrevoked Power of Attorney duly executed specifically authorizing the said individual to vote at the said Special Election, an executed copy of the Power of Attorney shall be filed in the Office of The Town of Millville. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election.

(6) The Town Council of The Town of Millville shall cause voting machines to be used in the Special Election, the form of ballot to be printed as follows:

- ☐ For the proposed annexation
- ☐ Against the proposed annexation.

(7) The Mayor of The Town of Millville shall appoint three (3) persons to act as a Board of Special Election, at least one (1) of whom shall own property in The Town of Millville and at least one (1) of whom shall own property in the property proposed to be annexed. One (1) of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in a public place as designated by the Resolution calling the Special Election. The Board of Special Election shall have available, clearly marked, two (2) voting machines. All votes cast by those persons, partnerships, corporations or other entities authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, corporations or other entities who are authorized to vote as residents or property owners of The Town of Millville shall be accomplished on the other such voting machine. The polling place shall be open from one o'clock in the afternoon, prevailing time until five o'clock in the afternoon, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

(8) Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the Town Council of The Town of Millville. Said Certificate shall be filed with the papers of the Town Council.

(9) In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast both from The Town of Millville and from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one (1) year from the date of said Special Election. If a favorable vote for annexation shall have been cast, the Town Council of The Town of Millville shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be a part of The Town of Millville from the time of recordation. The failure to record the description or the plot within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

(c) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books of the Board of Assessment of Sussex County, no election shall be necessary and the Town Council of The Town of Millville may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation if such property is owned by a corporation or by a written Petition with the signature of each such Petitioner duly acknowledged if such property is owned by an individual, requesting the Town Council to annex that certain territory in which they own property or, in the alternative, by Resolution of the Town Council proposing that such property be annexed. The certified copy of the property owner's Resolution, the Petition or Resolution of Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the Resolution or the Petition, the Mayor of The Town of

Millville shall appoint a committee composed of not less than three (3) of the members of the Town Council to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council of Millville. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Millville and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Millville may then pass a Resolution annexing such territory to The Town of Millville. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the members of the Town Council. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution shall be passed by three-fourths (3/4) of all the members of the Town Council. If the Resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution failed to receive the required votes. If the Resolution receives the required number of votes, the Town Council of The Town of Millville shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of The Town of Millville from the time of recordation. The failure of the Town Council to record the description and plot within the time heretofore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution.

STRUCTURE OF GOVERNMENT

Section 4. The government of The Town and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in the Town Council. The Town Council shall be composed of five (5) members, each of whose terms shall be for a period of two (2) years, commencing at the Annual Meeting of the Town Council following his or her election and continuing until his or her successor is duly elected and qualified. One of the members of the Town Council shall be elected Mayor of the Town Council and upon his or her election shall have the title of Mayor of The Town of Millville and shall perform all duties prescribed herein to be performed by the Mayor of The Town of Millville.

QUALIFICATIONS FOR TOWN COUNCIL MEMBER

Section 5. The qualifications for Town Council member at the time of his or her election shall be as follows:

- (a) A bona fide resident of the United States and of the State of Delaware and a resident of The Town of Millville for at least ninety (90) days next preceding the Annual Municipal Election; and
- (b) At least eighteen (18) years of age;
- (c) Each of the qualifications for Town Council member shall be continuing qualifications to hold office and the failure of any of the Town Council members to have any of the qualifications required by this Section during his or her term of office shall create a vacancy in that Office.

METHOD OF MAKING NOMINATIONS FOR TOWN COUNCIL MEMBER

Section 6. Each candidate for Town Council member shall be nominated as follows:

- (a) Each candidate shall notify the Mayor in writing of his or her candidacy for the office of Town Council member.

(b) All such notifications of candidacy must be filed in the Town Office during the regular business hours of the Town on or before the close of business on the first Friday in the month of February; and thereupon it shall be the duty of the Mayor to have a list of all candidates so filed with him printed in a newspaper of general circulation in the Town of Millville at least fifteen (15) days prior to the date of the said Annual Municipal Election next ensuing; and, in the discretion of the Town Council, the Secretary may post a list of names of all candidates designating the office sought by each candidate in at least five (5) public places in the Town, such public places to be designated by the Town Council. One of the said public places shall be in or outside the Town Hall of The Town of Millville.

- (c) In the event that the Mayor is unable to act because of illness, absence, or for any other reason whatsoever, the names of all candidates shall be filed with the Deputy Mayor of the Town Council who shall thereupon perform the duties required of the Mayor in Subsection (b) of this Section.

(d) The Town Council shall make arrangements for voting machines to be placed in the polling place prior to the time set forth in this Charter for the beginning of the Annual Municipal Election.

MANNER OF HOLDING ANNUAL MUNICIPAL ELECTION

Section 7. The procedure for holding the Annual Municipal Election shall be as follows:

(a) The Annual Municipal Election shall be held at a place designated by the Town Council within the corporate limits of The Town of Millville on the First Saturday in March of each and every year from eleven o'clock in the morning, prevailing time, until three o'clock in the afternoon, prevailing time, the first said Annual Municipal Election to be held pursuant to this Charter to be held on the First Saturday in March, A.D. 2001.

(b) The three present Commissioners elected or appointed to serve shall continue to serve as members of the Town Council of the Town of Millville for a term of one year until their successors are duly elected or appointed at the annual election held on the First Saturday in March, A.D. 2001. The Assessor and Treasurer elected or appointed to serve shall become members of the Town Council of the Town of Millville to complete a term of one year until their successors are duly elected or appointed at the annual election held on first Saturday in March, A.D. 2001. In the first annual election, to be held on the First Saturday in March, A.D. 2001, three Council members will be elected for terms of two years each and two Council members will be elected for terms of one year each. Thereafter, three Council members will be elected in odd numbered years and two in even numbered years.

(c) The Annual Municipal Election shall be conducted by a Board of Election consisting of an Inspector and two (2) Judges appointed by the Mayor of the Town of Millville with the concurrence of a majority of the members of the Town Council not later than the last regular meeting of the Town Council prior to the date of the Annual Municipal Election. The Board of Election shall determine who is and who is not lawfully entitled to vote thereat, take reasonable steps to see that the law pertaining to the Annual Municipal Election receives compliance and for the purpose of counting the votes and certifying the result to the Town Council. If any of the officers so chosen and designated to conduct the Annual Municipal Election shall not be present at the polling place at the time designated for the holding of the Annual Municipal Election, it shall be lawful for the qualified voters present at the polling place at the time of holding said Annual Municipal Election to elect from among their own number a person to fill each vacancy and such Board of Election caused by the absence of any member of the Board of Election. The Board of Election shall keep a list of all persons who voted at such Annual Municipal Election.

(d) At such Annual Municipal Election, every person, male or female, who shall have attained the age of eighteen (18) years on the date of the said Annual Municipal Election and who shall be a bona fide resident of the Town of Millville shall have one (1) vote.

(e) The Town Council may, by ordinance, provide for any qualified voter to cast an absentee ballot if such person is unable to appear and cast his or her ballot.

(f) In the event that no person files or is nominated for office for which an election is to be held within the time set forth in Section 6 of this Charter, the incumbent shall be deemed to be reelected for a full term and it shall not be necessary to have an election.

(g) In the event that only one person files or who is nominated for office for which an election is to be held within the time set forth in Section 6 of this Charter, the person who files or is nominated shall be deemed to be elected for a full term and it shall not be necessary to have an election.

ORGANIZATION AND ANNUAL MEETING OF COUNCIL

Section 8. (a) Before entering upon the duties of their respective offices, the Council members elect shall be sworn by a Notary Public to perform faithfully and impartially the duties of their respective offices with fidelity. At the first regular meeting following the Organizational Municipal Election, "the Annual Meeting", the Town Council shall meet at the Council Chamber and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity, as aforesaid.

(b) At the Organizational Meeting held on the first regular meeting following the Annual Municipal Election, the Town Council shall organize and elect a Mayor and a Deputy Mayor who shall hold office for the term of one (1) year or until their respective successors shall be duly qualified and elected. The person elected as Presiding Officer of the Town Council shall have the title of Mayor of The Town of Millville. The Town Council shall likewise select a Secretary and a Treasurer from their own number to serve until the first regular meeting after the next Annual Municipal Election. The Town Council may also select an Assistant Secretary and an Assistant Treasurer to serve until the first regular meeting following the next Annual Municipal Election who may or may not be from among their own number and such other officers and employees as may be determined to be necessary.

REGULAR AND SPECIAL MEETINGS

Section 9. The Town Council of The Town of Millville shall hold one (1) meeting in each month on a date to be determined by the Town Council.

QUORUM

Section 10. A majority of the members elected to The Town Council shall constitute a quorum at any regular or special meeting; but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by Ordinance.

RULES AND MINUTES OF COUNCIL

Section 11. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings and the yeas and nays shall be taken upon the passage of every ordinance and resolution and shall be entered in the journal with the text of the ordinance or resolution.

VACANCIES

Section 12. If any vacancy shall occur in the office of Council member by death, resignation, loss of residence in The Town of Millville, refusal to serve, or otherwise, the same may be filled by a majority vote of the remaining members of the Town Council, the person or persons so chosen to fill such vacancy shall be qualified as in the case of newly elected members and shall hold office for the remainder of the unexpired term.

DISQUALIFICATIONS

Section 13. If any Council member, during his or her term of office, shall be found guilty of any crime or misdemeanor and sentenced to imprisonment for any term whatever or shall for any reason cease to be a resident of the Town, he or she shall forthwith be disqualified to act as a member of Council and his or her office shall be deemed vacant and shall be filled by the Town Council, as aforesaid.

CONTRACTS

Section 14.(a) It shall be unlawful for the Town Council to make or enter into any contract in excess of Five Hundred Dollars (\$500.00) for materials, supplies, services, work or labor, for the benefit and use of The Town of Millville with any member of the Town Council or with any partnership in which any member of the Town Council is a general partner, or with any corporation in which any member of the Town Council is a director or controlling stockholder or any firm or company which any member of the Town Council is pecuniarily interested, provided that if all the elected members of the Town Council shall vote to enter into such contract, then the Town may enter into such a contract. Any such contract executed without such unanimous vote shall be absolutely null and void.

(b) All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be accomplished by competitive bidding and the awarding of contracts to the lowest responsible bidder who submits a responsive bid; PROVIDED, HOWEVER, that competitive bidding shall not be required in any of the following circumstances:

- (1) The aggregate amount involved is not more than Ten Thousand Dollars (\$10,000.00);
- (2) The purchase or contract is for personal or professional services;
- (3) The purchase or contract is for any service rendered by a university, college or other educational institution;
- (4) The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision;
- (5) The purchase or contract is for property or services for which it is impracticable to obtain competition;
- (6) The public exigency, as determined by the Town Council, will not permit the delay incident to advertising;
- (7) The materials to be purchased are to be used to complete a project under the supervision of the Mayor;
- (8) The purchase or contract is for property or services for which the Town Council determines the prices received after competitive bidding are unreasonable as to all or part of the requirement or not independently reached in open competition;
- (9) A public emergency as determined by the Town Council exists.

DUTIES OF THE MAYOR

Section 15.(a) The Mayor shall preside at all of the Town Council meetings, and shall vote on all matters brought before the Town Council for a vote. He or she shall appoint all committees, receive complaints or nuisances, and other complaints of citizens concerning violations of law and ordinances. He or she shall present a report of complaints and nuisances and violations of law and ordinances to the Town Council at the first regular meeting after receiving such complaints. He or she may require the Alderman or the Assistant Alderman, as hereinafter provided for in this Act, to proceed upon such infractions or violations of law and ordinances immediately in the event that he deems such action to be required. The Mayor shall perform such other duties and have such other powers as the Town Council shall determine not in conflict with the provisions of this Charter. The Mayor shall be empowered to act on behalf of the Town, without prior Town Council approval, in the event of a sudden emergency requiring prompt action, in order to protect the public health, safety and welfare of the town, is

inhabitants and property owners. A "sudden emergency", for purposes of this section, shall include, by way of example and not limitation, a major fire or conflagration, significant flooding or serious storm threatening significant damage, a civic disturbance or a toxic spill. A sudden emergency shall also include any emergency situation as declared by any county, state or federal agency having jurisdiction over the Town where the scope of the emergency so declared includes the Town.

(b) The Mayor, within thirty (30) days following his or her election, may appoint, by and with the advice and consent of a majority of the elected members of the Town Council, two (2) suitable persons who may or may not be qualified voters of The Town of Millville to act as Alderman and Assistant Alderman. Both the Alderman and the Assistant Alderman shall hold office until each successor shall be duly appointed and chosen.

(c) The Mayor may, for any reasonable cause, by and with the consent and upon the address of a majority of all the members of the Town Council, remove from office any person appointed by him or any of his or her predecessors. The person against whom the Council may be about to proceed shall receive five (5) days written notice thereof, accompanied by a statement of the cause alleged for the removal and shall be accorded a full and fair hearing, if such a request is received by the Mayor by certified mail with return receipt requested within ten (10) days following the date that notice of removal is received by such person.

(d) The Mayor may appoint such other committees as he or she deems necessary for the proper administration of The Town of Millville or the Council may, by resolution, authorize the Mayor to appoint certain committees which are deemed necessary to carry out the provisions of this Act.

(e) It shall be the duty of the Deputy Mayor of the Town Council, in the absence of the Mayor, to preside at all meetings of the Town Council in the event of absence of the Mayor and perform such other duties and to have such other powers of the Mayor as are prescribed by the Charter of The Town of Millville or by any Ordinance of the Town Council.

SECRETARY

Section 16. (a) The Secretary shall have charge and custody of books, journals, records, papers and other effects of the Town and shall keep the same in a safe and secure place. He or she shall keep a full and complete record of all the transactions in The Town of Millville. He or she shall exercise such other duties as may be prescribed by this Charter or by Ordinance or rule of the Town Council of The Town of Millville. He or she shall file and keep in a safe place the seal of The Town of Millville and all papers and documents arising out of the proceedings of the Town Council of The Town of Millville relative to the affairs of the town. He or she shall deliver the same to his or her successor in office. He or she shall attest the seal of The Town of Millville when authorized by the Town Council and shall perform such other duties and have such other powers as may be prescribed by Ordinance.

(b) All books, records and journals of The Town of Millville in the custody of the Secretary may, in the presence of the Mayor, Secretary, Assistant Secretary or any member of the Town Council of The Town of Millville, be inspected by any voter of the Town desiring legitimate information at any time, or times, as may be convenient and will not interfere with the regular routine of the business of the Town.

(c) All books, records, papers and documents in the custody of the Secretary shall be open for inspection by members of the Town Council of The Town of Millville.

(d) Compensation, if any, of the Secretary for his or her duties, shall be determined by the Town Council.

TREASURER

Section 17. (a) The Treasurer shall be the custodian of all the funds of the Town. He or she shall deposit, or cause to be deposited, such funds in such banking institutions as may be prescribed by the Town Council. The Treasurer, together with such other members of the Town Council, as shall be authorized by Resolution of the Town Council, shall be authorized to execute checks, but no funds shall be paid out except as authorized by the Town Council.

(b) The Treasurer shall keep a true, accurate and detailed account of all funds received and of all funds paid out by the Treasurer. The Treasurer shall preserve all vouchers for moneys paid out and the books and records shall, at all times, be open to inspection by any member of the Town Council. The Treasurer shall make a report at each regular meeting of the Town Council and at such other times as may be required by the Town Council. All such report shall be a part of the minutes of the Town Council.

(c) The Treasurer shall file with The Town of Millville a bond with corporate surety approved by the Town Council in a sum not less than Fifty Thousand Dollars (\$50,000.00), the premium for said bond to be paid by the Town Council. The bond shall be conditioned upon the faithful performance by the Treasurer of his or her duties of office and the restoration to the Town in the case of his or her death, resignation, or removal from office of all books, papers, vouchers, funds and other property of whatever kind in his or her possession belonging to The Town of Millville.

(d) Annually each year and not later than ninety (90) days prior to the beginning of the next fiscal year, the Treasurer shall prepare a rough draft of a Town Budget. From this rough draft, the Town Council shall prepare the Town Budget.

(e) The Treasurer shall perform such other duties relative to the finances of The Town of Millville as the Town Council may from time to time prescribe or require.

COMPENSATION

Section 18. (a) Council members and staff may be paid for their services any sum which may be agreed upon by the members of the Town Council. Each Town Council member may receive compensation for service to the Town as may be prescribed by ordinance or resolution. Officers and employees of the Town may receive compensation for services to the Town as may be prescribed by ordinance or resolution.

TOWN MANAGER

Section 19. (a) The Town Council of The Town of Millville may appoint a Town Manager who shall be the Chief Administrative Officer of the Town.

(b) The Town Council of The Town of Millville shall impose such qualifications for Town Manager as may be deemed necessary; provided, however, that no person holding the office of Town Council member shall be chosen to be Town Manager during his or her term of office as Council member.

(c) The Town Manager shall hold office for an indefinite term and may be removed by a majority vote of the Town Council of the Town of Millville. At least thirty (30) days before such removal shall become effective, the Town Council shall, by a majority vote of all the elected members thereof, adopt a preliminary resolution stating the reasons for his or her removal. The Town Manager may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days but not later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Town Council, by a majority vote of all the elected members thereof, may adopt a final resolution of removal. By the preliminary resolution, the Town Council may suspend the Town Manager from duty but shall in any case call to be paid him or her forthwith any unpaid balance of his or her salary and his or her salary for the next three calendar months following the adoption of the preliminary resolution.

(d) In case of the absence or disability of the Town Manager, the Town Council may designate some qualified person who may be an elected or appointed official of the Town of Millville to perform the duties of such office during his or her absence or disability. The compensation which the Town Manager shall receive for the performance of his or her duties shall be fixed by the Town Council of the Town of Millville.

(e) The Town Manager shall be responsible to the Town Council of Millville for the proper administration of the affairs of the Town placed in his or her charge and to that end, he or she shall have the power to make such appointment and to hire such employees at such compensations as the Town Council, by Resolution, shall determine, subject to such rules and regulations as may be adopted by the Town Council. All employees shall be hired for an indefinite term and may be removed by the Town Manager at any time unless otherwise provided by resolution of Council. He or she shall exercise his or her sole discretion in the appointment or hiring of any such employees. The Town Manager shall be the sole judge of the competence or incompetence of any such person so appointed or hired by him. The Town Council of The Town of Millville shall sit as a Board of Appeal for the protection of Town employees at those times when the majority of all the Commissioners are agreed that a review of the action of the Town Manager would be in the best interests of The Town of Millville. The decision of the Town Council in such case shall be final and conclusive.

(f) It is the intention of this Charter that, in the performance of his or her duties, and in the exercise of his or her powers, the Town Manager shall not be influenced by any matters whatsoever of a political or fractional nature. It is the intention of this Charter that the Town Manager shall be guided solely by matters of expediency and efficiency in the administration of the affairs of the Town placed in his or her charge. Except for purposes of inquiry, the Town Council shall deal with that portion of the administrative service for which the Town Manager is responsible solely through the Town Manager.

(g) It shall be the duty of the Town Manager to supervise the administration of the affairs of the Town under his or her charge and to make such reports to the Town Council as are required by the Town Council. He or she shall make such recommendations to the Town Council concerning the affairs of the Town as may seem to him or her desirable. He or she shall keep the Town Council advised of the financial condition and future needs of the Town. He or she shall prepare and submit to the Town Council at the regularly monthly meeting of each and every month a true, accurate and detailed account of all the moneys collected or received by him or her in the performance of his or her duties and shall promptly turn the same over to the Town Council.

(h) In conjunction with the Mayor and the Town Council of Millville, he or she shall sign warrants pursuant to appropriations or resolutions theretofore made for the Town Council. He or she shall prepare and submit to the

Town Council such reports as may be required by the Town Council. He or she shall perform such other duties as may be prescribed by this Charter or required of him or her by Ordinance or Resolution of the Town Council.

(i) The Town Manager and such other officers of the Town as may be designated by vote of the Town Council shall be entitled to seats in the meetings of the Town Council, but shall not vote therein.

(j) The Town Manager shall have charge and supervision of the streets, gutters, curbs, sidewalks, boardwalks, jetties, piers, parks, and other administrative affairs of the Town and all work relating thereto. He or she shall have charge of and shall collect all taxes, assessments, rentals, license fees, or other charges due the Town. He or she shall have charge of the administration of all provisions of this Charter and Ordinances and Resolutions of the Town Council relating to the affairs of the Town when not otherwise provided for by this Charter or by any Ordinance or Resolution of the Town Council. He or she shall pay over to the Town Treasurer at least monthly, as hereinbefore provided, and oftener is required by the Town Council, all moneys received or collected by him or her and by any employee under his or her supervision.

(k) He or she shall keep a full and strict account of all moneys received and all disbursements made by him or her and such accounts shall, at all times, be open to inspection to the Town Council.

(l) He or she shall give to The Town of Millville a bond, if required by the Town Council, in such sum and in form with security satisfactory to the Town Council for the faithful performance of the duties of his or her office and the restoration of The Town of Millville, in case of his or her death, resignation, or removal from office all books, papers, vouchers, money and other property of whatever kind in his or her possession belonging to the Town.

(m) In the event of a vacancy in the office of the Town Manager for any reason or reasons whatsoever, the duly appointed and qualified successor to that office shall succeed to all the rights, privileges and powers theretofore reposed in his or her predecessor or predecessors in office in the same manner as though all acts, deeds and steps theretofore taken by any such predecessor or predecessors with respect to any matter or thing pertaining to said office had been taken or performed by the successor to such office.

(n) Upon the death, resignation, or removal from office of the Town Manager, the Town Council shall appoint some suitable person, who may be an elected or appointed official of the Town of Millville, to perform the duties of the Town Manager; provided, however, such person shall not serve for a period exceeding ninety (90) days from the date of his or her appointment.

TOWN SOLICITOR

Section 20. The Mayor of The Town of Millville with the advice and consent of a majority of the elected members of the Town Council, shall select and appoint a Town Solicitor for an indefinite term who shall be removable at the pleasure of the Town Council of The Town of Millville either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware, with offices in Sussex County. It shall be his or her duty to give legal advice to the Town Council and other officers of the Town and to perform other legal services as may be required of him by the Town Council.

BOARD OF HEALTH

Section 21.(a) The Town Council may provide for a Board of Health. If it is established, the Board of Health shall consist of four (4) members, one of whom may be a practicing physician. The Board shall be appointed by the Mayor of The Town of Millville with the advice and consent of a majority of the elected members of the Town Council at the annual meeting hereinbefore provided, and shall serve for one (1) year or until their successors are duly appointed and qualified. The Board of Health shall have cognizance of and interest in the life and health of the people of the Town. The Board shall report to the Town Council in writing whatever is deemed by the Board to be injurious to the health of the people of the Town and shall make recommendations to the Town Council concerning whatever may contribute to the health and sanitation of the citizens of The Town of Millville. The Board shall organize by the election of a Chairman and Secretary within ten (10) days after notice of their appointment and shall keep a record of their proceedings and acts. The Secretary shall be the executive officer of the Board.

(b) The Secretary of the Board may be allowed a reasonable annual compensation for his or her services, which shall be determined by the Town Council and no other compensation shall be paid to the Secretary for his or her services as such. The Secretary may or may not be a member of the Board of Health appointed by the Mayor, but he shall be a resident of The Town of Millville.

(c) The Board of Health shall have the power to recommend the adoption of ordinances relating to the health of the population of the Town or to prevent the introduction or spread of infectious or contagious diseases or nuisances affecting the same and such ordinances, when adopted by the Town Council, shall extend to an area outside the Town limits for a distance of one (1) mile.

POLICE FORCE

Section 22.(a) The Town Council may, from time to time, make such rules and regulations as may be necessary for the organization, government and control of the police force. The police force, if created, shall

Chapter 278
Vol. 72

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 Town Council shall, from time to time, prescribe. The Chief of Police and the members of the police force shall be subject to the direction of the Mayor acting in behalf of the Town Council.

(b) Each member of the police force shall have police powers similar to those of constables and shall be conservators of the peace throughout The Town of Millville, 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 laws enacted by the Town Council of The Town of Millville. In the case of a pursuit of an offender, the power and authority of the police force shall extend outside the territorial limitations of The Town of Millville.

(c) Every person sentenced to imprisonment by a Justice of the Peace, as the case may be, shall be delivered by a member of the police force to the correctional institution located in Sussex County to be there imprisoned for the term of his or her sentence.

(d) In the case of an arrest at any time, the person arrested may be taken before the nearest Justice of the Peace with officers in Sussex County who shall hear and determine the charge, and who, in such case, is vested with all the authority and powers granted by this Charter. In the case of an arrest at a time when a 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 for imprisonment until such reasonable time thereafter as shall enable a Justice of the Peace to hear and determine the charge against such person.

(e) It shall be the duty of the police force to suppress riotous, disorderly or turbulent assemblages of persons in the streets of the Town or the noisy conduct of any person in the same, and upon the view of the above or upon view of the violation of any Ordinances of the Town relating to peace and good order thereof, the police force shall have the right and power to arrest without warrant.

ANNUAL AUDIT

Section 23. At the annual meeting hereinafter provided, the Mayor, with the advice and consent of a majority of the elected members of the Town Council, may appoint an accountant to be the auditor of accounts of The Town of Millville. It shall be the duty of the auditor to audit the accounts of the Town and all its officers whose duty involves the collection, custody and payment of moneys to the Town. The auditor shall on or before the expiration of ninety (90) days from the end of the fiscal year annually make and deliver a detailed report of any and all accounts, records, and books by them examined and audited which report under his or her hand and seal shall be printed in a newspaper having a general circulation in the Town in the issue immediately preceding the annual report. The auditor, in the performance of his or her duties, shall have access to all records and accounts of the offices of the Town Council and he is hereby authorized and empowered to employ such clerks as in his or her judgment may be necessary in the proper performance of his or her duties.

BOARD OF ASSESSMENT

Section 24.(a) The Board of Assessment may be appointed by the Mayor of The Town of Millville, with the advice and consent of a majority of the elected members of the Town Council for an indefinite term. The Board of Assessment shall consist of three (3) members, all of whom shall be over the age of twenty-one (21) years, bona fide residents of The Town of Millville and freeholders of the Town.

(b) They shall be sworn or affirmed by the Mayor of The Town of Millville or by a Notary Public to perform their duties with fidelity and without favor. It shall be their duty to make a fair and impartial assessment of property and persons subject to taxation situate within the corporate limits of the Town and to perform such other duties and reference thereto as shall be prescribed from time to time by the Town Council of The Town of Millville. Compensation to be by them received for the performance of their duties in the hiring of employees to assist them in the performance of their duties shall be fixed by and subject to the approval of the Town Council of The Town of Millville.

(c) In making such assessment, the rules and exemptions now applicable by law to the making of the assessment for Sussex County of persons and property shall be applicable insofar as consistent with the provisions of this Charter.

(d) Adoption of Sussex County assessments. The Town Council may elect to use the assessment by the Sussex County Board of Assessment for all property located within the corporate limits of the Town in lieu of making its own independent valuation and assessment of such property. In such event, the assessed values established by Sussex County shall be conclusive for purposes of levying town taxes, and the Town Council shall have no authority to hear appeals regarding the same. If the Town Council elects to adopt the Sussex County Assessments, only this section and Subsection (e) shall have effect; but the Town Council has the authority to consider appeals concerning any additions to tax bills under Subsection (e) at any regular or special meeting.

(e) Additions to Tax Bills. Whether utilizing the Sussex County assessments or those prepared by the Town's own Board of Assessment, the Town Council shall annually, prior to the posting of the assessment list, by

resolution, provide for the Mayor a list of any and all charges, costs or other assessments owed to the Town, which list of charges incurred shall include, but not be limited to, the following: water bond sinking funds assessments, curb and gutter assessments, water assessments, weed and grass cutting bills, trash collection bills, and past due water rents. Said amounts, when adopted and set forth by resolution of the Mayor and Council, shall be shown on the copies of the assessments posted pursuant to the provisions of Section 25 of this Chapter.

ASSESSMENT OF TAXES

Section 25. The Board of Assessment shall, within ninety (90) days prior to the beginning of the next fiscal year, make a just, true and impartial annual valuation or assessment of all real estate and improvements located thereon located within The Town of Millville. All real estate shall be described with sufficient particularity to be identified. Real estate shall be assessed to the owner or owners if he or they be known. If the owner or owners of real estate cannot be found or ascertained, it may be assessed to "Owner Unknown." A mistake in the name of the owner or owners or a wrong name or an assessment to "Owner Unknown," shall not affect the validity of the assessment of any municipal tax or assessment based thereon; Provided, however, the assessment shall specify the last record owner or owners thereof as the same shall appear from the records in the Office of the Recorder of Deeds, in and for Sussex County. The Board of Assessment shall also make a personal assessment of all male and female citizens of the Town above the age of Eighteen (18) years, whether an owner of real estate or not; said personal assessment shall be determined by the Town Council and certified to the Board of Assessment. Said personal assessment or per capita tax shall be in addition to the assessment levied on real estate owned or assessed by any person or persons whomsoever.

(a) The Board of Assessment, after making such annual assessment, shall, at least ninety (90) days prior to the end of the fiscal year, deliver to the Town Council of The Town of Millville a list containing the names of all persons assessed and the amount of assessment against each. They shall also deliver at such time as many copies of said list as the Town Council shall direct.

(b) The annual assessment shall distinguish the real and personal assessment of each person and shall also be arranged so that the land, the improvements thereon, and the per capita assessment shall appear in separate columns or spaces. In making this assessment, the Board shall make its valuation accordingly.

(c) The real property of the several members of the Board of Assessment shall be assessed by the Town Council of The Town of Millville.

(d) Immediately upon receiving the annual assessment list from the Board of Assessment, the Town Council of The Town of Millville shall cause a full and complete copy of the same, containing the amount assessed to each taxable to be hung in a public place in The Town of Millville and there it shall remain for a period of at least ten (10) days for the information of and examination by all concerned. Appended thereto and also in five (5) or more public places in said Town shall be posted notices advertising to all concerned that, upon a certain day mentioned therein and not earlier than ten (10) days after the date of posting of the true and correct copy of the annual assessment list and notices that, at the next regular meeting of the Town Council, the Town Council will hold a court of appeals at which time and place they shall hear appeals from the said annual assessment. The decision of the Town Council sitting as the Board of Appeals shall be final and conclusive and said Town Council shall revise and complete said assessment at this sitting. No member of the Town Council shall sit upon his or her own appeal but the same shall be heard and determined by the other councilmen.

(e) All the members of the Board of Assessment shall be present on the day fixed for hearing appeals and shall furnish to the Town Council such information and answer such questions as the Town Council may require in respect to any assessment for which an appeal has been taken. The Town Council shall have the authority to enforce the attendance of the Board of Assessment by appropriate process.

SUPPLEMENTAL ASSESSMENT

Section 26. (a) In addition to the annual assessment provided for in Section 25 of this Charter, the Board of Assessment may, at its option, prepare a quarterly supplemental assessment list for any of the following purposes:

1. Adding property which was not included on the first annual assessment;
2. Increasing the assessed value of property which was included in the last assessment;
3. Correcting errors on the prior annual assessment;
4. Revising or modifying any exception from taxation applicable to property within the Town;

(b) The supplemental assessment list shall be prepared quarterly by the Board of Assessment.

(c) On the date of certification of the supplemental assessment list of the Town Council by the Board of Assessment each property owner shall be liable for the payment of real estate taxes equal to the assessed value of the property multiplied by the tax rate for the then current fiscal year applicable to the property reduced by twenty-five percent (25%) when the property is listed on the second supplemental assessment list, fifty percent (50%) when the property is listed on the third supplemental assessment list and by seventy-five percent (75%) when the property is listed on the fourth supplemental assessment list and the amount of such tax, together with any interest, penalty and collection charge shall be a lien for a period of ten (10) years and such lien shall have preference and priority to all

Chapter 278

Vol. 72

other created liens on real estate or upon improvements located on land under lease as prescribed in the Charter or suffered by said property owner although such lien or liens be of a date prior to the time of the attaching of such lien for taxes.

(d) Whenever the Board of Assessment places a property on a supplemental assessment list, he shall deposit notice thereof in the regular mail addressed to the owner of the property affected thereby at the address shown on the assessment list, or if the address of such owner does not appear on the assessment list, then to the person occupying the property, or if there is no apparent occupant, such notice shall be posted on the property. Such notice shall be given no later than the date on which the supplemental list on which the property appears is certified to the Town Council by the Board of Assessment. The certification by the Board of Assessment that the notice required by this Subsection was mailed or posted, as the case may be, shall be conclusive evidence that notice to the property owner was received.

(e) The Board of Assessment shall publish a notice of the place or places where the supplemental assessment list may be inspected together with a notice of the time and place in the Town when the Town Council, not earlier than ten (10) days from the date of the last publication, shall sit, between the hours of one o'clock in the afternoon, prevailing time and five o'clock in the afternoon, prevailing time, to hear appeals. Such notice shall appear at least once a week for two (2) consecutive weeks in a newspaper of general circulation in the Town. The decision of the Town Council sitting as a Board of Appeals, shall be final and conclusive and the said Town Council shall revise and complete the said supplemental assessment at this sitting. Neither the Mayor nor any member of the Town Council shall sit upon his or her appeal but the same shall be held and determined by the other members of the Town Council.

(f) Pending determination of the appeal, the property owner may either pay the tax imposed by the supplemental assessment and if on appeal the assessment is reduced, the property owner shall be entitled to a refund of the taxes which he has overpaid plus interest thereon at the rate of one percent (1%) per month for each month or fraction thereof from the date of payment or the property owner may decline to pay the tax imposed by the supplemental assessment in which case, interest and penalties shall accrue at the rate of one percent (1%) per month for each month or fraction thereof that the taxes remain unpaid from the expiration of thirty (30) days following the date of mailing or the posting of the notice, as the case may be, required by this Section.

(g) In the collection of all taxes imposed by the supplemental assessment list, the Town Clerk shall deduct four percent (4%) from the amount of taxes assessed against the real property of any property owner if the property is listed on the second supplemental assessment list, a credit of two and one-half percent (2-1/2%) if property is listed on the third supplemental assessment list, and a credit of two (2%) if the property is listed on the fourth supplemental assessment list and is paid within thirty (30) days following the date of mailing of the notice by the Board of Assessment to the owner of the property.

(h) All taxes imposed by the supplemental assessment list paid more than thirty (30) days following the date that notice is mailed by the Board of Assessment to the property owner as provided for in this Section shall be delinquent.

TAXATION OF REAL ESTATE TRANSFERS

Section 27. (a) The Town Council of the Town of Millville, in addition to all other powers conferred upon it by this Act, shall have the power and authority by ordinance or ordinances to levy, assess and collect or provide for the levying, assessment and collection of such taxes as shall be determined by the Town Council to be paid by the transferor or transferee upon the transfer of real property or any interest in real property situate within the corporate limits of the Town of Millville, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers occur; provided however, that no tax shall be levied upon an organization exempted from ad valorem real estate taxes.

(b) If the taxing power authority granted under this Section shall be exercised by way of a stamp affixed to a document presented for recording, the Recorder of Deeds, in and for Sussex County, shall not receive for record any document subject to such tax unless such stamps are affixed thereto.

(c) The Town Council of the Town of Millville may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this Section.

(d) No tax levied under this Section shall exceed one and one-half percent (1 1/2%) of the sale price (including the value of any assumed mortgage or mortgages) or of the fair market value of the real property so transferred; and provided however, that no tax shall be imposed upon an organization which is exempted from ad valorem taxes. The provisions of Section 5401 and Section 5403, Chapter 54, Title 30, Del. C., shall be applicable to any realty transfer tax imposed pursuant to this Act.

(e) The Town Council may provide by Ordinance for the collection of such tax by the Recorder of Deeds, in and for Sussex County, or such other agent as may be appointed by the Town Council and shall prescribe in such Ordinance the charge that will be paid for such collection of such realty transfer tax authorized by this Section.

LEVY OF ANNUAL TAXES

Section 28. (a) At the last regular meeting in the fiscal year, after having revised and completed the assessment, the Town Council shall determine, in its best judgment and knowledge, the total amount necessary to be raised by the Town to meet the fixed and anticipated expenses and obligations of the Town, including reasonable and appropriate reserves, for the then current fiscal year as set forth in the Town Budget for such year plus a reasonable amount to cover unanticipated expenses and emergencies.

(b) The Town Council should then proceed to determine, in its sole discretion, from which sources of the authorized revenues of the Town the amount so determined by them shall be raised and, within the limits prescribed by this Charter with respect to any such source, the amount to be raised from each such source. They shall then proceed to determine, assess, fix and/or levy as follows:

(1) The rate of tax on real estate including improvements thereon per One Hundred Dollars (\$100.00) of the assessed value; and/or

(2) The amount of personal or per capita tax upon each citizen of the Town over the age of eighteen (18) years; and/or

(3) The rate of tax upon all poles, construction, erections, wires and appliances more particularly mentioned, or intended so to be in Section 30 of this Charter as amended; and/or

(4) The several license fees to be charged for carrying on or conducting of the several businesses, professions or occupations more particularly mentioned or intended so to be in this Charter, as amended; and/or

(5) The several rates to be charged for furnishing water service, sewer service, electric service, gas service, front footage assessment; and/or

(6) The fees or rates to be charged in respect to any other authorized source of revenue sufficient to their judgment and estimation to realize the amount to be raised from each such source determined by them to be used as aforesaid; PROVIDED, HOWEVER, that sources (4), (5) and (6) aforementioned may be determined, fixed, assessed, levied and/or altered or changed upon other than a fiscal year basis and that any regular or special meeting of the Town Council as the Town Council, in its own proper discretion, shall determine.

(c) Immediately after the last regular meeting prior to the end of the fiscal year of each and every year, the Town Council shall make, or cause to be made, a full, true and correct Annual Tax List showing the amount of tax levied against each taxable thereon from sources (1), (2) and (3) above mentioned. This list shall be known as the Annual Tax List of The Town of Millville. In addition to the information contained in the assessment list, it shall also contain information as to the rate of tax upon real estate for each One Hundred Dollars (\$100.00) of assessed valuation thereof.

(d) The Town Council shall cause to be delivered to the Treasurer a duplicate of said Annual Tax List and the Treasurer shall immediately proceed to collect the same as hereinafter provided.

(e) Nothing contained in this Charter shall be construed to affect or impair in any way the validity of any tax, fee, assessment or other charge lawfully levied, assessed or due The Town of Millville under existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in The Town of Millville created hereby.

COLLECTION OF ANNUAL TAXES

Section 29. (a) The Treasurer, as soon as the Town Council shall have placed in his or her hands a duplicate Annual Tax List, shall proceed at once to collect the taxes on said duplicate list.

(b) All taxes so laid or imposed by The Town of Millville in such Annual Tax List shall be and constitute a lien upon all the real estate of the taxable for a period of ten (10) years against or upon whom such taxes are laid or imposed, of which such taxable was seized or possessed at any time after such taxes shall have been levied and imposed that is situate within The Town of Millville. Such lien shall have preference and priority to all other liens on such real estate, as aforesaid, created or suffered by the said taxable, although such lien or liens be of a time and date prior to the time of the attaching of such lien of taxes.

(c) All taxes, when and as collected by the Treasurer, shall be paid to The Town of Millville, and all taxes shall be due and payable at and from the time of the delivery of the Annual Tax List to the Treasurer.

(d) All taxes shall be payable at the Town Office of The Town of Millville during the regular business hours of that office.

(e) In the collection of said taxes, all taxes paid after the expiration of ninety (90) days from the beginning of the fiscal year shall be delinquent. The Town Council shall have the power to make just allowances for delinquencies in the collection of taxes. 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 Treasurer, 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. All taxes unpaid after the expiration of ninety (90) days from the beginning of the fiscal year of The Town of Millville

shall be considered delinquent. In effecting a collection of any delinquent tax the Town Council may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax and any interest or penalty imposed thereon.

(f) At the annual meeting of the Town Council of each year, the shall account to the Town Council for all taxes and sewer rentals collected by him or her during the year and shall be liable on his or her bond for failure to account for any uncollected taxes or sewer rentals unless he or she can show to the satisfaction of the Town Council that all remedies permitted for the collection of said taxes were pursued without result or, if not pursued the remedies would have been without avail.

(g) The Treasurer, when any tax has become delinquent, may, in the name of The Town of Millville, institute suit before any Justice of the Peace or in the Court of Common Pleas of the State of Delaware, in and for Sussex County, or in the Superior Court of the State of Delaware, in and for Sussex County, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in the 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.

(h) However, should the Treasurer so elect, he or she is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure:

(1) The Treasurer shall present in the name of The Town of Millville to the Superior Court of the State of Delaware, in and for Sussex County, a petition in which shall be stated:

(A) The name of the taxable;

(B) The year for which the tax was levied;

(C) The rate of tax;

(D) The total amount due;

(E) The date from which interest and the penalty for nonpayment shall commence and the rate of such interest and penalty and any collection charge permitted;

(F) A reasonable, precise description of the lands and tenements proposed to be sold;

(G) A statement that the bill of said tax has been mailed to the taxable at his or her last known post office address with return receipt requested by certified mail and postage prepaid;

(H) That it has been found impractical to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the Treasurer and shall be verified before a Notary Public.

(2) At least ten (10) days prior to the filing of any such petition as described herein, the Treasurer shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at his or her last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties, collection charges, 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 Treasurer shall exhibit the return registry receipt to the Court by filing the same with the petition; provided, however, that if the taxpayer cannot be found, it shall be sufficient for the Treasurer to file with said petition the evidence that such statement has been mailed in accordance with this Subsection and has been returned.

(3) Upon the filing of the petition, the Prothonotary shall record the same in a property indexed record of the Superior Court, in and for Sussex County, and shall endorse upon the said record of said petition the following: "This petition, filed the ____ day of ___, A.D., ___, and the Treasurer of The Town of Millville 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." This endorsement shall be signed by the Prothonotary.

(4) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in The Town of Millville, one of said public places shall be the Town Office and by printing the notice of said sale at least one (1) time in a newspaper of general circulation in the Town. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the day fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(5) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware, in and for Sussex County, at the next term 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 Treasurer making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or his or her 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 proceedings.

(6) No sale shall be approved by the Superior Court if the owner be ready at court to pay the taxes, penalty, collection fees and costs, no deed shall be made until the expiration of one (1) year from the date of the sale within which time the owner, his or her heirs, executors, or assigns, shall have the power to redeem the lands on payment to the purchaser, his or her personal representatives or assigns, the costs, the amount of the purchase price, and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(7) After satisfying the tax due and the costs of expense of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, upon the refusal of the 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 Town of Millville, either to the credit of the owner or in a manner in which the fund may be identified.

(8) In the sale of lands for payment of delinquent taxes, the costs shall be allowed to be deducted from the proceeds of the sale or chargeable against the owner, as the case may be, including but not limited to charges of the Prothonotary, The Town of Millville, cost of printing and posting hand bills, the publication of the advertisement of sale in one or more newspapers, the auctioneer's fee and attorney's fees incurred by The Town of Millville. The costs of the deed will not be chargeable as costs, but shall be aid by the purchaser of the property of the delinquent taxpayer. The total of any Delaware and municipal transfer tax shall be paid by the purchaser of said lands at the tax sale.

(9) 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.

(10) If any person is assessed for several parcels of land and tenements in the same assessment in The Town of Millville, the total of said taxes may be collected from the sale of any part or portion of said lands and tenements, provided that the land alienated by the delinquent taxpayer shall not be sold until other property of the taxpayer shall have been disposed of and there still remains a delinquency.

(11) In the event of death, resignation or removal from office of the Treasurer of The Town of Millville before the proceedings for the sale of lands shall have been completed, his or her successor in office shall succeed to all of his or her powers, rights, and duties in respect to said sale. In the event of the death of the purchaser of said sale prior to his or her 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 Sussex County, a petition representing the facts and praying for an order authorizing and requiring the Treasurer to execute and acknowledge a deed conveying to the petitioner the premises so sold or a just portion thereof; and thereupon the court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(12) The Treasurer shall have the same right to require the aid or assistance of any person or persons in the performance of his or her duty of sale which the Sheriff of Sussex County now has by law or may hereafter have.

(13) In addition to all of the remedies, methods and authorities for the collection of taxes, the Tax Collector shall have the same rights in the collection of taxes as the Tax Collector or Receiver of Taxes as Sussex County now has by law or may hereafter have, including the monition method for the collection of such taxes.

TOWN BUDGET

Section 30.(a) The fiscal year for The Town of Millville shall be as determined by Resolution of the Town Council.

(b) Annually each year and not later than ninety (90) days prior to the beginning of the next fiscal year, the Treasurer shall prepare a rough draft of the Town Budget. From this rough draft, the Town Council shall not later than the regular meeting following the presentation of the rough draft prepared of the Town Budget, containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year.

(c) The budget shall contain the following information:

(1) A detailed estimate showing the expense of conducting each department and office of the Town for the ensuing fiscal year;

(2) The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof;

(3) The amount of the debt of the Town, together with the schedule of maturities of Bond issues;

(4) An itemized statement of all other estimated expenses to be incurred in the affairs of the Town for the ensuing fiscal year;

(5) A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds".

(6) An estimate of the amount of money to be received from taxes, water rents, sewer service charges, front foot assessments, license fees and all other anticipated income of the Town from any source or sources whatsoever.

(d) The Town Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

ENUMERATION OF POWERS

Section 31.(a) Not by way of limitation upon the power vested in the Town Council of The Town of Millville to exercise all powers delegated by this Charter to the municipal corporation or to the Town Council except as may expressly appear herein to the contrary, but, rather by way of enumeration and for purposes of clarity, the Town Council is vested by this Charter with the following powers, to be exercised by the Town Council in the interest of good government and the safety, health, and public welfare of the Town, its inhabitants and affairs, that is to say:

(1) To prevent vice, drunkenness and immorality;

(2) To provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;

(3) To prohibit all gaming and fraudulent devices;

(4) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;

(5) To ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair or replace any new or present street, highway, lane, alley, water course, park, lake, crosswalk, wharf, dock, sewer, drain, aqueduct, or pipeline or portion thereof, or any new or present sidewalk, curb, or gutter or portion thereof in the Town; to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; to enter into contracts or agreements for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other public thoroughfare within the Town;

(6) To regulate or control the observance of the Sabbath Day;

(7) To establish and regulate pounds and to restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large, and to authorize the destruction of the same;

(8) To locate, regulate, license, restrain or require the removal of slaughter houses, wash houses, laundries, canning establishments, phosphate, fish, fertilizer and manure plants or establishments, swine pens, privies, water closets in any businesses or buildings or conditions detrimental to the public health or constituting a public nuisance or of an offensive or a noxious nature;

(9) To enforce the removal of ice, snow or dirt or other foreign substance from sidewalks and gutters by owners or abutting owners;

(10) To prohibit, remove or regulate the erection of any stoop, step, platform, bay window, cellar, gate, area, descent, sign, post or any other erection or projection in, over, upon or under any street, highway, alley, lane, water course, park, lake, strand, sidewalk, crosswalk, wharf, dock, sewer, drain, aqueduct or pipeline of the Town;

(11) To define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare;

(12) To provide an ample supply of pure water for the Town and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in or about the collection, storage, purification, conveyance, or distribution or sale of water; to regulate and prescribe for what public or private purposes the water furnished by The Town of Millville may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury, or damage to or interference with the water system or the equipment of the Town; to furnish or refuse to furnish water from the Town system to places and properties outside the Town limits; and to contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the municipality itself.

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

the Town; to regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties or both, for any willful or negligent injury or damage to, or interference with the said system, plan or facilities. To furnish or refuse to furnish sewer disposal service from the Town system to places and properties outside the Town limits. In the interest of the public's health, to compel any and all properties in the Town to be connected to the sewer system of the Town; and to contract for and purchase sewer disposal service and to resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefor of the Town itself.

(14) To provide, construct, extend, maintain, manage and control the plant and system, or plants and systems, for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the Town and for lighting the streets, highways, lanes, alleys, water courses, parks, lake, strands, sidewalks, crosswalks, wharves, docks, public buildings or other public places in the Town, and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of transmission and distribution lines, pipes, mains and other conveyances for any such current or gas as may be necessarily proper to light the Town, and to furnish proper connections for electric current and gas to the properties of the inhabitants of the Town who may desire the same; to regulate and prescribe for what private or public purpose the current or gas furnished by the Town may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts are to be collected and the fines or penalties, or both, for any willful or negligent injury or damage to or interference with the electric or gas system or systems of the Town; to furnish or refuse to furnish electric current or gas from the Town's system or systems, to places and properties outside the Town limits; and to contract for and purchase electric current or gas and distribute the same to users within or without the Town with the same full powers as though such current or gas had been initially reduced to usefulness by the Town itself.

(15) To fully control within the Town the drainage of all water and to that end to alter or change the course and direction of any natural water course, runs or rivulet within the Town, to regulate, maintain, clean and keep the same open, clean and unobstructed, and to provide, construct, extend and maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the Town;

(16) To provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, or fills for the preservation of any strand or high land within the limits of the Town and contiguous thereto to the end that the same may be preserved, property protected that the general public might enjoy the use thereof.

(17) To grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions and for such considerations as the Town Council shall deem in the best interests of the municipality, to use the present and future streets, highways, lanes, alleys, water courses, parks, lakes, strands, sidewalks, crosswalks, wharves, docks and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, television, railroad excepting railroads or railways engaged in Interstate Commerce, bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms or corporations residing or located therein and for the purpose of transmitting the same from or through the Town to points outside the limits thereof, and for the purpose of erecting wharves and piers and for the purpose of vending any article or merchandise or service upon or from any vehicle upon any present and future street, highway, lane, alley, etc.; provided that no exclusive franchise or license shall be granted for any such purpose to any person, firm, association or corporation whomsoever.

(18) To regulate and control the exercise of any license or franchise;

(19) To direct, regulate and control the planning, rearing, treatment and preserving of ornamental shade trees in the streets, avenues, highways, parks and grounds of the Town and to authorize or prohibit the removal or destruction of said trees;

(20) To direct the digging down, draining, filling up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by this Charter;

(21) To provide for or regulate the numbering of houses and lots on the streets and the naming of streets and avenues,

(22) To regulate, control or prevent the use or storage of gun powder, fireworks, tar, pitch, resin, and all other combustible materials and the use of candles, lamps, and other lights in stores, shops, stables and other places; to suppress, remove or secure any fireplace, stove, chimney, oven, broiler, or other apparatus which may be dangerous in causing fires;

(23) For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the manner of building or removal of dwelling houses and other buildings; to establish a Code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material; and generally to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22, Del. C. of 1974, and all amendments heretofore or hereafter adopted;

(24) To acquire, build, erect and maintain a suitable place as a lock-up or jail for the Town which shall be used as a place of detention for persons convicted of violation of law or Ordinance, or for detention of persons accused of violation of law or Ordinances, for a reasonable time in cases of necessity prior to hearing and trial; and to provide for the restraint, support and employment of paupers, beggars, and vagrants; provided that any correctional institution located in Sussex County may be used for any such purpose;

(25) To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town;

(26) To regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, bean shooters, and any other devices for discharging missiles which may cause bodily injury or injury or harm to property; and to regulate or prevent the use of fireworks, bombs and detonating works of all kinds;

(27) To provide for the punishment of a violation of any Ordinance of the Town by fine not exceeding One Thousand Dollars (\$1,000.00);

(28) To provide for the organization of a fire department and the control and government thereof; to establish fire limits and to do all things necessary for the prevention or extinguishment of fires; and at the discretion of the Town Council, to contribute, donate or give an amount or amounts not to exceed in the total during any fiscal year three percentum (3%) of the total taxes levied on real estate unto any volunteer fire company or companies incorporated under the laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting equipment and service to the Town; provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable;

(29) To purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, tapping fee, charge growing out of the abatement of nuisances and the like, laying out and repairing sidewalks, curbs or gutters, or other charges due the Town and to sell the same;

(30) To levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon; provided, however, that the amount to be raised from this source shall not exceed in any one year the sum of two hundred fifty thousand dollars (\$250,000.00); and provided further that there shall be no limitation upon the amount which may be raised from the taxation of real estate for the payment of interest on and principal of any bonded indebtedness whether hereinbefore or hereafter incurred;

(31) To levy and collect taxes upon all telephone, telegraph, power poles, pipelines, rail lines, or other constructions or erections of a like character, erected within the limits of the Town, together with the wire or other appliances thereto or thereon attached; expressly excepting all telephone, telegraph, power lines or poles and rail lines owned or operated by any railroad or railway company engaged in Interstate Commerce for any and all purposes and to this end may at any time direct the same to be included in or added to the Town assessment. In case the owner or lessee of such constructions or erections, wires or other applicants shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies provided for the collection thereof set forth in this Charter, the Town Council shall have the authority to cause the same to be removed;

(32) To license, tax and collect fees annually for any and all municipal purposes (including the cost and expense of advertising the Town) of such various amounts as the Town Council from time to time shall fix from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation within the limits of the Town; provided, however, that nothing contained herein shall be so construed as to make it mandatory upon any resident of the State to apply for a license in order to sell in the Town any farm produce or products grown upon a farm owned by the vendor or any member of his or her family with whom he resides;

(33) To determine from which authorized source and in what proportion taxes shall be levied and used each year to raise the revenue or funds required to meet the general expenses of the Town and all funding, amortization and interest requirements on its outstanding bonds or other indebtedness;

(34) To provide for the collection of and disbursement of all moneys to which the Town may become entitled by law, including licenses and fines where no provision for the collection and disbursement thereof is otherwise provided in this Charter;

(35) To borrow money in the name of the Town for any proper municipal purpose and in order to secure the payment of the same to issue bonds or other forms or kinds of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Town Council shall select for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town shall be exempt from all state, county or municipal taxes; provided, however, that in no event shall the indebtedness of the Town for any and all purposes at any one time exceed in the aggregate twenty-five percent (25%) of the appraised value of all real estate in the Town subject to the assessment for the purpose of levying the annual tax hereinbefore mentioned;

(36) To acquire, and/or to vacate the use of lands, tenements, personality, property, easements, rights of way, or any interest in property, either within or without the limits of the Town, by way of condemnation and eminent domain for any proper and lawful municipal purpose or whenever required properly to carry out, exercise or fulfill any power conferred upon or delegated to The Town of Millville by this Charter. Proceedings by way of condemnation in any case shall be as prescribed in Chapter 61, Title 10, Del. C. of 1974, as heretofore or hereafter amended;

(37) To appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the Town in case of emergency;

(38) To provide for the payment of any tax, fine, penalty, license, forfeiture, assessment, fee, charge, or other amount due the Town by the performance of labor or service for the Town by any person owing the same;

(39) To inquire into and investigate the conduct of any officer, agent or employee of the Town or any municipal affair and for such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena;

(40) To borrow money in anticipation of revenues on the full faith and credit of The Town of Millville sum or sums not exceeding Fifty Thousand Dollars (\$50,000.00) in any one year when, in the opinion of a majority of the Town Council of The Town of Millville, the needs of the Town require it. Any sum so borrowed shall be secured by promissory notes of The Town of Millville, duly authorized by Resolution adopted by the Town Council of The Town of Millville, and signed by the Mayor of The Town of Millville, and attested by the Secretary of the Town Council with the corporate seal affixed, and no officer or member of the Town Council shall be liable for the payments of such notes because it is signed by them as officers of the Town and is authorized by the resolution of the Town Council; provided, however, that the total sum outstanding at any one time shall not exceed Fifty Thousand Dollars (\$50,000.00); and provided further, that any sum of money so borrowed, as aforesaid, in any fiscal year, shall be paid from the general fund of the Town and shall be completely repaid at any time, but must be completely paid at the end of ten (10) fiscal years following the first fiscal year when said sum or sums were borrowed, with interest thereon; and provided that such ad valorem taxes shall be levied as is necessary to pay the principal or the interest on said bonds as is required without regard to any other limitation concerning the maximum rate of taxation and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof;

(41) To effect the collection of any delinquent charge the Town Council of The Town of Millville may impose a collection charge not exceeding eighteen percent (18%) of the amount of such charge and any interest or penalty imposed thereon;

(42) To provide for the organization of an ambulance service and/or emergency treatment service and the control and government thereof; and at the discretion of the Town Council, to contribute, donate or give an amount or amounts not to exceed in the total during any fiscal year three percentum (3%) of the total taxes levies on real estate unto any volunteer ambulance or emergency treatment service company or companies incorporated under the laws of the State of Delaware, or any volunteer ambulance association or associations maintaining and operating ambulance, emergency treatment equipment and service to the Town; provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the sum thereof as the Town Council shall deem advisable;

(43) To contribute, donate or give an amount or amounts unto community organizations providing services to the community in The Town of Millville provided that such contribution, donation or gift may

be made subject to such conditions and stipulations as to the sum thereof as the Town Council shall deem advisable.

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

STREETS

Section 32.(a) The Town Council shall have the power and authority to lay out, locate and open new streets or to widen and alter existing streets or parts thereof and to vacate or abandon streets or parts thereof, whenever the Town Council shall deem it for the best interest of the Town.

(b) The procedure to be used for any of those things heretofore listed in this Section shall be as follows:

(1) Whenever five (5) or more property owners in a portion of the Town directly affected or abutting on the proposed street to be opened, laid out, changed, altered, widened, vacated or closed shall by written petition with each signature duly acknowledged request the Town Council to lay out, locate, or open a new street or to widen or alter any existing street or any part thereof or to vacate or abandon a street or any part thereof, the Mayor of The Town of Millville shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of changing the structure of said streets in the Town. The petition presented to the Council by the property owners shall include a description of the property through which the proposed street shall be laid out or description of the street on which any of the other actions heretofore described shall take place and the reasons why the change in the structure of the streets of the Town should be undertaken; or the Town Council, by a majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of its elected members be appointed by the Mayor to investigate the possibility of changing the street structure of the Town.

(2) Not later than ninety (90) days following its appointment, the committee shall submit a report concerning its findings to the Mayor and to the Town Council. The report shall contain the advantages and disadvantages to the Town caused by the changes of the street structure and shall contain the conclusion of said committee either recommending or disapproving the change of said street structure. If the report of the committee appointed by the Mayor recommends changing the existing street structure of The Town of Millville, the Council by resolution, passed by a majority of the elected members of the Town Council concurring therein, shall propose to the property owners and citizens of the Town that the Council proposes to change the street structure by opening a new street or by doing any of those things hereinbefore described to the existing street structure of the Town. If the report of the committee appointed by the Mayor is not in favor of changing the existing street structure of The Town of Millville, the resolution proposing the change in the street structure to the property owners and citizens of The Town of Millville shall be passed by a majority of three fourths (3/4ths) of the elected members of the Town Council. The resolution shall contain a description of the proposed change and shall affix a time and place for a public hearing on the matter of changing the street structure. The resolution adopted by the Town Council shall be printed in a newspaper having a general circulation in The Town of Millville or, in the discretion of the Town Council, the resolution shall be posted in five (5) public places in the Town for at least one (1) week before the time set for the public hearing. The notice shall be published at least one (1) week prior to the date set for the said public hearing. The resolution shall also state the hour and place where and when the Town Council shall sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of property by the proposed change in the existing street structure of the town.

(3) Whenever the Town Council shall have determined to locate or lay out or widen any street, lane or alley and shall have affixed compensation therefor, it shall be the duty of the Town Council immediately after the survey and location of said street, lane or alley, to notify by certified mail with return receipt requested and postage prepaid the owner or owners of the real estate through or over whom such street, lane or alley may run of their determination to open or widen the same and to furnish a general description or location thereof; also the amount of compensation or damages allowed to reach such property owner, and if such owner be not a resident of the Town, to notify the holder or tenant of said real estate and the owner of such property if his or her address be known; that there be no holder or tenant resident in said Town and the address of the owner be unknown or if there is a holder or tenant and the

address of the owner is unknown, the said notice may be affixed to any part of the premises. If the owner be dissatisfied with the amount of compensation or damages allowed by the Town, as aforesaid, said property owner may, within ten (10) days after such notice, as aforesaid, was posted or mailed appeal from written notice of assessment or compensation or damages by serving written notice by certified mail with return receipt requested and postage prepaid on the Mayor of the Town to the effect that he or she is dissatisfied with the amount of such compensation or damages, and that it is his or her intention to make written application to one of the Judges of the Superior Court of the State of Delaware, in and for Sussex County, for the appointment of a commission to hear and determine the matter in controversy; and in order to prosecute said appeal, such owner shall, within fifteen (15) days after serving said notice upon the Mayor as aforesaid, make written application to said Judge of the Superior Court of the State of Delaware, in and for Sussex County, for the appointment of such a commission; and thereupon the said Judge shall issue an appoint a commission directed to five (5) freeholders of said county, three (3) of whom shall be residents of The Town of Millville, and two (2) of whom shall be nonresidents of said Town, requiring them to assess the damages which the owner of the real estate through or over which the said street, lane or alley shall pass or who shall have suffered damage because of any other action taken by the Town pursuant to the provisions hereof and who shall have notified the said Town Council of their intention to appeal may incur by reason thereof and to make a return of their proceeding to the said Judge at the time therein appointed.

(4) The freeholders named in such commission, being first duly sworn or affirmed, shall view the premises and may, or a majority of them, shall assess the damages, as aforesaid, and shall make return in writing of their proceedings to the said Judge who shall deliver and return to the Town Council which shall be final and conclusive. The said Judge shall have the power to fill any vacancy in the commission. The amount of damages being so ascertained, the Town Council may pay or tender the same to the person or persons entitled thereto within thirty (30) days after the same shall be finally ascertained or if the person or persons so entitled reside out of or are absent from the Town during the said period of thirty (30) days, then the same shall be deposited to his or her credit in the the banking institution as may be described by the Town Council, which institution shall be licensed in the State of Delaware and insured by the Federal Deposit Insurance Corporation or its successor, with offices in Georgetown, Sussex County, Delaware, within said time and thereupon the said property on lands may be taken or occupied for the use as aforesaid.

(5) If the ascertainment and assessment of damages by the freeholders appointed by the Judge, as aforesaid, shall be increased, the cost of the appeal shall be paid by the Town out of any money in the hands of the Treasurer belonging to the Town, but if said damages shall not be increased, the cost of the appeal shall be paid by the party appealing. The said freeholder members of the commission shall receive and be entitled for each day's actual service or of any part of a day the sum of Five Dollars (\$5.00). After the damage shall be fixed and ascertained by the freeholders, the Town Council shall have the option to pay the damages assessed within the time aforesaid, and to proceed with the said improvements or, upon the payment of the costs only, may abandon the proposed improvements. In the event that either party feels that the damages assessed are not just as being excessive or inadequate, an appeal may then be prosecuted at the Supreme Court of the State of Delaware.

CURBING AND PAVING

Section 33.(a) Whenever the Town Council shall have determined that any paving, graveling, curbing or any or all of them shall be done, it shall cause a notice to be sent to the owner or owners along or in front of whose premises the same is to be done, particularly designating the nature and character thereof and thereupon it shall be the duty of such owner or owners to cause such paving, graveling and/or curbing, or any of them, to be done in conformity with said notice. In the event any owner or owners neglect to comply with said notice for the space of thirty (30) days, the said Town Council may proceed to have the same done and when done, the Treasurer shall, as soon as convenient thereafter, present to the owner or owners of such lands a bill showing expenses of such paving, graveling and curbing, or any of them. If such owner or owners be not resident in The Town of Millville, such bills shall be sent by certified mail with postage prepaid or to such owner or owners directed to him, her or them at the last known address. If such bill be not paid by the owner or owners of such lands within sixty (60) days after the presentation thereof, as aforesaid, the Treasurer shall proceed to collect the same in the same manner and under the same terms and conditions as are provided for the collection of delinquent taxes.

(b) Any notice sent to one co-owner shall be notice to all owners and in the case no owners shall reside in said Town, notice served as set forth herein or posted upon the premises shall be sufficient.

(c) The provisions contained herein shall apply to any order made by the Town Council in respect to any pavement, sidewalk or curb heretofore made or done which the said Town Council may deem insufficient or need repairing.

COLLECTION OF CHARGES DUE THE TOWN

Section 34.(a) In the collection of any charges due the Town for water rentals, sewer service charges, electric bills, gas bills, license fees, tapping fees, front foot assessments, charges growing out of the abatement of nuisances, laying out and repairing paving, graveling, curbing, or any of them, such charges shall become a first lien against all real estate of the delinquent property owners and/or taxpayers situate within the Town and such charges shall have preference and priority for a period of Ten (10) years from the date the charge became due and owing to all other liens on real estate created or suffered by the taxable and property owner, although such other lien or liens be of a date prior to the time for the attaching of such liens for such charges.

(b) The remedies available to the Treasurer for the collection of such charges shall be the same as those set forth in this Charter for the collection of delinquent taxes.

POWER TO BORROW MONEY AND ISSUE BONDS

Section 35.(a) The Town Council may borrow money and issue bonds or certificates of indebtedness to secure the repayment thereof on the faith and credit of The Town of Millville to provide funds for the erection, extension, enlargement, purchase or the repair of any plant, machinery, appliances, or equipment for the supply, or the manufacture and distribution of electricity or gas for light, heat or power purposes; for the furnishing of water to the public, for the construction, repair and improvements of highways, streets or lanes or the paving, curbing or erection of gutters and curbs along the same; for the purchase of real estate for any municipal purpose; for the construction or repair of sewage disposal equipment; or to defray the cost or the share of the Town of the costs of any permanent municipal improvements; provided however that the borrowing of money therefor shall have been authorized for the Town Council in the manner following:

(1) The Town Council by resolution shall propose to the residents and property owners of the Town that the Town Council proposes to borrow a certain sum of money for any of the purposes above stated. The resolution shall state the amount of money desired to be borrowed, the purpose for which it is desired, the manner of securing the same, and all other pertinent facts relating to the loan which are deemed pertinent by the Town Council and in their possession at the time of the passage of the resolution and shall fix a time and place for a hearing on the said resolution.

(2) Notice of the time and place of the hearing on the resolution authorizing said loan shall be printed in a newspaper having a general circulation in the Town or distributed in circular form at least one week before the time set for the public hearing.

(3) Following the public hearing, a second resolution shall then be passed by the Town Council ordering a special election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing to borrow the said money, the said special election to be for the purpose of voting for or against the proposed loan. The passing of the second resolution calling a special election shall ipso facto be considered the determination of the Town Council to proceed with the matter in issue.

(4) The notice of the time and place of holding the said special election shall be printed in two (2) issues of a newspaper having a general circulation in The Town of Millville within thirty (30) days prior to the said special election or distributed in circular form at least fifteen (15) days prior to the special election, or both, at the discretion of the Town Council.

(5) At the said special election, any person who is entitled to vote in the annual Town election if it were held on that day shall be entitled to one vote. (For purposes of this section, "entitled to vote" shall include "registered to vote" if voter registration is required for the annual Town election; and in addition, every partnership, limited liability company or corporation or other entity owning property within the corporate limits of The Town of Millville shall also have one vote and the said votes may be cast either in person or by proxy.

(6) The Town Council shall cause to be prepared, printed and have available for distribution a sufficient number of ballots not less than five (5) days prior to the said special election. The special election may, at the discretion of the Town Council, be conducted by the use of voting machines or by paper ballot. The Mayor of The Town of Millville, by and with the advice and consent of the majority of the Town Council shall appoint three (3) persons to act as a Board of Special Election. The polling places shall be opened from 1:00 in the afternoon prevailing time until 7:00 in the evening prevailing time, on the date set for the special election.

(7) The Board of Special Elections shall count the votes for and against the proposed loan and shall announce the result thereof. The Board of Special Election shall make a certificate under their hands of the number of votes cast for and against the proposed loan and the number of void votes and shall deliver the same to the Town Council which said certificate shall be retained by the Town Council with the other papers of the Town Council.

(8) The form of the bond or certificate of indebtedness, the interest rate, the time or times of payment of interest, the classes of the bond, the time or times of maturity, and the provisions as to registration shall be determined by the Town Council after the said special election.

(9) The bonds may be sold at either public or private sale. If it is determined to sell the bonds at public sale, the bonds shall be offered for sale to the best and most responsible bidder therefor after advertisement in a manner to be prescribed by the Town Council.

(10) The Town Council shall provide in its budget and in the fixing of the rate of tax for the payment of interest on and principal of the said bonds at the maturity thereof.

(11) The faith and credit of The Town of Millville shall be deemed to be pledged for the due payment of the bonds and interest thereon issued pursuant to the provisions hereof when the same had been properly executed and delivered for value.

(b) The bonded indebtedness shall not at any time exceed in the aggregate the total sum of twenty-five (25) percent of the value of real property situate within the limits of The Town of Millville shown by the last assessment preceding the creation of the said indebtedness.

ACTIONS OR SUITS

Section 36. No action, suit or proceeding shall be brought or maintained against The Town of Millville for damages, either compensatory or punitive on account of any physical injury or injuries, death or injury to property by reason of the negligence, simple, gross, or willful or wanton of the said Town of Millville, or any of its departments, officers, agents, servants or employees unless the person by or on behalf of whom such claim or demand is asserted, within one (1) year from the happening of said injury or the suffering of such damages shall notify The Town of Millville in writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such notice shall be directed to the Mayor of The Town of Millville by certified mail with return receipt requested and postage prepaid.

COMPENDIUM

Section 37. It shall be the duty of the Town Council, at reasonable time or times, to compile the ordinances, current regulations, orders and rules of The Town of Millville. The Town Council shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. From time to time, upon the enactment of new ordinances, currents, rules and regulations, or upon the enactment of amendments to same, the Town Council shall enroll the same in the minutes of the Town Council and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. It shall furnish the Mayor of The Town of Millville copies thereof as they are enacted and therefrom may cause supplements to be compiled and printed to any compendium thereof heretofore printed as above provided.

REVIVAL OF POWERS AND VALIDATING SECTION

Section 38.(a) All powers conferred upon or vested in the Town Council of The Town of Millville by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in The Town of Millville and/or the Town Council of The Town of Millville precisely as of each of said powers was expressly set forth in this Charter.

(b) All ordinances adopted by The Commissioners of Millville and in force at the time of approval, acceptance and going into effect of this Charter are continued in force until the same or any of them shall be repealed, modified or altered by the Town Council of The Town of Millville under the provisions of this Charter.

(c) All of the acts and doings of the Commissioners of Millville or of any official of the Commissioners of Millville which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Commissioners of Millville or under any provision of any prior Charter of the Town Council of The Town of Millville, prior to the approval, acceptance and going into effect of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.

(d) All taxes, assessments, license fees, penalties, fines, and forfeitures due the Commissioners of Millville of The Town of Millville shall be due The Town of Millville and all debts from the Town or the Commissioners of Millville shall remain unimpaired until paid by The Town of Millville.

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

(f) The bonds given by or on account of any official of the Commissioners of Millville shall not be impaired or affected by the provisions of this Charter.

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

(h) If any part of this Charter shall be held to be unconstitutional or invalid by a Court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions of this Charter.

(i) This Charter shall be taken as and deemed to be a Public Act of the State of Delaware.

Approved April 04, 2000

CHAPTER 279

FORMERLY

HOUSE BILL NO. 456
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 288, VOLUME 64 LAWS OF THE STATE OF DELAWARE AS AMENDED, THE CHARTER OF THE TOWN OF LAUREL, AS AMENDED, WITH REGARD TO WHEN A VACANCY IS CREATED IN THE OFFICE OF MAYOR OR A MEMBER OF THE TOWN COUNCIL.

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

Amend Section 13 of Chapter 288, Volume 64, Laws of the State of Delaware, the Charter of The Town of Laurel, as amended, by deleting current Section 13 in its entirety and by substituting a new Section 13 to read as follows:

" VACANCIES

Section 13. In the case of a vacancy created in the office of Mayor, or a member of Council, by death, resignation, loss of residence, conviction of a violation the Standards of Conduct of The Town of Laurel for officials and employees (Chapter 12 of the Town Code), but only upon the passage, following such conviction, of a resolution declaring such vacancy by a majority of the members of the Town Council, not including the member of the Town Council who has been convicted of a violation of the aforesaid Standards of Conduct, or otherwise, the Town Council may fill such a vacancy, and the person so appointed shall serve for the unexpired term or until his or her successor shall be elected and qualified."

Approved April 11, 2000

CHAPTER 280

FORMERLY

HOUSE BILL NO. 500
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NOS. 3 AND 4

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

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

Section 1. Amend § 6077, Title 7 of the Delaware Code, by striking the section in its entirety and by substituting in lieu thereof the following:

"§ 6077. Issuance of certificate; limitations.

- (a) The Secretary shall issue a certificate of public convenience and necessity if the applicant therefor has submitted, together with the application, the following:
 - (1) evidence that all landowners of the proposed territory have received notification by certified mail of the filing of the application; and
 - (2) one of the following:

- a. evidence that the water in the proposed service area does not meet the regulations governing drinking water standards of the Department of Health and Social Services for human consumption; or
 - b. evidence that the supply is insufficient to meet the projected demand.
- (b) Alternatively, if a meritorious request for a public hearing is submitted by any person to the Secretary and a public hearing is held or, if no such request is submitted and no public hearing is held, the Secretary may issue or refuse to issue, a certificate of public convenience and necessity if the applicant therefore has submitted, together with the application the following:
 - (1) evidence that all landowners of the proposed territory have received notification by certified mail of the filing of the application; and
 - (2) one of the following:
 - a. a signed service agreement with the developer of a proposed subdivision or development, which subdivision or development has been duly approved by the respective county government; or
 - b. a petition requesting such service signed by a majority of the landowners of the proposed territory to be served; or
 - c. a duly certified copy of a resolution from the governing body of a county or municipality requesting the applicant to provide service to the proposed territory to be served.
- (c) For applications submitted pursuant to subsection (b) of this section, no certificate of public convenience and necessity shall be issued where a majority of the landowners of the proposed territory to be served object to the issuance thereof. Any landowner whose property, or any part thereof, is located within the proposed territory to be served shall be permitted to opt-out of inclusion in the territory prior to the issuance of a certificate of public convenience and necessity to a water utility applying to serve that territory.
- (d) Following issuance of a certificate of public convenience and necessity to a water utility, the Department shall not withhold a potable water well permit, or require an applicant for a potable water well permit in an area served by a water utility to utilize the services of the utility, unless:
 - (1) the Delaware Geological Survey or the Division of Public Health certifies that the groundwater supply is inadequate or unsuitable for the intended use for which the permit is being sought; or
 - (2) the utility demonstrates to the satisfaction of the Department that it can provide service of equal or better quality at lower cost; or
 - (3) the applicant is a resident of a municipality, county water district, or recorded development where public water is available.
- (e) Notwithstanding subsection (d)(2) and (3) above, following the issuance of a certificate of public convenience and necessity to a water utility, the Department shall not withhold a potable water well permit from any person seeking to dig or extend a well on a farm, farmland or the lands of any existing mobile home community, or an addition, modification, or extension of that mobile home community, which now self supplies potable water under existing permits in an area served by a water utility, nor shall it require that the person utilize the services of the utility.
- (f) Notwithstanding any other provision of this section, following the issuance of a certificate of public convenience and necessity to a water utility, the Department shall not withhold a non-potable water well permit from any person seeking to dig or extend a non-potable water well in an area serviced by a water utility, subject to the provisions of subsection (g) of this section.
- (g) Following the issuance of a non-potable water well permit in an area for which a certificate has been issued pursuant to subsection (a) above, the Secretary shall send a copy of the permit with conditions to the water utility providing water to that area. All non-potable water well permits issued in such an area shall include the following conditions:
 - (1) Water taken from the well is not to be used for human consumption; and

- (2) The well shall not, at anytime, be interconnected with any portion of any building's plumbing and/or any water utility's service connection; and
 - (3) Representatives of the Secretary and the water utility that serves the certificated area may inspect the well at any reasonable time to insure that there are no interconnections; and
 - (4) That the permit is subject to revocation upon any violation of its permit conditions; upon revocation, the well will be ordered to be abandoned by the Secretary.
- (h) Penalties shall be administered pursuant to § 6005 and § 6013 of this title.
- (i) For the purposes of this section, 'landowners of the proposed territory to be served' are persons who own property within the proposed territory to be served at the time that the application for a certificate of public convenience and necessity is submitted by the applicant to the Secretary for consideration."

Approved April 11, 2000

CHAPTER 281

FORMERLY

SENATE BILL NO. 64 AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE REQUIREMENT THAT TELEPHONE CALLS TO PUBLICLY LISTED STATE AGENCY TELEPHONE NUMBERS BE ANSWERED BY A PERSON.

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

Section 1. Amend Title 29 of the Delaware Code by adding a new section §607, which shall read as follows:

"§607. Use of Automated Answering Systems by State Agencies, Limitations.

All state agencies shall require that the publicly listed telephone number or numbers for that agency be answered by a person who can direct each call to the proper person or department within that agency during normal business hours. Notwithstanding the foregoing, the satellite offices of State agencies which have no more than one full-time employee to provide clerical and secretarial services shall be exempt from the requirements of this section. Publicly listed shall mean listed in a local telephone directory (i.e., Government Blue Pages). Normal business hours shall mean each Monday through Friday, except those days designated as holidays, during the hours in which the staff of that agency is scheduled to work.

Nothing in this section shall prohibit the internal use of voice mail or other advanced technologies if the agency finds them to be useful. However, any such system shall contain within its message a description of normal business hours and a phone number which will be answered by a person during normal business hours. An automated call distribution system in high volume customer service areas designed to minimize waiting times shall be permissible under this section provided that the system provides callers with an option to speak directly with an agency representative if they should choose to do so."

Section 2. This act shall take effect 60 days following its enactment into law.

Approved April 11, 2000

CHAPTER 282

FORMERLY

SENATE BILL NO. 227

AN ACT TO AMEND SECTION 149 OF TITLE 17 OF THE DELAWARE CODE RELATING TO
CLASSIFICATION OF MISDEMEANOR OFFENSES.

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

Section 1. Amend Section 149(b), Title 17, Delaware Code by deleting the phrase "Class C" appearing therein and inserting in lieu thereof the phrase "Class B".

Approved April 11, 2000

CHAPTER 283

FORMERLY

SENATE BILL NO. 265
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE ESTABLISHMENT AND
OBSERVANCE OF DELAWARE HEAD START WEEK.

WHEREAS, Head Start Programs began in Delaware, as throughout the United States, as early as 1965 to serve the early and pre-educational needs of children and families with limited resources; and

WHEREAS, Early Childhood Assistance Programs began in Delaware in 1994 to supplement the pre-educational needs of children and families with limited resources; and

WHEREAS, the provision of Head Start and Early Childhood Assistance Programs and others has demonstrated Delaware's commitment to serving the early and pre-educational needs of children and families with limited resources; and

WHEREAS, Head Start and Early Childhood Assistance Programs, through efficient and effective use of funds appropriated to them, and through the establishment of partnerships with state and private entities including, among others, school districts, private child care providers, local colleges and universities, the State Department of Health and Social Services, and community groups, have established comprehensive programs for the education, health, nutrition, and familial support of their clients; and

WHEREAS, the beneficiaries of Head Start and Early Childhood Assistance Programs include not only the over 2,500 children who participate in them, but also the families of those children, who receive classes on parenting, personal finance and others, and through whose volunteer efforts the programs themselves are advanced and are able to remain efficient and effective; and

WHEREAS, the cumulative benefits of Head Start and Early Childhood Assistance Programs can be seen throughout the State through the many families who, having once participated in them, now volunteer for them and have provided for themselves a higher quality of life;

NOW THEREFORE:

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

Section 1. Amend Chapter 21, Title 29 of the Delaware Code, by redesignating § 2111, § 2112, § 2113 and § 2114 therein as § 2112, § 2113, § 2114 and § 2115 respectively and by inserting therein a new section designated as § 2111 as follows:

"§ 2111. Observance of Delaware Head Start Week

(a) The Governor shall proclaim the last week of the month of March each year as Delaware Head Start Week.

Chapter 283
Vol. 72

- (b) The Governor shall issue annually a proclamation calling upon all administrators, staff and volunteers at all Head Start Programs and Early Childhood Assistance Programs in the State to arrange special programs during and in observance of Delaware Head Start Week and calling upon the people of the entire State to observe it in some fitting manner."

Approved April 11, 2000

CHAPTER 284

FORMERLY

HOUSE BILL NO. 121
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 67A, TITLE 18 OF THE DELAWARE CODE RELATING TO FUNERAL EXPENSES OF VOLUNTEERS.

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

Section 1. Amend § 6750, Title 18, Delaware Code by striking the section in its entirety and substituting in lieu thereof the following:

"The reasonable funeral expenses of a deceased member of a volunteer fire company, volunteer fire company ladies auxiliary, or volunteer ambulance and rescue company shall be paid in amount not to exceed \$6,000. If the deceased member of such company was a state employee entitled to a funeral benefit, this chapter shall not apply. A member of a volunteer fire company, volunteer fire company ladies auxiliary or volunteer ambulance and rescue company for the purposes of this chapter is one who has served as an active member of such organization in Delaware for at least 10 years."

This Act shall be effective July 1, 1999.

Approved April 13, 2000

CHAPTER 285

FORMERLY

HOUSE BILL NO. 367
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO THE POSSESSION OF POISONOUS SNAKES.

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

Section 1. Amend § 7201, Title 3 of the Delaware Code, by adding the following language at the end of the existing text:

"Notwithstanding any provision of this Chapter to the contrary, except for medical or psychological research or for display in any licensed zoological park or traveling circus, no person shall bring into this State, possess, sell or exhibit any poisonous snake not native to or generally found in Delaware where the venom of such snake poses a risk of serious injury or death to a human, and no permit for the same shall be issued by the Department of Agriculture."

Approved April 18, 2000

CHAPTER 286

FORMERLY

SENATE BILL NO. 297

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 :

Section 1. Amend Title 5 of the Delaware Code by adding thereto a new §145, as follows:

"§145. Financial institution supervisory privilege.

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

(1) 'Confidential supervisory information' means any of the following information, or any portion of any such information, other than any ordinary business record, which is treated as, or considered to be, confidential information by the Commissioner, regardless of the medium in which the information is conveyed or stored:

a. Any report of examination and any information prepared or collected by the Commissioner or the Commissioner's designee in connection with the supervisory process, including any computer file, work paper, or similar document.

b. Any correspondence or communication from the Commissioner or the Commissioner's designee to a financial institution as part of an examination or otherwise in connection with the supervisory process.

c. Any correspondence, communication, or document, including any compliance and other reports, created by a financial institution in response to any request, inquiry, or directive from the Commissioner or the Commissioner's designee in connection with any examination or other supervisory process and provided to the Commissioner or the Commissioner's designee.

d. Any record of the Commissioner to the extent it contains information derived from any report, correspondence, communication or other information described above in subparagraph a., b., or c. of this subsection.

(2) 'Ordinary business record' means any book or record in the possession of the financial institution routinely prepared by the financial institution and maintained in the ordinary course of business or any information required to be made publicly available by any law or regulation of this State or of the United States.

(3) 'Supervisory process' means any activity engaged in by the Commissioner or the Commissioner's designee to carry out the official responsibilities of the Commissioner with regard to the regulation or supervision of financial institutions.

(b) All confidential supervisory information shall be the property of the Commissioner and shall be privileged and protected from disclosure to any other person and shall not be discoverable or admissible into evidence in any civil action; provided, however, that the Commissioner may waive, in whole or in part, in the discretion of the Commissioner, any privilege established under this section, except as otherwise provided in §125 of this title.

(c) No person in possession of confidential supervisory information may disclose such information, in whole or in part, without the prior authorization of the Commissioner, except for a disclosure made in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the affairs of any person.

(d) The Commissioner may require any person in possession of confidential supervisory information to notify the Commissioner whenever the person is served with a subpoena, order, discovery request, or other judicial or administrative process requiring the personal attendance of such person as a witness or requiring the production of such information in any proceeding.

(e) In any proceeding in this State, in which a person seeks to compel production or disclosure by any person of any information or document prepared or collected by any bank regulatory or supervisory authority that would, had it been prepared or collected by or on behalf of the Commissioner, be confidential supervisory information for purposes of this section, such information or document shall be privileged to the same extent that confidential supervisory information is privileged in accordance with this section.

(f) The submission by a financial institution of any information to the Commissioner for any purpose in the course of the supervisory process shall not be construed as waiving, destroying, or otherwise affecting any privilege such institution may claim with respect to such information.

(g) A person seeking discovery or disclosure, in whole or in part, of confidential supervisory information may not seek to obtain such information through subpoena, discovery procedures, or other process from any person, except that such information may be sought in accordance with this section from the Commissioner, who shall determine in accordance with the standard established in §125 of this title and within a reasonable period of time whether to disclose such information.

(h) Notwithstanding any other provision of this section or §125 of this title, the Commissioner, without waiving any privilege, may authorize access to confidential supervisory information for any appropriate governmental, law enforcement, or public purpose, as determined by the Commissioner."

Section 2. Amend §168 of Title 5 of the Delaware Code by inserting in the title thereof the words and punctuation "; authority for emergency acquisitions" after the word "Exceptions" 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) Notwithstanding any other provision of this title, the Commissioner may approve the change of control of any Delaware chartered bank or trust company upon determining that the Delaware chartered bank or trust company is in default or in danger of default; provided, however, that the Delaware chartered bank or trust company has not been caused to be in default or in danger of default for the specific purpose of engaging in a change of control transaction pursuant to this subsection. For purposes of this subsection, the term 'in danger of default' with respect to a Delaware chartered bank or trust company means that, in the opinion of the Commissioner, the Delaware chartered bank or trust company is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business and there is no reasonable prospect that it will be able to meet such demands or pay such obligations without assistance, or the Delaware chartered bank or trust company has incurred or is likely to incur losses that will deplete all or substantially all of its capital and there is no reasonable prospect that its capital will be replenished without assistance."

Section 3. Amend subsection (3) of §2702 of Title 5 of the Delaware Code by inserting the words and punctuation "federal savings bank, federal credit union or other person authorized by the laws of the United States to engage in the business of cashing checks, drafts or money orders in this State," after the words and punctuation "federal reserve bank," and before the words "or to any person".

Section 4. Amend subsection (a) of §2902 of Title 5 of the Delaware Code by deleting the words and punctuation "no state bank or trust company, or any national bank, authorized to do business in this State shall be required to obtain a license under this chapter but shall comply with all of the other provisions of this chapter" and inserting in lieu thereof the words and punctuation "the licensing requirements of this chapter shall not apply to any banking organization, federal credit union or insurance company, or any other person, if and to the extent that such person is engaging in the business of a sales finance company in this State in accordance with and as authorized by any other applicable law of this State or the United States,".

Section 5. Amend §2902 of Title 5 of the Delaware Code by adding thereto a new subsection "(h)", as follows:

"(h) The Commissioner shall be authorized to exempt from any or all of the provisions of this chapter such persons or classes of persons as the Commissioner shall find inappropriate to include within the coverage of this chapter in order to effectuate the purposes of this chapter. The Commissioner may by regulation establish procedures for application, fees and other requirements for an exemption pursuant to this subsection."

Section 6. If any provision of this Act or the application of any section or part thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application.

Section 7. The provisions of this Act shall be effective upon its enactment into law.
Approved April 18, 2000

CHAPTER 287
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 300
AS AMENDED BY SENATE AMENDMENT NO. 9
AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO NEIGHBORHOOD SCHOOLS.

WHEREAS, a public school system where children attend schools in their community and close to their homes has broad support among Delawareans;

WHEREAS, most parents prefer that their children attend schools close to their homes and in their communities thereby minimizing transportation time between home and school;

WHEREAS, reducing the need for extended transportation to and from school better enables children to arrive at schools rested and ready to learn;

WHEREAS, neighborhood schools foster a sense of pride in the community and can serve as a focal point for community activities;

WHEREAS, it is crucial that parents have significant input at the local level in terms of where their children attend school;

WHEREAS, feeder patterns decisions traditionally have been made at the local level thereby providing parents significant input in those decisions;

WHEREAS, the State recognizes that the Appoquinimink School District and existing non vocational school districts in Kent and Sussex Counties may want to consider alternative attendance feeder patterns and/or grade configurations;

WHEREAS, Delaware's schools in Northern New Castle County were subject to a Federal Consent Decree for many years which mandated certain school feeder patterns but that consent decree has been lifted;

WHEREAS, children living in the City of Wilmington currently attend schools in the Brandywine School District, the Red Clay School District, Christiana School District or the Colonial School District; and

WHEREAS, it is important that any plan for neighborhood schools is fair to all children and that all residents of Northern New Castle County have input in what schools their children attend and how those schools are run.

NOW, THEREFORE:

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

Section 1. This Act shall be known as the Neighborhood Schools Act of 2000.

Section 2. Amend Title 14, Delaware Code by designating current § 202 through § 207 as "Subchapter I. System of Free Public Schools" and inserting as new subchapter II the following:

"Subchapter II. Neighborhood schools.

§ 220. Purpose

It is the intent and purpose of the General Assembly through this subchapter to establish and implement a plan for neighborhood schools in Northern New Castle County that is fair and equitable to all affected children in New Castle County.

§ 221. Definitions.

- (1) 'District' or 'districts' means Brandywine School District, Colonial School District, Christina School District, and/or Red Clay Consolidated School District, either jointly or severally, as context indicates.
- (2) 'Committee' means the Wilmington Neighborhood Schools Committee.
- (3) 'Plan' means a Neighborhood School Plan.

§ 223. Wilmington Neighborhood Schools Committee.

- (a) The Wilmington Neighborhood Schools Committee shall consist of seventeen (17) members as follows:
 - (1) Two members designated by the Mayor of the City of Wilmington;
 - (2) Three members designated by the President of City Council for the City of Wilmington;
 - (3) One member designated by the Governor with such member being a resident of the City of Wilmington;
 - (4) One member designated by the President Pro Tempore of the Senate with such member being a resident of the City of Wilmington;
 - (5) One member designated by the Speaker of the House of Representatives with such member being a resident of the City of Wilmington;
 - (6) Two members representing the Wilmington business community designated by the Mayor;
 - (7) One member from a community based organization designated by the Mayor;
 - (8) One member from a community based organization designated by the President of City Council;
 - (9) One member from each of the four school boards with such persons serving from a Wilmington nominating district; and
 - (10) One member residing in the City of Wilmington and representing the New Castle County Vo-Tech School District.
- (b) Each member shall serve at the pleasure of the holder of the office or the entity having the authority to appoint the member to the Committee. The Chairperson of the Committee shall be designated by the Mayor from the seventeen members and serve as Chairperson at the pleasure of the Mayor. The majority of the Committee shall constitute a quorum and no motion or resolution of the Committee may be adopted without the approval of a majority of its members.
- (c) The Committee shall not be compensated but shall be reimbursed for reasonable and necessary travel expenses incurred in connection with the performance of its official duties. Funding for the research and analysis required by this section shall also be provided by the Department of Education.
- (d) The Committee shall review and analyze current public school feeder patterns, current resource allocations among the districts, current populations of children residing in the City of Wilmington attending public schools and population projections for children residing in the City of Wilmington likely to attend public schools in the future.
- (e) Based on the information and analysis, the Committee shall submit recommendations to the Mayor of the City of Wilmington and the City Council by January 3, 2001 concerning the creation of a Wilmington School District, neighborhood schools within the current district configurations

or neighborhood schools under some alternative district configuration. The recommendations shall identify specific time-lines for implementation as well as specific actions, legislative or otherwise, required to implement the recommendations. The recommendations shall also estimate the costs or savings both in terms of capital expense and/or operational expense based on existing unit count allocations and the required local match. Prior to submitting the recommendations, the Committee shall hold at least five (5) public hearings to take testimony and questions from members of the public and other interested stakeholders.

- (f) Upon review and consideration of the Committee's recommendations, the City Council and the Mayor of the City of Wilmington shall forward their plan on behalf of the City of Wilmington to the General Assembly by March 15, 2001. The plan shall identify specific time-lines for implementation as well as specific actions, legislative or otherwise, required to implement the recommendations. The plan shall also estimate the costs or savings both in terms of capital expense and/or operational expense based on existing unit count allocations and the required local match. The General Assembly shall act on the plan by June 30, 2001.

§ 224 Neighborhood School Plans

- (a) In the context of the plan submitted, or lack thereof, pursuant to § 223(f) of this subchapter and any action taken by the General Assembly and the Governor to implement the Wilmington plan, the school boards of Brandywine School District, Colonial School District, Christina School District, and Red Clay Consolidated School District shall develop a Neighborhood School Plan for their districts that assigns every student within the district to the grade-appropriate school closest to the student's residence, without regard to any consideration other than geographic distance and the natural boundaries of neighborhoods. Notwithstanding the above, the Plan may assign students to schools based on factors other than geographic distance and natural neighborhood boundaries if a substantial hardship to a school or school district, student, or a student's family exists; provided, that, no student shall be assigned to any school on the basis of race and school assignments shall be made without regard to the racial composition of the schools. Districts may consider as part of their neighborhood school plans, inter-district school assignments for individual schools, with the concurrence of other districts, to the extent such assignments further the purposes of this Act.

- (b) Neighborhood School Plans shall consist of the following grade configurations:

- (1) A lower-level school, or elementary school, consisting of either grades K-5 or grades K-6;
- (2) A middle-level school, or junior high school, consisting of either grade 6 or 7 to grade 8 or 9; or
- (3) An upper-level school, or high school, consisting of either grades 9-12 or grades 10-12.

If a district has only 2 school configurations, the plan may contain any combination of grade levels. To the extent a district concludes that an alternative configuration would better accomplish the goals of this Act, the district may present an alternative neighborhood school plan in addition to the plan based on the above configurations.

- (c) Each district shall hold at least 5 public hearings concerning their proposed plan prior to submission to the State Board of Education.

(d) The school board of each district shall submit its plan to the State Board of Education by November 15, 2001 for its review and approval. If approved, the State Board of Education shall notify the Budget Director and Controller General who shall, subject to an annual appropriation, release to the district a one-time payment of \$1.25 million from the General Fund for transition costs incurred by the district in implementing the Plan. If the State Board of Education does not approve the plan, it shall notify the district in writing, identify the reasons why the plan was not approved and require the district to re-submit the plan within 60 days of the notice of denial. If the district fails to re-submit the plan in accordance with this Act within 60 days, the State Board of Education shall refer the matter to the Attorney General's Office to bring an action in a court of competent jurisdiction to compel compliance with this subsection.

- (e) A district that, as a result of its Plan, reduces its student transportation expenses from its student transportation expenses for FY 2001 shall receive payment for the difference between those

expenses, as calculated each year, for 10 years. The district shall use the payments for general education expenses.

- (f) Each district shall implement its Neighborhood School Plan within 18 months of receiving payment of one-time transition costs pursuant to subsection (c) of this section.
- (g) A citizen with standing may bring a private cause of action in a court of competent jurisdiction to enforce the requirements of this section.
- (h) Nothing in this section is intended to deny or interfere with a student attending a special education program, an alternative school or a charter school, or electing to attend a school through the enrollment choice program."

Section 3. The Appoquinimink School Districts and existing non-vocational school districts in Kent and Sussex Counties may submit plans proposing alternative attendance feeder patterns and/or alternative grade configurations to the State Board of Education and if approved, pursuant to the process outlined in §224(d), shall receive payment of \$350,000.00 for one-time transition costs to implement the plan.

Section 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved April 20, 2000

CHAPTER 288

FORMERLY

HOUSE BILL NO. 436

AN ACT TO AMEND TITLE 29 RELATING TO THE STATE SOIL.

WHEREAS, it appears that a majority of the states of the United States of America, having significant concern for soil, have by legislative enactments chosen a particular soil to be known as their state soil; and

WHEREAS, the State of Delaware has significant concern for soil; and

WHEREAS, Delaware's soils play a vital part in the quality of life and welfare of all Delawareans; and

WHEREAS, soils enhance water quality, agriculture, wildlife habitat, and natural landscape beauty; and

WHEREAS, the Greenwich loam (a course, loamy, mixed, semiactive, mesic, Typic Hapludult) is commonly found in all counties in Delaware; and

WHEREAS, the State of Delaware has yet to designate a state soil;

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 inserting therein a new section as follows:

"§ 315 State soil.

Greenwich loam (a course, loamy, mixed, semiactive, mesic, Typic Hapludult) is the official soil of the State."

Approved April 20, 2000

CHAPTER 289

FORMERLY

SENATE BILL NO. 280
AS AMENDED BY HOUSE AMENDMENT NOS. 3, 5, 7, 8, AND 11 AND
SENATE AMENDMENT NOS. 1, 2 AND 10

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

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

Section 1. Amend § 6002, Title 7 of the Delaware Code, by inserting therein, between subsections (9) and (11) thereof, a new subsection designated as subsection (10), and by redesignating the remaining subsections as appropriate, as follows:

"(10) 'Incinerator,' 'incinerator structure or facility,' and 'waste incinerator,' include any structure or facility operated for the combustion (oxidation) of solid waste, even if the byproducts of the operation include useful products such as steam and electricity. 'Incinerator' shall not include the following activities: 1) crematoriums; 2) disposal of the bodies of animals through incineration; 3) the burning of poultry waste or poultry manure at the same site where the waste or manure was generated, which shall include the burning of poultry waste or poultry manure generated upon an adjacent farm; 4) disposal of all materials used in the discovery, development, and manufacture of veterinary products, medicines and vaccines; or 5) the disposition of mortalities from poultry operations in facilities approved by the Delaware Department of Natural Resources and Environmental Control which comply with United States Department of Agricultural Natural Resources Conservation Service Interim Conservation Practice Standard Incinerator 769, or any successor standard."

Section 2. Amend § 6003(c), Title 7 of the Delaware Code, by inserting a colon (":") immediately after the word "and" as it appears therein.

Section 3. Further Amend § 6003(c), Title 7 of the Delaware Code, by designating the phrase, "no permit may be granted unless the county or municipality having jurisdiction has first approved the activity by zoning procedures provided by law" as subsection (1) thereof, by striking the period at the end thereof and by substituting in lieu thereof the phrase, "; and".

Section 4. Further Amend § 6003(c), Title 7 of the Delaware Code, by adding thereto the following new subsection:

"(2) no permit may be granted to any incinerator unless:

- a. the property on which the incinerator is or would be located is within an area which is zoned for heavy industrial activity; and shall be subject to such process rules, regulations or ordinances as the county, municipality or other government entity shall require by law, such as a conditional use, so that conditions may be applied regarding the health, safety and welfare of the citizens within the jurisdiction; and
- b. every point on the property boundary line of the property on which the incinerator is or would be located is (i) at least 3 miles from every point on the property boundary line of any residence, (ii) at least 3 miles from every point on the property boundary line of any residential community, and (iii) at least 3 miles from every point on the property boundary line of any church, school, park, or hospital."

Section 5. Amend § 6003, Title 7 of the Delaware Code, by adding thereto the following new subsection:

"(i) No county, municipality, or other governmental entity shall issue any building, placement, storage, or occupancy permit or license to any person intending to operate an incinerator unless

"(1) No county, municipality, or other governmental entity shall issue any building, placement, storage, or occupancy permit or license to any person intending to operate an incinerator unless:

- (1) the property on which the incinerator is or would be located is within an area which is zoned for heavy industrial activity; and shall be subject to such process rules, regulations or ordinances as the county, municipality or other government entity shall require by law, such as a conditional use, so that conditions may be applied regarding the health, safety and welfare of the citizens within the jurisdiction; and
- (2) every point on the property boundary line of the property on which the incinerator is or would be located is:
 - a. at least 3 miles from every point on the property boundary line of any residence;
 - b. at least 3 miles from every point on the property boundary line of any residential community; and
 - c. at least 3 miles from every point on the property boundary line of any church, school, park, or hospital."

Section 6. Amend § 6002(23), Title 7 of the Delaware Code, by inserting therein, between the term 'refuse,' and the phrase 'sludge from a waste treatment plant,' the phrase, 'refuse-derived fuel, demolition and construction waste wood,'.

Section 7. Further Amend § 6002(23), Title 7 of the Delaware Code, by adding thereto at the end of said subsection, the following sentence:

"Bi-products of a uniform and known composition produced as a result of a production process are not solid wastes when incinerated on-site. All incinerators under State permit as of 3/1/00, and renewal permit applications for these incinerators shall not come under the provisions of this bill."

Section 8. The Delaware Nutrient Management Commission will review the needs of the agriculture community regarding disposal of various waste or byproducts and the existing technology and means for such disposal. This committee shall report to the Governor and General Assembly its findings and recommendations including any proposed legislation relating to incinerators no later than March 15, 2002.

Approved April 25, 2000

CHAPTER 290

FORMERLY

HOUSE BILL NO. 408

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

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

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

Section 1. Amend § 8701(b), Title 11 of the Delaware Code, by striking number "25" appearing therein, and by inserting in lieu thereof the number "26".

Section 2. Amend § 8701(b), Title 11 of the Delaware Code, by adding a new numbered paragraph as follows:

"(23) A sitting judge of the United States District Court for the District of Delaware as designated by the Chief Judge of the United States District Court for the District of Delaware."

Section 3. Amend § 8701(b)(19), Title 11 of the Delaware Code, by striking the phrase "The Superintendent of Public Instruction" and inserting in lieu thereof "The Secretary of Education."

Approved April 28, 2000

CHAPTER 291

FORMERLY

HOUSE BILL NO. 508
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO THE THOROUGHBRED
RACING COMMISSION'S LICENSE AND ADMINISTRATIVE FEES.

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

Section 1. Amend § 10131(b), Title 3 of the Delaware Code, by inserting immediately after § 10131(b)(4) the following:

- "(5) \$25 for each stable name.
- (6) \$25 for each partnership
- (7) \$50 for each authorized agent."

Section 2. Amend § 10131(c), Title 3, of the Delaware Code by inserting after the phrase "January 1, 1996", the phrase, "; however, paragraphs (b)(5), (b)(6), and (b)(7) of this section shall be retroactive to January 1, 2000."

Approved April 28, 2000

CHAPTER 292

FORMERLY

HOUSE BILL NO. 509

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO THE THOROUGHBRED
RACING COMMISSION'S MEMBERSHIP IN AN INTERSTATE COMPACT FOR UNIFORM
LICENSURE OF PARTICIPANTS.

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

§ 1. Amend Chapter 101 , Title 3 of the Delaware Code, by adding the following new subchapter:

"Subchapter V. Interstate Licensing Compact

§ 10180. Short title.

This compact shall be known and may be cited as the "Interstate Compact for Uniform Licensure of Participants."

§ 10181. Compact.

The State of Delaware is hereby authorized to enter into the following compact subject to the terms and conditions stated in the Compact.

§ 10182. Purposes.

The purpose of this compact is to:

(a) Establish uniform requirements among the party states for the licensing of participants in live horse racing with pari-mutuel wagering and ensure that all such participants who are licensed pursuant to this compact meet a uniform minimum standard of honesty and integrity.

(b) Facilitate the growth of the horse racing industry in each party state and nationwide by simplifying the process for licensing participants in live racing, and reduce the duplicative and costly process of separate licensing by the regulatory agency in each state that conducts live horse racing with pari-mutuel wagering.

(c) Authorize the Delaware Thoroughbred Racing Commission to participate in this compact.

(d) Provide for participation in this compact by officials of the party states, and permit those officials, through the Compact Committee established by this compact, to enter into contracts with governmental agencies and nongovernmental persons to carry out the purposes of this compact.

(e) Establish the Compact Committee created by this compact as an interstate governmental entity duly authorized to request and receive criminal history record information from the Federal Bureau of Investigation and other state and local law enforcement agencies.

§ 10183. Definitions.

(a) "Compact Committee" means the organization of officials from the party states that is authorized and empowered by this compact to carry out the purposes of this compact.

(b) "Official" means the appointed, elected, designated or otherwise duly selected representative of a racing commission or the equivalent thereof in a party state who represents that party state as a member of the Compact Committee.

(c) "Participants in live racing" means participants in live horse racing with pari-mutuel wagering in party states.

(d) "Party state" means each state that has enacted this compact.

(e) "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico and each territory or possession of the United States.

§ 10184. Entry into Force, Eligible Parties, and Withdrawal.

This compact shall come into force when enacted by any four (4) states. Thereafter, this compact shall become effective as to any other state upon both (i) that state's enactment of this compact and (ii) the affirmative vote of a majority of the officials on the Compact Committee as provided in § 10189.

§ 10185. States eligible to join compact.

Any state that has adopted or authorized horse racing with pari-mutuel wagering shall be eligible to become party to this compact.

§ 10186. Withdrawal from compact and impact thereof on force and effect of compact.

Any party state may withdraw from this compact by enacting a statute repealing this compact, but no such withdrawal shall become effective until the head of the executive branch of the withdrawing state has given notice in writing to the head of the executive branch of all other party states. If as a result of withdrawals participation in this compact decreases to less than three (3) party states, this compact no longer shall be in force and effect unless and until there are at least three (3) or more party states again participating in this compact.

§ 10187. Compact Committee.

(a) There is hereby created an interstate governmental entity to be known as the "Compact Committee," which shall be comprised of one (1) official from the racing commission or its equivalent in each party

state who shall be appointed, serve and be subject to removal in accordance with the laws of the party state he represents. Pursuant to the laws of his or her party state, each official shall have the assistance of his or her state's racing commission or the equivalent thereof in considering issues related to licensing of participants in live racing and in fulfilling his or her responsibilities as the representative from his or her state to the Compact Committee. If an official is unable to perform any duty in connection with the powers and duties of the Compact Committee, the racing commission or equivalent thereof from his or her state shall designate another of its members as an alternate who shall serve in his or her place and represent the party state as its official on the Compact Committee until that racing commission or equivalent thereof determines that the original representative official is able once again to perform his or her duties as that party state's representative official on the Compact Committee. The designation of an alternate shall be communicated by the affected state's racing commission or equivalent thereof to the Compact Committee as the committee's bylaws may provide.

(b) Delaware's delegate to the Compact Committee shall be appointed by the Governor with the advice and consent of the Senate, and shall serve until his or her successor is confirmed.

§ 10188. Powers and duties of Compact Committee.

In order to carry out the purposes of this compact, the Compact Committee is hereby granted the power and duty to:

(a) Determine which categories of participants in live racing, including but not limited to owners, trainers, jockeys, grooms, mutuel clerks, racing officials, veterinarians, and farriers, should be licensed by the committee, and establish the requirements for the initial licensure of applicants in each such category, and the requirements for renewal of licenses in each category. Provided, however, that with regard to requests for criminal history record information on each applicant for a license, and with regard to the effect of a criminal record on the issuance of a license to an applicant, the licensure requirements for each category of participants in live racing that the Compact Committee decides to license shall be comparable to the most restrictive licensure requirements of any party state for that category.

(b) Investigate applicants for a license from the Compact Committee and, as permitted by federal and state law, gather information on such applicants, including criminal history record information from the Federal Bureau of Investigation and relevant state and local law enforcement agencies, and, where appropriate, from the Royal Canadian Mounted Police and law enforcement agencies of other countries, necessary to determine whether a license should be issued under the licensure requirements established by the committee as provided in subsection (a) above. Only officials on, and employees of, the Compact Committee may receive and review such criminal history record information, and those officials and employees may use that information only for the purposes of this compact. No such official or employee may disclose or disseminate such information to any person or entity other than another official on or employee of the Compact Committee. The fingerprints of each applicant for a license from the Compact Committee shall be taken by the Compact Committee, its employees, or its designee and, pursuant to Public Law 92-544 or Public Law 100-413, shall be forwarded to a state identification bureau, or to the Association of Racing Commissioners, International, an association of state officials regulating parimutuel wagering designated by the Attorney General of the United States, for submission to the Federal Bureau of Investigation for a criminal history record check. Such fingerprints may be submitted on a fingerprint card or by electronic or other means authorized by the Federal Bureau of Investigation or other receiving law enforcement agency.

(c) Issue licenses to, and renew the licenses of, participants in live racing listed in sub§ (a) of this § who are found by the committee to have met the licensure and renewal requirements established by the committee. The Compact Committee shall not have the power or authority to deny a license. If it determines that an applicant will not be eligible for the issuance or renewal of a compact committee license, the Compact Committee shall notify the applicant that it will not be able to process his application further. Any such applicant shall have the right to present additional evidence to, and to be heard by, the Compact Committee, but the final decision on issuance or renewal of the license shall be made by the Compact Committee using the requirements established pursuant to sub§ (a) of this §.

(d) Enter into contracts or agreements with governmental agencies and with nongovernmental persons to provide personal services for its activities and such other services as may be necessary to effectuate the purposes of this compact.

(e) Create, appoint, and abolish those offices, employments, and positions, including an executive director, as it deems necessary for the purposes of this compact, prescribe their powers, duties

and qualifications, hire persons to fill those offices, employments and positions, and provide for the removal, term, tenure, compensation, fringe benefits, retirement benefits and other conditions of employment of its officers, employees and other positions.

(f) Borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, corporation or other entity.

(g) Acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or in other similar manner, in furtherance of the purposes of this compact.

(h) Charge a fee to each applicant for an initial license or renewal of a license.

(i) Receive other funds through gifts, grants and appropriations.

§ 10189. Voting requirements.

(a) Each official shall be entitled to one (1) vote on the Compact Committee.

(b) All action taken by the Compact Committee with regard to the addition of party states as provided in § 10184, the licensure of participants in live racing, and the receipt and disbursement of funds shall require a majority vote of the total number of officials (or their alternates) on the committee. All other action by the Compact Committee shall require a majority vote of those officials (or their alternates) present and voting.

(c) No action of the Compact Committee may be taken unless a quorum is present. A majority of the officials (or their alternates) on the Compact Committee shall constitute a quorum.

§ 10190. Administration and management.

(a) The Compact Committee shall elect annually from among its members a chairman, a vice-chairman, and a secretary/treasurer.

(b) The Compact Committee shall adopt bylaws for the conduct of its business by a two-thirds vote of the total number of officials (or their alternates) on the committee at that time and shall have the power by the same vote to amend and rescind these bylaws. The committee shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendments thereto with the Secretary of State or equivalent agency of each of the party states.

(c) The Compact Committee may delegate the day-to-day management and administration of its duties and responsibilities to an executive director and his or her support staff.

(d) Employees of the Compact Committee shall be considered governmental employees.

§ 10191. Immunity from liability for performance of official acts and duties.

Officials of party states shall not be held personally liable for any non-intentional act or omission that occurs during the performance of their official responsibilities and duties under this compact.

§ 10192. Rights and responsibilities of each party state.

(a) By enacting this compact, each party state:

1. Agrees to accept the decisions of the Compact Committee regarding the issuance of Compact Committee licenses to participants in live racing pursuant to the committee's licensure requirements.

2. Reserves the right (i) to charge a fee for the use of a Compact Committee license in that state, (ii) to apply its own standards in determining whether, on the facts of a particular case, a Compact Committee license should be suspended or revoked, (iii) to apply its own standards in determining licensure eligibility, under the laws of that party state, for categories of participants in live racing that the Compact Committee determines not to license and for individual participants in live racing who do not meet the licensure requirements of the Compact Committee, and (iv) to establish its own licensure standards for the licensure of non-racing employees at horse racetracks and employees at separate satellite wagering facilities. Any party state that suspends or revokes a Compact Committee license shall, through its racing commission or the equivalent thereof or otherwise, promptly notify the Compact Committee of that suspension or revocation.

3. Agrees to reimburse or otherwise pay the expenses of its official representative on the Compact Committee or its alternate.

(b) No party state shall be held liable for the debts or other financial obligations incurred by the Compact Committee.

§ 10193. Construction and Severability.

This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact shall be severable, and, if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of the United States or of any party state, or the applicability of this compact to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If all of some portion of this compact is held to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters."

Approved April 28, 2000

CHAPTER 293

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 77

AN ACT TO AMEND TITLE 6, DELAWARE CODE CREATING A DELAWARE PET WARRANTY LAW.

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

Section 1. Amend Title 6, Delaware Code by adding thereto a new Chapter 40 to read as follows:

"Chapter 40. PET WARRANTIES

§4001. Definitions.

(a) As used in this chapter, the following words shall have the meaning ascribed to them:

(1) 'Seller' means any person, business or other entity engaging in the sale of dogs, except that this definition does not encompass the sale of dogs on the premises of and by a public shelter, pound or other entity operating as a nonprofit organization pursuant to Delaware law. Persons selling fewer than 20 dogs, or 3 litters, whichever is greater, in a single calendar year shall be exempt from the provisions of this chapter.

(2) 'Purchaser' means any person purchasing a dog from a seller, as defined by this section.

(3) 'Clinically ill' means an illness that is apparent to a licensed veterinarian based on observation, examination, or testing of the dog.

(4) 'Nonelective surgical procedure' means a surgical procedure that is necessary to preserve or restore the health of an animal, or to correct a condition that would interfere with the animal's ability to walk, run, jump, or otherwise function in a normal manner.

§4002. Information Provided at Time of Sale.

(a) Every seller shall, at the time of sale, deliver to the purchaser of each dog a written statement containing the following information:

(1) The date of the animal's birth, if known; the breeder's name and address, if known; and the date the seller received the animal, if not bred by the seller. If the seller does not know the name and

Chapter 293
Vol.72

address of the breeder, then the seller must provide the name and address of the person who sold or gave the animal to the seller.

(2) The breed, sex, and color of the animal, and identifying marks existing at the time of sale, if any. If the animal is from a United States Department of Agriculture licensed source, the statement shall contain the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate.

(3) If the animal is being sold as registrable, the names and registration numbers of the sire and dam, and the litter number.

(4) A record of any inoculations and worming treatments administered to the animal as of the time of sale, to the extent known, including dates of administration and the type of vaccine or worming treatment.

(5) A record of any diagnosis, treatment, or medication received by the animal from a licensed veterinarian while in the possession of the seller.

§4003. Seller Disclosure.

(a) Upon the sale of a dog by any seller, a written disclosure signed and dated by the seller and purchaser shall be provided at the time of sale, which shall include:

(1) A statement by the seller:

(i) that the animal has no known disease or illness, nor any known congenital or hereditary condition that adversely affects the health of the animal at the time of sale or is likely to adversely affect the health of such animal in the future; or

(ii) a record of any known disease, illness, or congenital or hereditary condition that adversely affects the health of the animal at the time of sale, or is likely to adversely affect the health of the animal in the future.

(b) If the animal has not received a veterinary examination prior to sale, this fact shall be disclosed to the purchaser in writing.

§4004. Record Keeping.

A seller shall maintain the written record on the health, status, and disposition of each dog sold by the seller for a period of not less than two years following such sale. The record shall also contain all of the information required to be disclosed pursuant to §4002 and §4003 of this Title. Those records shall be available to animal control officers and law enforcement officers for inspection and copying during normal business hours.

§4005. Purchaser Remedies.

(a) A purchaser is entitled to a remedy from a seller pursuant to this section if, after the purchase of a dog from such seller, one of the following subdivisions becomes applicable.

(1) Within 20 days after purchase of the animal, a licensed veterinarian states in writing that the animal suffers, or has died, from an illness, disease or other defect, adversely affecting the animal's health, that existed in the animal on or before delivery to the purchaser. Intestinal or external parasites shall not be considered to adversely affect a animal's health unless their presence makes the animal clinically ill.

(2) Within two years after purchase of the animal, a licensed veterinarian states in writing that the animal possesses, or has died from, a congenital or hereditary condition adversely affecting the health of the animal, or that requires hospitalization or nonelective surgical procedures.

(b) A purchaser entitled to a remedy pursuant to this section may elect only one of the following remedies:

(1) Return the animal to the seller for a full refund of the purchase price, and reimbursement for reasonable veterinary fees for diagnosis and treatment in an amount not to exceed the original purchase price of the animal.

(2) Exchange the animal for another one, of purchaser's choice, having comparable value, providing such replacement animal is available, and receive reimbursement for reasonable veterinary fees for diagnosis and treatment in an amount not to exceed the original purchase price of the animal; or

(3) Retain the animal, and receive reimbursement for reasonable veterinary fees for diagnosis and treatment in an amount not to exceed the original purchase price of the animal.

(c) For purposes of this section, the veterinary fees shall be deemed reasonable if the services rendered are appropriate for the diagnosis and treatment of the illness or congenital or hereditary condition made by the veterinarian, and the cost of such services is comparable to that charged for similar services by other licensed veterinarians in proximity to the treating veterinarian. A veterinary fee shall be presumed reasonable in the absence of evidence to the contrary.

(d) Refunds and payment of reimbursable expenses pursuant to this section shall be made by the seller to the purchaser not later than 10 business days following receipt of the veterinarian's statement required by §4006 of this Title, except in cases in which the entitlement to a remedy is contested pursuant to §4008 of this Title.

§4006. Purchaser's Obligations.

(a) To obtain remedies under §4005 of this Chapter, the purchaser shall comply with all of the following requirements:

(1) Notify the seller as soon as practicable, but in no case more than 10 days after the diagnosis by a licensed veterinarian of a medical or health problem, including a congenital or hereditary condition, for which a remedy is requested. Such notice shall include the name and telephone number of the veterinarian providing the diagnosis.

(2) In the case of illness or disease, provide a written statement from a licensed veterinarian within 10 days of diagnosis stating that the animal is clinically ill, suffers from a congenital or hereditary condition, or has symptoms of a contagious infectious disease, that existed on or before delivery to the purchaser, and that adversely affects the health of the animal. At the request of the seller, the purchaser shall also take the animal for an examination by a licensed veterinarian of the seller's choice. The cost of such examination shall be paid by the seller. In the case of death, the seller may have his or her veterinarian perform a necropsy and all other provisions of this section shall apply.

(3) The veterinarian's statement required under this section shall include all of the following:

(i) The purchaser's name and address.

(ii) The date or dates on which the animal was examined.

(iii) The breed and age of the animal, if known.

(iv) That the veterinarian examined the animal.

(v) That the animal has or had an illness or condition subject to a remedy under §4005 of this Title.

(vi) The precise findings of the examination or necropsy, including laboratory results or copies of laboratory reports.

§4007. Limitations.

(a) Notwithstanding any other provisions of this Chapter, no refund, replacement, or reimbursement of veterinary fees shall be made under any of the following conditions:

(1) The illness or death resulted from maltreatment or neglect or from an injury sustained or an illness contracted subsequent to the delivery of the animal to the purchaser.

(2) The purchaser fails to carry out the recommended treatment prescribed by the examining veterinarian who made the initial diagnosis. However, this subdivision shall not apply if the cost for such treatment, together with the veterinarian's fee for diagnosis, would exceed the purchase price of the animal.

(3) The illness, disease or condition was disclosed at the time of sale pursuant to §4003 of this Title.

(4) The purchaser fails to return to the seller all documents previously provided to the purchaser for the purpose of registering the animal.

(b) If a refund for reasonable veterinary expenses is being requested, the veterinary statement shall be accompanied by an itemized bill of fees appropriate for the diagnosis and treatment of the illness or congenital or hereditary condition which is the subject of the remedy requested pursuant to this Chapter.

§4008. Contested Cases.

(a) In the event that a seller disputes a purchaser's entitlement to a remedy under this Chapter, the seller may, except in the case of the animal's death, have the dog examined by a licensed veterinarian designated by the seller. The cost of such examination shall be borne by the seller.

(b) If, following examination of the animal by the seller's chosen veterinarian, the purchaser and the seller are unable to reach an agreement within 10 business days, the purchaser may initiate an action in a court of competent jurisdiction to resolve the dispute or the parties may submit to binding arbitration if mutually agreed upon by the parties in writing. Any court having jurisdiction in a damages or trespass action for the amount in controversy shall have jurisdiction under this Chapter.

(c) The purchaser in any such legal action shall have the right to collect reasonable attorney's fees and court costs, if the opposing party acted in bad faith in seeking or denying the requested remedy.

§4009. Notice.

(a) Every seller shall post, in a conspicuous location, a notice stating that purchasers of animals have specific rights under law, and that a written statement of such rights is available upon request. Such notice shall be in 100-point type and shall read as follows:

'Purchasers of dogs from this seller are entitled to specific rights under the law. Purchasers must be provided a written copy of such rights at the time of sale. Prospective purchasers may receive a copy of such rights from the seller upon request.'

(b) Every seller shall, at the time of sale or upon the request of a prospective purchaser, provide a written notice of rights under this Chapter. Such notice shall be signed by the purchaser and seller at the time of sale acknowledging receipt.

(c) Every seller of an animal sold with the representation that the animal is registered or registrable with a registry shall, in addition to the above notices, provide purchaser a written notice, signed by purchaser and seller at time of sale, which shall read as follows:

'A pedigree or a registration does not assure proper breeding condition, health, quality or claims to lineage.'

§4010. Additional Legal Remedies.

(a) Nothing in this Chapter shall limit the rights or remedies that are otherwise available to a consumer under any other law. Nor shall this Chapter in any way limit the seller and the purchaser from agreeing between themselves upon additional terms and conditions that are not inconsistent with this Chapter. No waiver of rights under this Chapter shall be effective.

(b) Nothing in this Chapter shall limit prosecution for violation of any criminal statute or of Title 6, Chapter 25, or of any other law.

(c) Nothing in this Chapter shall preclude the imposition of punitive damages otherwise available at law.

§4011. Misrepresentation as to registration or breed; remedies.

(a) A seller shall not state, promise, or represent to the purchaser, directly or indirectly, that an animal is registered or capable of being registered with an animal registering organization, unless the seller provides the purchaser with the documents necessary for that registration with 120 days following the date of sale of such animal.

(b) In the event that a seller fails to provide documents necessary for registration within 120 days following the date of sale, the purchaser shall, upon written notice to the seller, be entitled to retain the animal and receive a partial refund of 75 percent of the purchase price, or return the animal along with all documentation previously provided the purchaser for a full refund. Remedies under this section shall also

be available where there was a material misrepresentation in connection with the sale as to the breed of the animal."

Approved May 01, 2000

CHAPTER 294

FORMERLY

SENATE BILL NO. 260

AS AMENDED BY HOUSE AMENDMENT NOS. 2, 12, 13, 17, 19, 21, 22, 28, 33, 35, 38 AND 39 AND
SENATE AMENDMENT NOS. 1, 2, 4, 5, 7, 9, 10, 11, 12 AND 13

AN ACT TO AMEND TITLES 11, 14, AND 29 OF THE DELAWARE CODE RELATING TO EDUCATION.

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

Section 1. This Act shall be known as the Professional Development and Educator Accountability Act of 2000.

Section 2. Amend Chapter 12, Title 14 of the Delaware Code by designating current Subchapter II, Subchapter III, and Subchapter IV as new Subchapter IV, new Subchapter V, and new Subchapter VI respectively and by deleting the remainder of Chapter 12 in its entirety and inserting in lieu thereof the following:

"CHAPTER 12. EDUCATOR LICENSURE, CERTIFICATION, EVALUATION, AND PROFESSIONAL DEVELOPMENT

Subchapter I.

§ 1201. Purpose.

The purpose of this chapter is to establish a system of professional development, professional standards, licensure, certification, and evaluation that serves to continually improve the quality of instruction for Delaware's children so that they are equipped to work and succeed in an ever-changing and increasingly complex global economy. The General Assembly finds that a rigorous system of licensure, certification, professional development, and evaluation designed to support improved student achievement, together with an expansion of the salary system to include compensation for skills and knowledge, will serve to improve the quality of the Delaware educator workforce and to improve student performance. All educators must be licensed, certified, and evaluated in accordance with this chapter. To develop this system and to ensure that its purposes are achieved, the General Assembly creates the Delaware Professional Standards Board to work in conjunction with the Department of Education and the State Board of Education toward the full implementation of this chapter.

§ 1202. Definitions.

The following definitions apply to this chapter:

(1) 'State Board' means the State Board of Education of the State of Delaware pursuant to §104 of this title.

(2) 'Standard certificate' means a credential issued to certify that an educator has the prescribed knowledge, skill, and/or education to practice in a particular area, teach a particular subject, or teach a category of students. An educator may be issued one or more certificates.

(3) 'Certification' means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

(4) 'Delaware Performance Appraisal System II' (DPAS II) means the evaluation developed and conducted pursuant to this chapter.

(5) 'Department' means the Delaware Department of Education.

(6) 'Educator' means a public school employee who holds a license issued under the provisions of this chapter, and includes teachers and administrators, and as otherwise defined by the Standards Board and State Board pursuant to § 1203 of this title, but does not include substitute teachers (§1230 of this title).

(7) 'Emergency certificate' means a credential which may be issued only if a certified educator is not available through reassignment or hiring and only if the employing district establishes that (a) the proposed recipient of the emergency certificate is competent, and (b) the employing district is committed to support and assist the proposed recipient in achieving the skills and knowledge necessary to meet certification requirements.

(8) 'Evaluator' means an individual or team meeting the minimum qualifications to appraise educator performance, as set forth in the rules and regulations promulgated under § 1271 of this title.

(9) 'License' means a credential which authorizes the holder to engage in the practice for which the license is issued.

(10) 'Paraprofessional' means a public school employee covered by § 1324 of this title.

(11) 'Secretary' means the Secretary of the Delaware Department of Education.

(12) 'Standards Board' means the Professional Standards Board established pursuant to this chapter.

§1203. Rules and regulations.

Unless otherwise provided for in this chapter, rules and regulations necessary to implement this chapter must be proposed by the Standards Board subject to approval of the State Board. The Standards Board shall develop rules and regulations in consultation and cooperation with the Department. Once developed, the rules and regulations must be sent to the Executive Secretary of the State Board and must be included on the State Board's agenda no later than the second regular meeting of the State Board following the Executive Secretary's receipt of the rules and regulations. The rules and regulations must be addressed by the State Board when placed on its agenda. If approved by the State Board, rules and regulations have the force and effect of law. The Department shall adopt and publish all rules and regulations pursuant to the provisions of this section and to the provisions of the Administrative Procedures Act.

§1205. Professional Standards Board.

(a) Recognizing that well-prepared, effective educators are critical to our students' success and that those entrusted with the achievement of our students should have a voice in the development of policies that affect their profession, there is hereby established the Professional Standards Board. The intent of the General Assembly is that the Standards Board and the Department work in close coordination and collaboration to fully and effectively implement the purposes of this chapter.

(b) The Standards Board shall develop rules and regulations relating to educators' professional development, licensure requirements, certification requirements, teacher preparation, recruitment, and retention, the Delaware Performance Appraisal System II, and evaluator and paraprofessional qualifications and training. The Department shall implement the rules and regulations promulgated and adopted pursuant to this chapter relating to licensure and certification of educators and certification of evaluators, and as otherwise directed by rules and regulations developed under this chapter.

§1206. Composition and governance of the Professional Standards Board.

(a) The Standards Board shall consist of fifteen voting members and one non-voting member as follows:

(1) Eight public school teachers, no less than two from each county, with one being a special education teacher and at least one teacher each from the high school, middle school, and elementary school levels. The eight teachers must be selected from a list supplied by the Delaware State Education Association in accordance with subsection (c) of this section. Each teacher appointed to the Standards Board must have demonstrated excellence in his or her field by achieving honors or special recognition in his or her field, including, but not limited to State, district, or building level Teacher of the Year, National Board for Professional Teaching Standards certification, or the Presidential Award for Excellence.

(2) Three public school administrators, one from each county, selected from a list supplied by the Delaware Association of School Administrators in accordance with subsection (c) of this section.

(3) One member of a local school board selected from a list supplied by the Delaware State School Board Association in accordance with subsection (c) of this section.

(4) Two parents with children in public schools, from separate counties, selected from a list supplied by the Delaware Congress of Parents and Teachers in accordance with subsection (c) of this section.

(5) One representative of higher education selected from a list supplied by the Council of Presidents in accordance with subsection (c) of this section.

(6) The chair of the State Public Education Assessment and Accountability System Advisory Committee, or the chair's designee, is the non-voting member.

(b) The Governor, by and with the consent of a majority of the members elected to the Senate, shall appoint each voting member of the Standards Board for a term of three years, except that initial appointments are for the following terms: five members for an initial term that expires two years following the date of appointment; five members for an initial term that expires three years following the date of appointment; and five members, including the chair of the Standards Board, for an initial term that expires four years from the date of appointment. The Governor shall designate one voting educator-member to serve, at the pleasure of the Governor, as chair of the Standards Board. The members of the Standards Board shall elect a vice-chair. A member of the Standards Board serves until his or her successor is appointed. A member appointed to fill a vacancy serves for the remainder of the term of the member whom he or she replaced. A Standards Board member is eligible for reappointment. If a disciplinary proceeding is initiated against a board member, the member may not participate in Standards Board business until the charge is adjudicated or the matter is otherwise concluded.

(c) With respect to appointments pursuant to subsection (a) of this section, the designated organization shall provide the Governor with a list of potential appointees. The Governor may require that a specific number of potential appointees, up to twenty, be included on any list submitted. The Governor may reject all potential appointees on the list and request up to four additional lists at his or her discretion.

(d) The Standards Board shall have the following standing committees in the following subject areas:

1. Teacher Preparation, Recruitment, and Retention;
2. Licensure and Certification Criteria;
3. Professional Development and Associated Compensation; and
4. The Delaware Performance Appraisal System II (DPAS II).

A standing committee must consist of at least one member of the Standards Board and other persons as may be mutually agreeable to the chair of the Standards Board and the Secretary.

(e) The majority of the voting members of the Standards Board shall appoint an executive director of the Standards Board. The executive director must have been a resident of Delaware for a minimum of one year immediately prior to his or her appointment, and must have at least 10 years' experience as a professional educator in a public school system, with at least five years as a classroom teacher. The executive director acts as secretary to the Standards Board and receives compensation commensurate with the Department salary schedule. The executive director shall serve at the pleasure of the majority of the voting members of the Standards Board. The executive director is excluded from 'classified service' and 'state service' as defined in Chapter 59 of Title 29. The Department shall provide the Standards Board with access to Department personnel who are reasonably necessary to carry out the duties of the Standards Board.

(f) The Standards Board may create any committees that it deems necessary, provided that a committee created under this subsection does not overlap or otherwise make recommendations in the subject areas governed by the standing committees designated in subsection (d) of this section. The chair of the Standards Board may appoint members of the Standards Board to such committees. The Standards Board may, by mutual agreement between its chair and the Secretary, appoint educators, parents, citizens, and members of the business community to a committee created under this subsection.

(g) A majority of the members of the Standards Board constitutes a quorum. No motion or resolution of the Standards Board may be adopted without the concurrence of the majority of the members of the Board plus at least one additional affirmative vote.

Chapter 294
Vol.72

(h) A member of the Standards Board is entitled to receive an annual salary of \$600 or \$150 per meeting, whichever is greater, and to be reimbursed for reasonable and necessary expenses incurred in connection with the performance of official duties. Meetings of the Standards Board may not be held during normal school hours.

(i) Upon the request of the Secretary for advice or recommendations on matters within the purview of the Standards Board, the Standards Board shall respond to the request within a time frame that is mutually agreed upon between the Secretary and the chair of the Standards Board.

(j) The initial fifteen voting members of the Standards Board must be appointed no later than ninety days after the enactment of this Act.

(k) The Standards Board is subject to the provisions of the Administrative Procedures Act (Chapter 101 of Title 29).

Subchapter II. Three-tiered licensure system

§1210. Tier One - Initial licensure.

(a) An initial license is valid for three years unless revoked. The Department shall issue an initial license under this section if an applicant demonstrates that he or she has received a bachelors degree from an accredited four-year college or university, has completed a student teaching program or the Alternative Routes to Licensure and Certification program, and has achieved a passing score on an examination of general knowledge such as Praxis I.

(b) If a licensee intends to apply for a continuing license, the licensee shall, prior to the expiration of his or her initial license, complete professional development and mentoring activities as may be required by rules and regulations promulgated and adopted pursuant to this chapter.

(c) Pursuant to rules and regulations promulgated and adopted pursuant to this chapter, the Department may issue an initial license to an applicant licensed as an educator in another jurisdiction or to an applicant who previously held a valid Delaware certificate that has since expired.

(d) An initial license may not be renewed. It may, however, be extended pursuant to § 1216 of this chapter.

§1211. Tier Two - Continuing licensure.

(a) A continuing license is valid for five years unless extended pursuant to §1216 of this chapter or revoked.

(b) Upon application, the Department shall issue a continuing license to an educator holding an initial license if the educator has successfully completed the requirements of § 1210 of this chapter and has not received more than one unsatisfactory annual evaluation, as defined by DPAS II, during the period of initial licensure.

(c) Pursuant to rules and regulations promulgated and adopted pursuant to this chapter, the Department may issue a continuing license to an applicant licensed as an educator in another jurisdiction or to an applicant who previously held a valid Delaware certificate that has since expired.

§1212. Continuing licensure - Renewal.

Upon application, the Department shall renew a continuing license for an additional five-year term if the educator has completed ninety clock-hours of approved professional development, as well as other professional development and/or mentoring requirements as may be required by the rules and regulations promulgated and adopted pursuant to this chapter. For the purpose of this section, 'clock-hour' means actual time spent in professional development, not credit hours. The Standards Board shall review the professional development requirements of this section on an on-going basis for the purpose of proposing regulations that modify the minimum requirements of this section and that improve the effectiveness of professional development. Notwithstanding any provisions of this section to the contrary, the Standards Board may not modify the minimum clock-hour requirement of this section until January 1, 2003.

§1213. Tier Three - Advanced licensure.

An advanced license is valid for ten years unless extended pursuant to § 1216 of this chapter or revoked. Upon application, the Department shall issue an advanced license to an educator who receives National Board for Professional Teaching Standards certification. The Department may also issue an advanced license to an educator who, upon application, demonstrates proficiency under an equivalent program that has been approved in rules and regulations promulgated and adopted under this chapter.

§1214. Advanced licensure - Renewal.

Upon application, the Department shall renew an advanced license for an additional ten-year term, provided that the educator maintained proficiency under the program for which the advanced license was first issued.

§1215. Licensure of educators holding professional status certificates or other certificates.

The Department shall issue a continuing license to a person holding a Delaware certificate issued by an education certifying board prior to July 13, 1971, or a professional status certificate issued by the Department prior to the effective date of this Act. Upon application, the Department shall issue an advanced license to a person holding current National Board for Professional Teaching Standards certification and a current Delaware certificate at the time of enactment of this Act.

§1216. License extension; license freeze.

(a) Upon a showing by an educator of exigent circumstances, the Department may, through rules and regulations promulgated and adopted pursuant to this chapter, issue a license extension for a period not to exceed one year.

(b) An educator may take an extended leave of absence for up to 3 years with no effect upon the validity or expiration of the educator's initial, continuing, or advanced license.

§1217. Denial of license.

Pursuant to rules and regulations promulgated and adopted pursuant to this chapter, the Department may refuse to issue a license to an applicant who otherwise meets the requirements of this subchapter upon a finding that the applicant is unfit to be licensed in the State of Delaware. An applicant is entitled to a full and fair hearing before the Standards Board to challenge a denial pursuant to this section.

§1218. Revocation of license.

A license issued under the provisions of this subchapter may be revoked upon the dismissal of the license holder for immorality, misconduct in office, incompetency, willful neglect of duty, or disloyalty and must be revoked upon a finding that the license holder made a materially false or misleading statement in his or her license application. A license holder is entitled to a full and fair hearing before the Standards Board to challenge a revocation pursuant to this section.

§1219. Disclosure.

Pursuant to the rules and regulations promulgated and adopted under this chapter, the Department shall require each applicant for a license under this chapter to disclose his or her criminal conviction history. Failure to disclose a criminal conviction history pursuant to this section is grounds for denial of a license under §1217 of this title, revocation of a license under §1218 of this title, and/or criminal prosecution under Subchapter VI (Criminal Background Check for Public School Related Employment) of Chapter 85 of Title 11.

Subchapter III. Educator Certification

§1220. Standard certificate.

Pursuant to rules and regulations promulgated and adopted pursuant to this chapter, the Department shall issue a standard certificate to an educator who fully meets the requirements for licensure and has acquired the prescribed knowledge, skill, and/or education to practice in a particular area, to teach a particular subject, or to instruct a particular category of students. Where applicable and available, an applicant for a standard certificate must have achieved a passing score on an examination of content knowledge, such as Praxis II. The Department shall recognize a professional status certificate or standard certificate that is otherwise valid, if issued prior to the effective date of this Act. The Department shall also recognize a limited standard certificate issued prior to the effective date of this Act, provided that the educator successfully completes the requirements set forth in the limited standard certificate.

§1221. Emergency certificate.

Pursuant to rules and regulations promulgated and adopted pursuant to this chapter, the Department may issue an emergency certificate only if a certified educator is not available through reassignment or hiring and only if the employing district establishes that (1) the proposed recipient of the emergency certificate is competent, and (2)

Chapter 294

Vol.72

the employing district is committed to support and assist the proposed recipient in achieving the skills and knowledge necessary to meet certification requirements.

§1222. Revocation of standard certificate.

A standard certificate must be revoked upon a finding that the certificate holder made a materially false or misleading statement in his or her certificate application or upon revocation of a license issued under this chapter. A certificate holder is entitled to a full and fair hearing before the Standards Board to challenge a revocation pursuant to this section.

§1223. Teaching assignment outside area of certification.

If the employer of an educator assigns the educator to teach in an area outside the educator's certification, the employer may not reduce the salary of the educator as a result of the assignment.

Subchapter VII. Educator Evaluations

§1270. The Delaware Performance Appraisal System II.

(a) An educator must receive at least one Delaware Performance Appraisal System II (DPAS II) evaluation annually. The evaluation must be consistent with the Delaware Professional Teaching Standards and the Delaware Administrators' Standards, and must otherwise be in accordance with the criteria and requirements of this section.

(b) The Standards Board, through its Delaware Performance Appraisal System II standing committee, shall develop a new educator evaluation system (DPAS II) to submit for approval by the State Board by January 1, 2001. The DPAS II must include an overall rating and a student-improvement component rating, and must identify what constitutes satisfactory performance and unsatisfactory performance on the overall evaluation and on each component of the evaluation. For the purposes of §1273 of this title, DPAS II must also include a definition of 'pattern of ineffective teaching' and define pattern of ineffective administration as they relate to unsatisfactory performance on the overall DPAS II evaluation. Notwithstanding subsection (a) of this section, the minimum annual evaluation requirement for educators may be waived pursuant to rules and regulations adopted under this chapter for proficient performance on previous evaluations. However, an educator may not receive two consecutive evaluation waivers.

(c) DPAS II must have no more than five components and must have a strong focus on student improvement, with one component dedicated exclusively to student improvement and weighted at least as high as any other component. The measure of student improvement must include an off-grade assessment, if available, along with other measures determined by the DPAS II standing committee, the Standards Board, and the State Board. The measure of student improvement must take into consideration student absence, student mobility, student chronic noncompliance with school rules, chronic failure by parents to abide by the Parents' Declaration of Responsibilities under §157 of this title, and other factors that may adversely affect the evaluation. If a student has missed more than 15% of the class time, the student's performance evaluation shall not be used in evaluating a teacher under this act.

(d) The Department shall develop an off-grade annual assessment to measure student improvement. The assessment must be linked to the Delaware Student Testing Program in reading, writing, and math. Assessments must be made available to every district by April 2001, subject to an annual appropriation and approval by the Secretary.

(e) Off-grade annual assessments in other content areas may be developed and, if developed, must be utilized as they become available.

(f) A local school district may develop and implement other assessment tools that measure annual student improvement, including assessments in other content areas. Assessment tools developed and implemented pursuant to this subsection must be approved by the Secretary and the Standards Board and must be funded with local funds.

(g) Nothing in this section prevents a local school district from administering other evaluations in addition to the Delaware Performance Appraisal System II, provided that administration of additional evaluations is reported to the Department.

(h) A local school district may make application to the Standards board for a waiver of the provisions of the DPAS II evaluation system which shall be granted, subject to the provisions of §1203 of this Title, if the request for a waiver is based on a locally developed evaluation process that is demonstrated to be the product of the collective bargaining process pursuant to

Chapter 40 of this Title and community review and is as rigorous and as educationally sound as DPAS II; provides for evaluating educator performance by measuring student growth using multiple measures over the course of a curricular year; and contains a mechanism for certifying evaluators and for quality control. Locally developed evaluation systems authorized pursuant to this subsection may not be applied to educators holding an initial license.

§1271. Certification of professional evaluators; monitoring evaluations.

(a) The Standards Board shall develop rules and regulations pursuant to this chapter to credential professional evaluators for the Delaware Performance Appraisal System II, including appropriate training for evaluators. The Department shall ensure that all evaluators are properly trained and credentialed.

(b) To maintain a high standard of quality for professional evaluations, the Standards Board shall develop recommendations for an on-going DPAS II monitoring system to be implemented by the Department. The monitoring system must include a process by which an educator may challenge the fairness of the process used and/or the conclusions reached in an evaluation.

§1272. Improvement plans; professional development.

(a) If the overall rating of an educator's DPAS II evaluation is unsatisfactory, the district shall develop and assign an improvement plan to the educator and provide a reasonable amount of time for the educator to complete the improvement plan. A district shall also make recommendations for improvement if an educator's performance on an individual component of the evaluation is unsatisfactory. An improvement plan must identify the deficiencies in an educator's performance and the professional development activities required to improve the deficiencies to a satisfactory level. An improvement plan pursuant to this section must be developed as part of a collaborative process between the district and the educator where possible, with the district having the final authority to develop and assign the plan. The Standards Board shall develop guidelines for improvement plans required pursuant to this section.

(b) In an effort to promote continuous professional growth and to improve educator performance, the Standards Board shall also develop guidelines for professional development when an educator receives a satisfactory DPAS II evaluation. The guidelines must incorporate specific professional development activities designed to enhance knowledge and skill in areas recommended by an evaluator.

§1273. Incompetency – A pattern of ineffective teaching.

A pattern of ineffective teaching shall be defined pursuant to § 1270 of this title, provided that the local school district has complied with §1272(a) of this Subchapter. Notwithstanding any case law to the contrary, when a pattern of ineffective teaching is established, a local school district may move to terminate a teacher (as defined by § 1401 of this title) for incompetency pursuant to § 1411 or § 1420 of this title. Nothing herein shall be construed to limit a local school district's ability to terminate a teacher for incompetency under § 1411 or § 1420 of this title where supported by factors other than a pattern of ineffective teaching and nothing herein shall be construed to require additional factors beyond a pattern of ineffective teaching to constitute incompetency for purposes of termination.

§1274. Disclosure.

If an educator licensed under this chapter is seeking an educator position in this State, the educator shall disclose the results of his or her most recent three DPAS II evaluations or alternative evaluations permitted under §1270(h) of this title, if applicable, to a prospective employing district. Upon the request of the prospective employing district, a present or previous employing district of the educator shall confirm the results of the educator's previous DPAS II evaluations. No action in law or equity may be brought or maintained against a local school district or an employee thereof for action taken in compliance with this section."

Section 3. Amend §158(b), Title 14 of the Delaware Code by inserting immediately after the last sentence of subsection (b) the following: "The Chair of the Professional Standards Board (§1206 of this title), or the chair's designee, shall be a non-voting member of the Accountability Advisory Committee."

Section 4. Amend §1230, Title 14 of the Delaware Code by deleting the word "certification" wherever it appears therein, and by substituting in lieu thereof the word "licensure"; and by deleting the word "certificate" wherever it appears therein and by substituting in lieu thereof the word "license".

Section 5. Amend § 8572, Title 11 of the Delaware Code by inserting after the word "seeking" the words "a license under Chapter 12 of Title 14 or".

Chapter 294

Vol.72

Section 6. Amend new Subchapter V of Chapter 12, Title 14 of the Delaware Code by deleting the title thereof and replacing it with the following: "*Subchapter V. Special Institute for Teacher Licensure and Certification*".

Section 7. Amend §1250, Title 14 of the Delaware Code by deleting the words "initial standard certificates" from the first sentence thereof and by inserting the words "a license and/or certificate" in lieu thereof; by inserting the words "licensed and" between the words "become" and "certified" in the first sentence thereof; by deleting the word "certification" in the third sentence thereof and by inserting the words "licensure and certification" in lieu thereof; and by inserting in the fourth sentence between the words "initial" and "certification" the words "licensure and".

Section 8. Amend §1251, Title 14 of the Delaware Code by deleting the word "certification" where it appears as the fourth word of the first sentence thereof and by substituting in lieu thereof the words "licensure and/or certification"; by deleting the words "standard certificate" from the first sentence of § 1251(4) thereof and by substituting the word "license" in lieu thereof; and by deleting the word "certification" in the second sentence of § 1251(4) and by substituting the word "licensure".

Section 9. Amend new Subchapter VI of Chapter 12, Title 14 of the Delaware Code by deleting the title thereof and replacing it with the following: "*Subchapter VI. Alternative Routes For Teacher Licensure and Certification*".

Section 10. Amend §1230, Title 14 of the Delaware Code by deleting the words "The Department of Education with the approval of the State Board of Education shall make rules and regulations" and by inserting in lieu thereof the following: "The Professional Standards Board and the State Board of Education shall promulgate and adopt rules and regulations pursuant to this chapter that are".

Section 11. Amend §1250, Title 14 of the Delaware Code by deleting the words "The Department of Education with approval of the State Board of Education shall make rules and regulations" and inserting in lieu thereof the following: "The Professional Standards Board and the State Board of Education shall promulgate and adopt rules and regulations pursuant to this chapter that are".

Section 12. Amend §1260, Title 14 of the Delaware Code by striking the phrase "teacher certification program" where it appears in the section heading and in the first sentence of subsection (a) and by substituting in lieu thereof in each place the phrase "teacher licensure and certification program"; by striking "a limited standard certificate" and "the limited standard certificate" as they appear in subsections (a) and (b) respectively and by substituting in lieu thereof in each place the phrase "an initial license and a certificate or certificates"; and by striking the phrase "2 years" as it appears in subsection (a) and by substituting in lieu thereof "3 years".

Section 13. Amend §1260, Title 14 of the Delaware Code by striking the word "Candidates" as it appears in the first sentence of §1260(a) and by substituting in lieu thereof "Subject to §1217 of this title and notwithstanding any other provision in this chapter to the contrary, candidates"; and by striking the phrase "proposed by the Secretary subject to approval by the State Board" as it appears in §1260(c) and by substituting in lieu thereof "promulgated and adopted pursuant to §1203 of this title".

Section 14. Amend §1261, Title 14 of the Delaware Code by striking the phrase "teacher certification program" wherever it appears therein, including the section heading, and by substituting in lieu thereof "teacher licensure and certification program"; by striking the word "Department" wherever it appears therein and by substituting in lieu thereof in each place "Standards Board and the State Board of Education under §1203 of this title"; and by deleting "the school administration" where it appears twice in §1261(b)(2) thereof and by substituting in lieu thereof in the first place "certified evaluators" and in the second place "the certified evaluators".

Section 15. Amend §1261(d), Title 14 of the Delaware Code by striking subsection (d) in its entirety and by substituting in lieu thereof the following:

"(d) Notwithstanding the foregoing, the Secretary, pursuant to rules and regulations promulgated and adopted pursuant to §1203 of this title, may implement other alternative routes to teacher licensure and certification programs, provided the programs meet the minimum criteria set forth in subsection (b) of this section."

Section 16. Amend §1262, Title 14 of the Delaware Code by striking the phrase "teacher certification program" where it appears in the section heading and in subsection (a) and by substituting in lieu thereof "teacher licensure and certification program"; by striking the phrase "the school administration" as it appears in subsection (a) and by substituting in lieu thereof "certified evaluators"; and by striking the word "administrators" as it appears in subsection (b) and by substituting in lieu thereof the word "evaluators".

Section 17. Amend §1262(b), Title 14 of the Delaware Code by striking the phrase "employment or certification" and by substituting in lieu thereof the phrase "licensure, certification, or employment".

Section 18. Amend §1263, Title 14 of the Delaware Code by striking the phrases "teacher certification training program" and "teacher certification program" wherever they appear, including the section heading, and by substituting in lieu thereof the phrase "teacher licensure and certification program"; by inserting between the words "for" and "certification" in the section heading the words "initial licensure and"; by striking "school administration" as it appears the first time in §1263(e) and by substituting in lieu thereof "certified evaluators"; and by striking the phrase "school administration" wherever it appears in §1263 and by substituting in lieu thereof the phrase "certified evaluators".

Section 19. Amend §1263, Title 14 of the Delaware Code by striking the phrase "standard certificate" as it appears in §1263(a) and by substituting in lieu thereof "license"; by striking the phrase "standard certificate" in §1263(c)(1) and by substituting in lieu thereof the words "license or recommends the issuance of an initial license and certificate"; by striking the words "standard certificate" in §1263(c)(2) and (3) and by substituting in lieu thereof in both places the word "license"; by striking the words "teacher certification" in §1263(c)(2) and by substituting in lieu thereof the words "teacher licensure and certification program"; and by striking "routes for" where it appears twice in §1263(f) and by substituting in lieu thereof "routes for teacher licensure and".

Section 20. Amend §1263(e), Title 14 of the Delaware Code by deleting the words "standard certificate" and inserting the word "license"; by deleting the words "certification recommendation" and by inserting in lieu thereof the words "initial licensure and certification recommendation"; and by deleting "concerning certification" and by substituting in lieu thereof "concerning initial licensure and certification".

Section 21. Amend §1264, Title 14 of the Delaware Code by striking the phrase "teacher certification program" and "teacher certification programs" wherever they appear, including the section heading, and by substituting in lieu thereof "teacher licensure and certification program" or "teacher licensure and certification programs", whichever is appropriate; and by striking the word "standard" as it appears in the first sentence of §1264(a) and by substituting in lieu thereof "licensure or".

Section 22. Amend §1264, Title 14 of the Delaware Code by striking the words "Department of Education" and the word "Department" wherever they appear therein and by substituting in lieu thereof "Standards Board"; by striking the phrase "policy, as approved by the State Board" as it appears in §1264(b) and by substituting in lieu thereof "rules and regulations promulgated and adopted pursuant to §1203 of this title"; by striking the phrase "concerning the certification" as it appears in §1264(b) and by substituting in lieu thereof "concerning the licensure and/or certification"; and by striking the phrase "appeals of certificate" as it appears in §1264(b) and by substituting in lieu thereof "appeals of license and/or certificate".

Section 23. Amend §122, Title 14 of the Delaware Code by deleting §122(b)(6) in its entirety; by renumbering the paragraphs in §122(b) accordingly; and by adding a new §122(c) as follows:

"(c) The Department shall implement rules and regulations promulgated and adopted by the Professional Standards Board and State Board of Education pursuant to §1203 of this title governing qualifications, licensure, and certification of educators in all public schools of this State."

Section 24. A board or commission established under Title 24 of the Delaware Code which regulates the license and professional conduct of a person who may be employed as a public school employee shall retain jurisdiction over the licensure and regulation of the employee, provided, however, that the Professional Standards Board, subject to the approval of the State Board of Education, may develop rules and regulations pertaining to certification of the employee as may be required for employment in the public schools of the State.

Section 25. By July 1, 2001, the Department shall begin issuing licenses and certificates as prescribed by this Act to applicants not previously certified in the State of Delaware, subject to the development and approval of rules and regulations. Applicants who apply prior to July 1, 2001, will be processed for certification consistent with the procedures in place prior to the enactment of this Act. Educators who hold valid certificates upon the enactment of this Act or valid certificates issued prior to July 1, 2001 will be issued licenses and certificates as prescribed by this Act. The Department shall develop a fair process to phase in these educators beginning January 15, 2002. The Department shall also develop by September 1, 2001, a timeline for issuing licenses and certificates to persons seeking licensure and certification who have previously held valid certificates in the State of Delaware prior to the enactment of this Act. Until rules and regulations are developed and approved, the Department shall issue certificates in a manner consistent with the procedures in place prior to the enactment of this Act.

Chapter 294
Vol. 72

Section 26. The Department of Education, in consultation with the Professional Standards Board and the State Board of Education, shall review capacity issues within the Department of Education and local school districts to implement the provisions of this Act. Based on that review, the Department of Education shall incorporate recommendations into its Fiscal Year 2001 and Fiscal Year 2002 Budget Requests.

Section 27. Amend §1305, Title 14 of the Delaware Code by striking §1305(a), in its entirety and substituting in lieu thereof the following:

"(a) The annual salaries of employees who are paid under this section and who are employed on a 10-month contract, shall be based on the following indexed schedule:

Education									
Years of Expe- rience	No Degree	Bachelor's Degree	Bachelor's Degree Plus 15 Graduate Credits	Bachelor's Degree Plus 30 Graduate Credits	Master's Degree	Master's Degree Plus 15 Graduate Credits	Master's Degree Plus 30 Graduate Credits	Master's Degree Plus 45 Graduate Credits	Doctor's Degree
0	0.960	1.000	1.040	1.080	1.140	1.180	1.220	1.260	1.300
1	0.970	1.010	1.050	1.090	1.150	1.190	1.230	1.270	1.310
2	0.979	1.020	1.060	1.100	1.160	1.200	1.240	1.280	1.320
3	1.015	1.055	1.095	1.135	1.195	1.235	1.275	1.315	1.355
4	1.045	1.082	1.118	1.155	1.209	1.245	1.290	1.330	1.370
5	1.082	1.118	1.155	1.191	1.245	1.282	1.318	1.355	1.391
6	1.118	1.155	1.191	1.227	1.282	1.318	1.355	1.391	1.427
7	1.155	1.191	1.227	1.264	1.318	1.355	1.391	1.427	1.464
8	1.191	1.227	1.264	1.300	1.409	1.445	1.482	1.518	1.555
9	1.227	1.264	1.300	1.336	1.445	1.482	1.518	1.555	1.591
10			1.336	1.373	1.482	1.518	1.555	1.591	1.627
11			1.373	1.409	1.518	1.555	1.591	1.627	1.664
12				1.445	1.555	1.591	1.627	1.664	1.700
13				1.482	1.591	1.627	1.664	1.700	1.736
14					1.627	1.664	1.700	1.736	1.773
15							1.736	1.773	1.809

In addition to the indices specified in the schedule contained in this subsection, the following shall apply to certain individuals who are paid in accordance with this schedule and 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 1.227 for the fiscal year ending June 30, 1995, and at an index of 1.264 for the fiscal year ending June 30, 1996, and at an index of 1.300 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 1.264 for the fiscal year ending June 30, 1995, and at an index of 1.300 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 1.264 for the fiscal year ending June 30, 1995, and at an index of 1.300 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 1.264 for the fiscal year ending June 30, 1995, and at an index of 1.300 for the fiscal year ending June 30, 1996, and at an index of 1.336 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 1.300 for the fiscal year ending June 30, 1995, and at an index of 1.336 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 1.300 for the fiscal year ending June 30, 1995, and at an index of 1.336 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 1.373 for the fiscal year ending June 30, 1995, and at an index of 1.409 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 1.373 for the fiscal year ending June 30, 1995, and at an index of 1.409 for the fiscal year ending June 30, 2000, and for subsequent fiscal years."

Section 28. Amend §1305, Title 14 of the Delaware Code by deleting the number "\$19,313" in the first sentence of §1305(b) and inserting the number "\$ 21,669".

Section 29. Section 27 and Section 28 of this Act shall be retroactive to September 1, 1999.

Section 30. Amend §1305, Title 14 of the Delaware Code by deleting §1305(e) in its entirety and substituting in lieu thereof the following:

"(e) Beginning in fiscal year 2000, salary derived from subsections (a) and (b) of this section for 10 months' employment shall mean a total of 185 full work days to be utilized as follows:

- (1) 180 days devoted to actual school sessions for pupils;
- (2) 2 days devoted to start-up/closing;
- (3) 3 days devoted solely to professional development.

(f) Beginning in fiscal year 2001, salary derived from subsections (a) and (b) of this section for 10 months' employment shall mean a total of 187 full workdays to be utilized as follows:

- (1) 180 days devoted to actual school sessions for pupils;
- (2) 2 days devoted to start-up/closing;
- (3) 5 days devoted solely to professional development.

(g) Beginning in fiscal year 2002, salary derived from subsections (a) and (b) of this section for 10 months' employment shall mean a total of 189 full workdays to be utilized as follows:

- (1) 180 days devoted to actual school sessions for pupils;
- (2) 2 days devoted to start-up/closing;

(3) 7 days devoted solely to professional development.

(h) Beginning in fiscal year 2003, salary derived from subsections (a) and (b) of this section for 10 months' employment shall mean a total of 190 full workdays to be utilized as follows:

(1) 180 days devoted to actual school sessions for pupils;

(2) 2 days devoted to start-up/closing;

(3) 8 days devoted solely to professional development.

(i) The Department of Education with the approval of the State Board of Education may reduce the number of hours devoted to actual school sessions for pupils and/or educators for just cause or upon showing unusual circumstances.

(j) A full workday shall be defined by the Department of Education with the approval of the State Board of Education.

(k) Beginning in fiscal year 2001, local school districts shall provide a local salary supplement for each full workday in excess of 185 workdays. This supplement must be equal to or greater than the per diem local salary supplement in effect during fiscal year 2000 for each grade and step. To the extent that a local school district is unable to provide a local salary supplement, it may make application under subsection (i) of this section.

(l) In addition to the base salary derived from subsections (a) and (b) of this section, an employee paid in accordance with this section is eligible to earn additional salary supplements for gaining skills and knowledge that lead to more effective instruction. The Professional Standards Board, with approval of the State Board of Education, shall designate through regulation the specific professional development activities and specific areas of skills and knowledge that an employee can undertake and/or obtain in order to receive a skills and knowledge salary supplement. The supplement must be in the form of an additional salary amount spread evenly across an employee's contract period similar to base salary. The supplement must be no less than 2% of the base salary derived from subsections (a) and (b) of this section and no more than 6% of this base salary, except as provided for in subsection (m) of this section. The Professional Standards Board, with approval of the State Board of Education, shall designate the specific percentage for each specific skills and knowledge supplement through regulations promulgated to implement the provisions of this section. The percentage must be uniform across the State. Also, the Professional Standards Board shall, with approval of the State Board of Education, designate which of the supplements, if any, shall be permanent and which of the supplements, if any, shall require renewal or re-qualification on a periodic basis. The provisions of this subsection shall become effective in fiscal year 2001. The supplements described in this subsection are subject to an annual appropriation. The Department of Education shall provide for funding the supplement provisions of this subsection in its annual budget.

(m) In addition to the base salary derived from subsections (a) and (b) of this section, an employee who has achieved certification from the National Board for Professional Teaching Standards or from an equivalent program approved by the State Board shall receive a salary supplement equal to 12% of the base salary so derived. The Professional Standards Board, with the approval of the State Board of Education, may authorize stipends pursuant to this subsection in fiscal year 2000. The supplement shall be in the form of an additional salary amount spread evenly across an employee's contract period similar to base salary. Funding for National Board certification described in this subsection is subject to an annual appropriation. The Department of Education shall provide for funding the supplement provisions of this subsection in its annual budget.

(n) An employee paid in accordance with this section may earn multiple salary supplements pursuant to subsections (l) and (m) of this section. The supplements must be computed as a percentage of the base salary derived from subsections (a) and (b) of this section; the percentages may not be computed on a salary that includes a previously earned supplement amount.

(o) In addition to the base salary derived from subsections (a) and (b) of this section and any supplements provided pursuant to subsections (l) and (m) of this section, an employee paid in accordance with this section is eligible to earn additional salary supplements for accepting additional responsibility assignments that impact student achievement. The Professional Standards Board has the authority to review and make recommendations regarding additional responsibility supplements for administrators. The Professional Standards Board, with the approval of the State Board of Education, shall designate through regulation the specific assignments that an employee may accept in order to receive a State-funded salary supplement. The supplement must be in the form of an additional salary amount spread evenly across an employee's contract period similar to base salary. The supplement must be no less than \$750 and no more than \$1,500. In addition to the State specified assignments designated by the Professional Standards Board and State Board pursuant to Chapter 12 of this title, a local school district, with the approval of the

Standards Board and the State Board, and through regulatory action of the local board, may designate specific academic assignments that an employee may accept in order to receive a State-funded salary supplement. An assignment designated pursuant to this subsection must be academic in nature and may not include extra-curricular activities or non-instructional supervisory responsibilities. The provisions of this subsection become effective in fiscal year 2001, except that the Professional Standards Board, subject to State Board approval, may, pursuant to §1203 of this title, authorize stipends for educator lead mentors in fiscal year 2000. The State-funded salary supplements described in this subsection are subject to an annual appropriation. The Department of Education shall provide for funding the supplement provisions of this subsection in its annual budget.

(p) To ensure that the professional development activities designated for remuneration in subsections (l), (m) and (o) of this section are of high quality and will lead to improvements in teacher effectiveness and improvements in student achievement, the Professional Standards Board, with the approval of the State Board of Education, shall identify activities that will permit an educator to be eligible for both skills and knowledge supplements and additional responsibility supplements. Salary supplements defined in this Act must not exceed fifteen percent of the State share for an employee covered by the provisions of this Act. The Standards Board shall annually review these supplements and promulgate and adopt recommendations pursuant to § 1203 of this title as necessary.

(q) Beginning with fiscal year 2003, movement into the Bachelors Plus 15 and Bachelors Plus 30 columns on the salary schedule contained in subsection (a) of this section shall be approved only if the credits earned are matriculated graduate credits earned toward a Master's Degree. Beginning with fiscal year 2003, movement into the Masters Plus 15, Masters Plus 30, and Masters Plus 45 columns on the salary schedule contained in subsection (a) of this section shall be approved if (1) the credits earned through a graduate-level course of study are clearly related to the individual's professional responsibilities and otherwise approved pursuant to Chapter 12 of this Title; (2) the credits are towards a second Master's Degree; or (3) if the credits earned are matriculated graduate credits earned towards a Doctorate Degree. No employee shall be moved leftward on the salary schedule contained in subsection (a) of this section due to the provisions contained in this subsection."

Section 31. Amend § 9219(a), Title 14 of the Delaware Code by striking the index schedule contained in subsection (a) in its entirety and by substituting in lieu thereof the following:

"SALARY PLAN A

DELAWARE TECHNICAL & COMMUNITY COLLEGE

INDEX SCHEDULE

Years of	No	Assoc.	Bach.	Bach.	Bach.	Mast.	Mast.	Mast.	Doctor's	
				Degree	Degree	Degree	Degree	Degree		
				Plus 15	Plus 30	Plus 15	Plus 30	Plus 45		
Exp.	Degree	Degree	Degree	Grad. Credits	Grad. Credits	Mast. Degree	Grad. Credits	Grad. Credits	Grad. Credits	Degree
0	0.900	0.960	1.000	1.040	1.080	1.120	1.160	1.200	1.240	1.260
1	0.926	0.986	1.025	1.065	1.105	1.146	1.186	1.226	1.266	1.286
2	0.950	1.011	1.050	1.089	1.130	1.170	1.210	1.250	1.290	1.311
3	0.957	1.014	1.052	1.090	1.140	1.180	1.219	1.258	1.297	1.316
4	0.964	1.019	1.055	1.091	1.152	1.190	1.228	1.265	1.303	1.322
5	1.001	1.055	1.091	1.128	1.164	1.200	1.237	1.273	1.310	1.328
6	1.037	1.091	1.128	1.164	1.200	1.237	1.273	1.310	1.346	1.364
7	1.074	1.128	1.164	1.200	1.237	1.273	1.310	1.346	1.382	1.401
8	1.110	1.164	1.200	1.237	1.273	1.310	1.346	1.382	1.419	1.437
9	1.146	1.200	1.237	1.273	1.310	1.346	1.382	1.419	1.455	1.473

Chapter 294
Vol.72

10	1.155	1.237	1.273	1.310	1.346	1.382	1.419	1.455	1.491	1.509
11	1.155	1.246	1.310	1.346	1.382	1.419	1.455	1.491	1.528	1.546
12	1.155	1.246	1.319	1.382	1.419	1.455	1.491	1.528	1.564	1.582
13	1.155	1.246	1.319	1.391	1.455	1.491	1.528	1.564	1.600	1.618
14	1.155	1.246	1.319	1.391	1.464	1.528	1.564	1.600	1.637	1.655
15	1.155	1.246	1.365	1.410	1.501	1.564	1.600	1.637	1.673	1.691
16	1.155	1.246	1.374	1.419	1.510	1.600	1.637	1.673	1.710	1.728
17	1.155	1.246	1.374	1.419	1.510	1.609	1.646	1.682	1.719	1.737
18	1.155	1.246	1.374	1.419	1.510	1.609	1.646	1.682	1.719	1.737
19	1.155	1.246	1.374	1.419	1.510	1.609	1.646	1.682	1.719	1.737
20	1.155	1.246	1.374	1.419	1.510	1.637	1.682	1.728	1.773	1.819
21	1.155	1.246	1.374	1.419	1.510	1.646	1.692	1.737	1.783	1.828
22	1.155	1.246	1.374	1.419	1.510	1.646	1.692	1.737	1.783	1.828
23	1.155	1.246	1.374	1.419	1.510	1.646	1.692	1.737	1.783	1.828
24	1.155	1.246	1.374	1.419	1.510	1.646	1.692	1.737	1.783	1.828
25	1.155	1.246	1.374	1.419	1.510	1.682	1.728	1.773	1.819	1.864
26	1.155	1.246	1.374	1.419	1.510	1.692	1.737	1.783	1.828	1.873

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."

Section 32. Section 31 of this Act shall be retroactive to August 16, 1999 for Salary Plan A employees and retroactive to September 1, 1999 for Salary Plan D employees. A joint review of the pay plans and index for Salary Plans A and D shall be undertaken by representatives of Delaware Technical & Community College, the Office of the Budget and the Office of the Controller General to determine the College's ability to attract and retain qualified faculty consistent with the college's overall evaluation system. Findings and recommendations shall be made to the Joint Finance Committee by April 30, 2000.

Section 33. The Department of Education, in cooperation and consultation with the Professional Standards Board, shall annually identify budgetary issues of the Professional Standards Board for inclusion in the Department's annual budget request.

Section 34. For Fiscal Year 2001 and 2002, the Professional Standards Board and the State Board shall develop rules and regulations pursuant to § 1203 of Title 14 regarding skills and knowledge and leadership supplements and the rightward movement on the pay scale. In no event shall an educator be permitted to double count credits and/or other relevant coursework to benefit more than one salary scale or supplement.

Section 35. Amend §1301(2), Title 14 of the Delaware Code by striking the period (".") that appears at the end of this subsection and substituting in lieu thereof the following: "unless provided otherwise in this chapter."

Section 36. Amend §1312, Title 14 of the Delaware Code by adding a new sentence at the end of subsection (a) that reads as follows: "A graduate of a five-year pre-service program that includes an extensive clinical component in the fifth year, or a graduate of a four-year pre-service program who graduates with a grade point average (GPA) of 3.75 or higher on a 4.0 scale, or the equivalent, must be granted one year of experience in addition to any other experience granted in accordance with this section."

Section 37. Section 36 becomes effective June 30, 2001.

Section 38. Amend § 1313, Title 14 of the Delaware Code by deleting §1313 in its entirety and inserting in lieu thereof the following:

"§1313. Employment requirements.

A person may not be employed by a public school employer in any position requiring licensure and certification if the person does not meet licensure and certification requirements established under Chapter 12 of this title, except pursuant to a license extension and/or emergency certificate issued pursuant to Chapter 12. A person's salary may not be reduced because he or she is employed under a license extension and/or emergency certificate."

Section 39. Amend §1318(g), Title 14 of the Delaware Code by deleting "1/185" as it appears therein and substituting in lieu thereof the following: "1/185 in the fiscal year beginning July 1, 1999; 1/187 in the fiscal year beginning July 1, 2000; 1/189 for the fiscal year beginning July 1, 2001; and 1/190 for the fiscal year beginning July 1, 2002; and each succeeding fiscal year," and by deleting "1/204" as it appears therein and substituting in lieu thereof the following: "1/204 in the fiscal year beginning July 1, 1999; 1/206 in the fiscal year beginning July 1, 2000; 1/208 for the fiscal year beginning July 1, 2001; and 1/209 for the fiscal year beginning June 1, 2002 and each succeeding fiscal year".

Section 40. Amend §1320, Title 14 of the Delaware Code by deleting "1/185" as it appears therein and substituting in lieu thereof the following: "1/185 in the fiscal year beginning July 1, 1999; 1/187 in the fiscal year beginning July 1, 2000; and 1/189 for the fiscal year beginning July 1, 2001; and 1/190 for the fiscal year beginning July 1, 2002 and each succeeding fiscal year"; and by deleting "1/204" as it appears therein and substituting in lieu thereof the following: "1/204 in the fiscal year beginning July 1, 1999; 1/206 in the fiscal year beginning July 1, 2000; 1/208 for the fiscal year beginning July 1, 2001; and 1/209 for the fiscal year beginning June 1, 2002 and each succeeding fiscal year".

Section 41. Amend §1703(j), Title 14 of the Delaware Code by deleting "1/185" each place that it appears therein and substituting in lieu thereof the following: "1/185 in the fiscal year beginning July 1, 1999; 1/187 in the fiscal year beginning July 1, 2000; and 1/189 for the fiscal year beginning July 1, 2001; and 1/190 for the fiscal year beginning July 1, 2002 and each succeeding fiscal year".

Section 42. Amend §1322(a), Title 14 of the Delaware Code by deleting "(185 days)" as it appears therein.

Section 43. Amend §1703, Title 14 of the Delaware Code by deleting "1/185" as it appears in subsection (e) and subsection (f) therein, and by inserting in lieu thereof in each place "the daily rate defined in subsection (j) of this section".

Section 44. Amend §1318A(b)(10), Title 14 of the Delaware Code by deleting "185 days for a 10-month employee, 204 days for an 11-month employee" as it appears therein and by inserting in lieu thereof "185 days in the fiscal year beginning July 1, 1999, 187 days in the fiscal year beginning July 1, 2000, 189 days for the fiscal year beginning July 1, 2001, and 190 days for the fiscal year beginning July 1, 2002 and each succeeding fiscal year for a 10-month employee; 204 days in the fiscal year beginning July 1, 1999, 206 days in the fiscal year beginning July 1, 2000, 208 days for the fiscal year beginning July 1, 2001, and 209 days for the fiscal year beginning June 1, 2002 and each succeeding fiscal year for 11-month employees".

Section 45. Amend §4116(b), Title 14 of the Delaware Code by deleting "1305(e)" as it appears therein and by inserting in lieu thereof "1305".

Section 46. Amend §1705(a), Title 14 of the Delaware Code by inserting the words "all applicable" after the word "with" as it appears in the first sentence.

Section 47. Amend §1716, Title 14 of the Delaware Code by striking subsection (e) in its entirety and substituting in lieu thereof the following:

"(e) The programs authorized under this section shall operate for the number of hours of employment as specified by §1305 of this title, and personnel employed with funds authorized under this section shall be paid in accordance with §1305 of this title. Units may be used to fund extended year programs using a formula of 1 unit for each individual employed for the number of hours of employment as specified by §1305 of this title. School districts are also authorized to employ 2 service aides or 2 instructional aides for each unit in lieu of 1 person employed under §1305 of this title, provided that such aides are paid in accordance with the salary schedule contained in §1324 of this title."

Section 48. Amend §1716A(g), Title 14 of the Delaware Code by deleting the words "180 pupil days and 185 employment days described in §1305(e)" and substituting in lieu thereof the following: "the full work days of employment as described in §1305".

Chapter 294
Vol.72

Section 49. Amend §2804(b), Title 14 of the Delaware Code by striking the words "185-day work year at a daily rate equal to 1/185 per day of the state teacher salary schedule in effect" and substituting in lieu thereof "full work days of employment as defined in §1305 of this title at the daily rate defined in §1703(j) of this title".

Section 50. Amend §1092, Title 14 of the Delaware Code by deleting "the Department with the approval of the State Board of Education" and substituting in lieu thereof "the Professional Standards Board and the State Board of Education pursuant to § 1203 of this title."

Section 51. Amend §154(c) Title 14 of the Delaware Code by striking the third sentence as it appears therein in its entirety and substituting in lieu thereof the following: "Biennial monetary awards in the amount of \$1,500 per Division I unit shall be made available to those schools which demonstrate superior absolute performance, improvement performance, or distributional performance. A school may qualify for a monetary reward by meeting any of these three criteria, but in no case shall a school receive more than one monetary award per measurement cycle."

Section 52. Amend §154(c), Title 14 of the Delaware Code by adding a new sentence at the end of subsection (c) to read as follows: "For purposes of this subsection, salary supplements may be considered a school improvement process."

Section 53. The Budget Director and the Controller General have the authority to establish 1.0 position within the Department of Education and transfer funds to implement this Act from the State Budget Office, Education Contingency Fund (10-02-04). The 1.0 general fund position shall be for an Executive Director for the Professional Standards Board to be compensated at the education associate level.

Section 54. Amend § 10161(a), Title 29 of the Delaware Code by deleting the word "and" in §10161(a)(45) and by renumbering current § 10161(a)(46) as § 10161(a)(47) and by inserting as new §10161(a)(46) the following: "(46) The Professional Standards Board; and".

Section 55. Amend §151(g), Title 14 of the Delaware Code by deleting the current subsection (g) as found therein and substituting in lieu thereof a new subsection (g) to read as follows:

"(g) Each local school district may establish alternate assessments for children with disabilities who cannot participate in the statewide assessment of student achievement even with appropriate accommodations and modifications. Alternate assessments must be developed and used in the annual statewide assessment beginning not later than July 1, 2001. Each local school district, through the individual student's Individualized Education Program Team or 504 Team, shall determine what assessment the student will take, as well as the student's matriculation or promotion status and necessary remedial activities if the student's performance on the assessment is below standard, and if the Statewide assessment is administered, what accommodations and/or modifications will be utilized. However, no student shall be denied the opportunity to take the state assessments administered pursuant to (b) and (c) of this section."

Section 56. Amend §152, Title 14 of the Delaware Code by striking §152 in its entirety and by substituting in lieu thereof the following:

"§152. State high school diploma requirements; certificate of performance.

(a) Effective for students graduating from high school in 2004, there shall be three (3) State high school diplomas: a Standard Diploma, an Academic Diploma, and a Distinguished Achievement Diploma. The Department shall clearly indicate on the face of each diploma the name of the diploma issued and the general requirements completed by a student who receives the diploma.

(b) The Department shall award an Academic Diploma to a student who successfully completes prescribed course requirements established by the State, or the district, if district credit requirements are higher than those of the State, and demonstrates a proficient level of performance relative to the State high school content standards on the assessments administered pursuant to §151(b) and (c) of this title. The Department, by regulation, shall define the level of performance on the State assessments necessary for a student to receive an Academic Diploma. The definition may provide for a weighted average of the results on the assessments pursuant to §151(b) and (c) of this title which will demonstrate a satisfactory level of performance to receive an Academic Diploma. A weighted average must place a higher priority on the assessments pursuant to §151(b) of this title than those administered pursuant to §151(c) of this title. The Department of Education shall establish by regulation the higher level of individual performance necessary for a student to receive a Distinguished Achievement Diploma. A student who receives a Standard Diploma or an Academic Diploma shall be eligible at his or her own expense within 5 years to upgrade to

the Academic Diploma or a Distinguished Diploma by successfully completing a test approved by the Department of Education.

(c) A high school student who fails to achieve a proficient level of performance on the statewide high school assessment required by §151(b) and (c) of this title must retake the assessment at least once in each succeeding year until the student achieves the established level of performance. A student taking an alternate assessment pursuant to §151(g) of this title shall be exempt from this requirement.

(d) The Department shall award a Standard Diploma to a student who successfully completes prescribed course requirements established by the State, or the district, if district credit requirements are higher than those of the State, if the student does not meet the additional requirements for an Academic Diploma.

(e) The Department shall issue a certificate of performance to a student who has met the requirements of the student's Individualized Education Program but has not completed the high school graduation course credit requirements established by the State, or the district, if higher than the State and has not demonstrated the proficient level of performance established pursuant to subsection (b) of this section."

Section 57. Amend §153(d), Title 14 of the Delaware Code by renumbering current §153(d)(6) as §153(d)(10) and by deleting paragraphs (1), (2), (3), (4) and (5) in their entireties and inserting in lieu thereof the following:

- "(1) A 3rd, 5th, or 8th grade student, whose performance on the reading portion of the assessments administered pursuant to §151(b) of this title is at Level II on the DSTP, shall not advance to the next grade unless:
- (A) The student's parent(s) or guardian and the school district agree on an individual improvement plan (which may include but is not limited to summer school, before and/or after school instruction, Saturday school, and/or tutoring) to remediate those areas of weakness demonstrated by the State assessment; or
 - (B) If no agreement pursuant to subparagraph (A) of this paragraph can be reached, the student attends a summer school program and demonstrates a proficient level of reading performance on the State assessment prior to the commencement of the next school year; or
 - (C) The student has previously been retained for two (2) years because of academic performance.
- (2) A 3rd, 5th, or 8th grade student, whose performance on the reading portion of the assessments administered pursuant to §151(b) of this title is far below grade level proficiency (Level I) shall not advance to the next grade unless the student attends a summer school program and demonstrates a proficient level of reading performance on the State assessment prior to the commencement of the next school year or the student has previously been retained for two (2) years because of academic performance.
- (3) An 8th grade student, whose performance on the math portion of the assessments administered pursuant to §151 (b) of this title is a Level II on the DSTP, shall not advance to the next grade unless:
- (A) The student's parent(s) or guardian and the school district agree on an individual improvement plan (which may include but is not limited to summer school, before and/or after school instruction, Saturday school, and/or tutoring) to remediate those areas of weakness demonstrated on the State assessment; or
 - (B) If no agreement pursuant to subparagraph (A) of this paragraph can be reached, the student attends a summer school program and demonstrates a proficient level of math performance on the State assessment prior to the commencement of the next school year; or
 - (C) The student has previously been retained for two (2) years because of academic performance.
- (4) An 8th grade student, whose performance on the math portion of the assessments administered pursuant to §151(b) of this title is far below graded level proficiency (Level I), shall not advance to the next grade unless the student attends a summer school program and demonstrates a proficient level of math performance on the State assessment prior to the commencement of the next school year or the student has previously been retained for two (2) years because of academic performance.

- (5) A student who advances to the next school year due to an individual improvement plan agreed to under (1) (A) and/or (3)(A) of this subsection must demonstrate as the end of that school year proficiency on the State assessment in which he or she failed to reach proficiency. If a student does not demonstrate proficiency at the end of that school year, the student must be retained.
- (6) With respect to a student whose performance continues to be deficient after completion of the retention year, the Department may not require that the student's district retain the student at grade level for another year, but shall require that the district develop an individual improvement plan pursuant to Department regulations. The Department regulations must require that each individual improvement plan identify a specific course of study for the student and the academic improvement activities the student must undertake in order to improve the student's ability to a proficient level. Academic improvement activities may include mandatory participation in summer school, extra instruction and mentoring programs.
- (7) For a student, whose performance on an off-grade assessment does not meet grade level proficiency, the local school district shall, in consultation with the student's parent(s) or guardian, develop an individual improvement plan (which may include but is not limited to summer school, before and/or after school instruction, Saturday school, and/or tutoring) to remediate those areas of weakness demonstrated by the off-grade assessment. To the extent an off-grade assessment is not available, local school districts shall strive to use other means to identify students deemed in danger of failing to reach grade level proficiency on assessments administered pursuant to §151(b) of this Title and shall develop individual improvement plans for those students to remediate identified areas of weakness.
- (8) Notwithstanding any provision, regulation, or law to the contrary, the provisions of §153(d) (1), (2), (3), (4), (5), (6), (7) and (10), shall take effect based on the year 2002 State assessments administered pursuant to §151(b) for students in the 3rd, 5th, and 8th grades. Until such time, a local school district may make student placement decisions based on student performance on the 2000 and 2001 State assessments. Local school districts shall develop and implement individual improvement plans for those students whose performance on the 2000 and 2001 State assessments does not meet grade level proficiency.
- (9) The State funding for the individual improvement plans under this subsection shall be limited to the 'extra time' funding provided by annual appropriation by the General Assembly."

Section 58. Amend §153 of Title 14, Delaware Code by deleting subsection (g) in its entirety, and by substituting in lieu thereof a new subsection (g) to read as follows:

"(g) Those students administered alternate assessments pursuant to §151(g) of this Title shall not be subject to the provisions of subsection (d) of this section."

Section 59. Amend §153(d)(6) of this Title by deleting in the second sentence of that paragraph, the phrase "mandatory participation in summer school,".

Section 60. Any rules or regulations of the State Board of Education prior to the effective date of this Act shall remain in full force and effect until otherwise modified in accordance with Delaware law; provided, however, that if any rule or regulation heretofore adopted conflicts with any of the provisions of this Act, the language contained in this Act shall prevail over that contained in a rule or regulation.

Section 61. The Professional Standards Board established under this Act shall sunset on March 30, 2003, unless affirmatively reestablished by law on or before that date.

Section 63. All compensation matters in this Act are subject to an annual appropriation by the General Assembly.

Section 64. 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 65. The Department of Education shall convene a committee of no more than eleven members to review and report on the Delaware Student Testing Program, the alignment of the curriculum at the local school district level to the Delaware content standards, the need for additional indicators for purposes of student promotions and retention decisions, the three-tiered diploma system and the name of the diplomas. The Department shall convene the committee to be comprised of individuals with an expertise in student testing programs and to include members of academia. The committee shall be overseen by three members of the Senate of which two are appointed

by the President Pro Tempore of Senate and one by the Minority Leader of the Senate, three members of the House of Representatives of which two are appointed by the Speaker of the House of Representatives and one by the Minority Leader of the House of Representatives. The report shall be forwarded to the General Assembly no later than March 15, 2001. Nothing herein shall be construed to suspend, delay or otherwise interfere with the time lines otherwise provided in this legislation or in applicable laws and/or regulations.

Approved May 03,2000

CHAPTER 295

FORMERLY

SENATE BILL NO. 343

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

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

Section 1. Amend §1212, Title 14 of the Delaware Code by inserting in the end of said section the following:

"The professional development required by this chapter for license renewal may be waived if the educator has successfully completed the professional development requirements pursuant to an approved local school district professional development pilot plan. The Secretary, after consultation with the Professional Standards Board, may approve one pilot local school district's professional development plan, submitted within twelve months of enactment of this Bill, if the pilot plan was developed and agreed upon by the district, ratified by the organization representing the district's teachers for collective bargaining purposes, and the pilot plan is at least as rigorous as the professional development requirements under this Chapter. A pilot local professional development plan approved under this section shall be considered a three-year pilot professional development plan. After three years, the local school district may seek to have the pilot professional development plan continued pursuant to §1203 of this Chapter."

Section 2. Amend §1270, Title 14 of the Delaware Code by inserting a new subsection (i) to read as follows:

"(i) Notwithstanding subsection (h) of this section, one local school district may establish a pilot evaluation program if approved by the Secretary pursuant to this subsection. The Secretary, after consultation with the Professional Standards Board, may approve one pilot local school district evaluation plan if the pilot plan was developed and agreed upon by the district, ratified by the organization representing the district's teachers for collective bargaining purposes, and the pilot plan is at least as rigorous as the evaluation requirements under this Chapter and is approved within twelve months of enactment of the Bill. One pilot evaluation plan approved under this subsection shall be considered a three year pilot evaluation plan. After three years, the local school district may seek to have the pilot evaluation plan continued pursuant to §1203 of this Chapter."

Approved May 03, 2000

CHAPTER 296

FORMERLY

SENATE BILL NO. 309

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

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

Section 1. Amend §1809, Title 7 of the Delaware Code, by striking §1809 in its entirety and substituting in lieu thereof the following:

"§1809. Minimum size limit.

It shall be unlawful for any person to possess any eel that measures less than 6 inches in total length."

Section 2. Amend Chapter 18, Title 7 of the Delaware Code, by adding thereto a new section to read as follows:

"§1810. Noncommercial eel fishing.

It shall be unlawful for any person to possess more than 50 eels, unless said person has been issued a valid commercial eel license or has in their possession a valid receipt for said eels from another person who is authorized to catch or take eels for commercial purposes."

Approved May 16, 2000

CHAPTER 297

FORMERLY

HOUSE BILL NO. 437
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO IDENTITY THEFT.

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

Section 1. Amend Chapter 5 of Title 11 of the Delaware Code by adding thereto a new section to read:

"§854. Identity theft; class E felony; class D felony.

(a) A person commits identity theft when the person knowingly or recklessly obtains, produces, possesses, uses, sells, gives, or transfers personal identifying information belonging or pertaining to another person without the consent of the other person and with intent to use the information to commit or facilitate any crime set forth in this title.

(b) A person commits identity theft when the person knowingly or recklessly obtains, produces, possesses, uses, sells, gives, or transfers personal identifying information belonging or pertaining to another person without the consent of the other person, thereby knowingly or recklessly facilitating the use of the information by a third person to commit or facilitate any crime set forth in this title.

(c) For the purposes of this section, 'personal identifying information' includes name, address, birth date, Social Security number, driver's license number, telephone number, financial services account number, savings account number, checking account number, credit card number, debit card number, identification document or false identification document, electronic identification number, educational record, health care record, financial record, credit record, employment record, e-mail address, computer system password, mother's maiden name, or similar personal number, record, or information.

(d) Identity theft is a class E felony, unless the victim is 62 years of age or older, in which case identity theft is a class D felony.

(e) When a person is convicted of or pleads guilty to identity theft, the sentencing judge shall order full restitution for monetary loss, including documented loss of wages and reasonable attorney fees, suffered by the victim.

(f) Prosecution under this section does not preclude prosecution or sentencing under any other section of this Code."

Section 2. Amend §828, Chapter 5, Title 11 of the Delaware Code by adding thereto immediately after the phrase "offense of such character." the following:

"(4) The offense of identity theft, such as a credit card, driver license, or other document issued in a name other than the name of the person who possesses the document."

Section 3. Amend §9401(1), Title 11 of the Delaware Code by adding "854. Identity theft; class E felony; class D felony." between the phrases "851. Receiving stolen property; class G felony; class A misdemeanor." and "861. Forgery; class F felony;" as they appear therein.

Section 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved May 18, 2000

CHAPTER 298

FORMERLY

SENATE BILL NO. 133 AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PROFESSIONAL ENGINEERS.

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

Section 1. Amend Section 2826 of Title 24 of the Delaware Code by adding the following at the end of said section:

"Any permanent injunction granted by the Court of Chancery pursuant to this section shall include an award for the costs of the action and reasonable attorney's fees to be paid by the defendant, with multiple defendants being jointly and severally liable for such costs and fees."

Approved May 22, 2000

CHAPTER 299

FORMERLY

SENATE BILL NO. 277
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 RELATING TO FREE SCHOOLS.

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

Section 1. Amend § 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)(1) 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 the child's parents do not reside together and a court of appropriate jurisdiction has entered a custody order, the child's residency for school attendance purposes shall be determined as follows unless otherwise agreed in a writing signed by both parents:

- (a) In cases in which one parent is awarded sole custody, the child shall be considered a resident of the district in which the sole custodian resides.
- (b) In cases in which the parents are granted joint custody, the child shall be considered a resident of the district in which the primary residential parent resides.
- (c) In cases in which the parents are granted shared custody, the child may be considered a resident of either parent's district.

Under no circumstances shall a child be enrolled in two different schools at the same time.

(2) If a child 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:

- (a) a signed order from a court of appropriate jurisdiction granting custody to, or appointing as the child's guardian the resident with whom he or she is residing; or
 - (b) suitable documentation certifying that the child 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
 - (c) a completed and notarized Establishment of Delegation of Power to Relative Caregivers to Consent for Registering Minors for School (also known as "Caregivers School Authorization") pursuant to subsection (f) of this section 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.
- (3) Children under the care or custody of the Department of Services for Children, Youth and Their Families are exempted from the provisions of this subsection. Children in the care or custody of the Department of Services for children, Youth and their Families shall attend schools in the district in which they are currently residing, regardless of their parent's place of residence."

Section 2. Amend § 202, Title 14 of the Delaware Code by striking subsection (f) in its entirety and substituting in lieu thereof a new subsection (f) to read as follows:

"(f)(1) A child may be enrolled in a particular school district based upon the submission of a Caregivers School Authorization if the following conditions are satisfied:

- (a) The child resides with a relative caregiver who is 18 years of age or older, is a Delaware resident, and resides in the district in which the child seeks enrollment;

- (b) The child resides with the relative caregiver as a result of:
 - 1) The death, serious illness, incarceration, or military assignment of a parent or legal guardian;
 - 2) The failure or inability of the parent or legal guardian to provide substantial financial support or parental care or guidance;
 - 3) Alleged abuse or neglect by the parent, legal guardian, or others in the parent or legal guardian's residence;
 - 4) The physical or mental condition of the parent or legal guardian which prevents adequate care and supervision of the child;
 - 5) The loss or uninhabitability of the student's home as the result of a natural disaster; or
 - 6) Other circumstances as deemed appropriate by the school district;
- (c) The child is not currently subject to an expulsion from school (as set forth in Section 4130 of this Title), or suspended from school for conduct that could lead to expulsion;
- (d) The child's residency with the caregiver is not for the purpose of:
 - 1) Attending a particular school (although a caregiver's school district may be considered when deciding placement of the child as between two or more relative caregivers);
 - 2) Circumventing the Enrollment Choice Program (Chapter 4 of Title 14);
 - 3) Participating in athletics at a particular school;
 - 4) Taking advantage of special services or programs offered at a particular school; or
 - 5) Other similar purposes; and
- (e) The caregiver submits to the school district in which the child seeks enrollment a completed and notarized Caregivers School Authorization using the most recent form developed for this purpose by the Department of Health and Social Services. The Caregivers School Authorization must include the following:
 - 1) The name and date of birth of the child;
 - 2) The name, address, and date of birth of the caregiver;
 - 3) The names of the child's mother, father, legal custodian or guardian;
 - 4) Relationship of the caregiver to the child, documented by proof of relationship as defined by regulation;
 - 5) A statement that the caregiver has full-time care of the student, documented as required by regulation;
 - 6) A statement indicating which of the circumstances described in subsection (f)(1)(b) applies;
 - 7) A statement that the caregiver will be the person responsible for enrolling the student in school, being the legal contact for the school, and making school-based medical and special education decisions;
 - 8) The notarized and dated signatures of the caregiver, parents, legal custodians or guardians, including a sworn statement of the accuracy of the information provided and confirming that the caregiver and other signatories are aware of the penalties for falsely completing the Authorization. If after a reasonable effort the caregiver is unable to locate the parents, then as an alternative to including the parents' signatures, the Authorization shall include a statement of reasonable efforts made to locate the parents;
 - 9) If available, any custody order in effect regarding the child. The order shall be submitted as an attachment to the Caregivers School Authorization and shall include only that portion of the order indicating to whom custody is granted.

If the documentation required to verify the information in the Caregivers School Authorization cannot be obtained by the caregiver, then the schools shall permit the child to enroll provided that a custody or guardianship petition that is date stamped to indicate that it has been filed with Family Court is provided within ten business days of enrollment. Additional time for submission of the date stamped petition may be provided as deemed appropriate

Chapter 299
Vol.72

by the individual district. The petition shall permit enrollment until the end of the school year or until such time as the court enters a decision disposing of the custody or guardianship petition, whichever first occurs;

- 2) A relative caregiver is an adult who, by blood, marriage or adoption, is the child's great grandparent, grandparent, step grandparent, great aunt, aunt, step aunt, great uncle, uncle, step uncle, 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 legal custody or legal guardianship of the student.
- 3) A caregiver who completes and submits a Caregivers' School Authorization form to register a child in his or her care for school, is authorized and agrees to act in the place of the parent(s) with respect to the child's education decisions (including but not limited to special education decisions) and the person the school contacts regarding truancy, discipline, and school based medical care. Once a Caregivers' School Authorization is submitted and approved, school districts are no longer responsible, for so long as the Authorization is valid, for communicating with the parent, custodian, or guardian who has signed the Authorization or is listed as unable to be found.
- 4) A Caregivers' School Authorization that complies with the requirements of this section shall be honored by any school in any school district. The school districts shall determine whether a particular Caregivers' School Authorization complies with the requirements of this section. A caregiver may appeal the school district's decision to the local Board of Education of the school district. Any school district that reasonably and in good faith relies on a Caregivers' School Authorization has no obligation to make any further inquiry or investigation.
- 5) Persons who knowingly make false statements in the Caregivers' School Authorization shall be subject to a minimum civil penalty of \$1000 and maximum of the average annual per student expenditure and may be required to reimburse the school district tuition costs. Further, such persons may be subject to criminal prosecution pursuant to Delaware Code Title 11, Section 1233. The Justices of the Peace shall have jurisdiction in these cases.
- 6) Caregivers' School Authorizations filed prior to January 1st shall be honored for the balance of the current school year and for the subsequent school year. Caregivers' School Authorizations filed on or after January 1st shall be honored for the balance of the current school year and for the two subsequent school years. In either case, the Authorization shall expire on August 1st of the applicable school year unless the caregiver receives permission from the school district to extend the length of time that the Authorization will be honored. Caregivers' School Authorizations may be cancelled at anytime if the minor stops living with the relative caregiver or upon written revocation of the Authorization by the child's caregiver, parent, legal custodian, or guardian.
- 7) The Department of Health and Social Services shall be authorized to promulgate regulations to implement this law. This law shall take effect upon the promulgation of such regulations. Relationship and proof of actual fulltime caregiving will be verified as stated in the regulations."

Section 3. Amend Title 14, Delaware Code, Section 601(3) by inserting the phrase ", caregiver pursuant to Title 14, Section 202(e)(2)(c)," between the words "parent" and "or"."

Approved May 22, 2000

CHAPTER 300

FORMERLY

HOUSE BILL NO. 196
AS AMENDED BY SENATE AMENDMENT NO. 1

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 Subchapter X, Chapter 34, of Title 14 of the Delaware Code by deleting the phrase "Delaware Qualified Tuition Savings Program" wherever it appears in the heading, sections, and subsections of said subchapter and substituting in lieu thereof the phrase "Delaware College Investment Plan".

Section 2. Amend Subchapter X, Chapter 34, of Title 14 of the Delaware Code by deleting the word "Program" wherever it appears and substituting in lieu thereof with the word "Plan".

Section 3. Amend Subchapter X, Chapter 34, Title 14 of the Delaware Code by deleting the phrase "Delaware Qualified Tuition Savings Board" wherever it appears in the heading, sections, and subsections of said subchapter and substituting in lieu thereof the phrase "Delaware College Investment Board".

Approved May 26, 2000

CHAPTER 301

FORMERLY

HOUSE BILL NO. 313

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE, RELATING TO TOBACCO PRODUCT TAX, TOBACCO PRODUCTS; PROVIDING ADDITIONAL REQUIREMENTS WITH RESPECT TO THE SALE OF CIGARETTES, AND PRESCRIBING PENALTIES.

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

Section 1. Amend Chapter 53 of Title 30 of the Delaware Code by adding a new section to read as follows:
"Section 5346. Prohibitions.

(a) No tobacco product tax stamp may be affixed to, or made upon, any package of cigarettes if:

(1) The package differs in any respect with the requirements of the Federal Cigarette Labeling and Advertising Act for the placement of labels, warnings, or any other information upon a package of cigarettes that is to be sold within the United States;

(2) The package is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or similar wording indicating that the manufacturer did not intend that the product be sold in the United States;

(3) The package, or a package containing individually stamped packages, has been altered by adding or deleting the wording, labels, or warnings described in (1) or (2) of this subsection;

(4) The package has been imported into the United States after January 1, 2000, in violation of 26 U.S.C. § 5754; or

(5) The package in any way violates federal trademark or copyright laws.

Chapter 301
Vol.72

(b) Any person who sells or holds for sale a cigarette package to which is affixed a tax stamp in violation of subsection (a) of this section shall be fined not more than \$1,000, or imprisoned for not more than 1 year, or both. Each cigarette package sold or held for sale shall be a separate violation.

(c) Notwithstanding any other provision of law, the Secretary may revoke any license issued under this chapter to any person who sell or holds for sale a cigarette package to which is affixed a tobacco product tax stamp in violation of subsection (a) of this section.

(d) Notwithstanding any other provision of law, the Secretary may seize and destroy or sell to the manufacturer (only for export) packages that do not comply with subsection (a) of this section.

(e) Notwithstanding any other provision of law, a violation of subsection (a) of this section is a deceptive practice under the Uniform Deceptive Trade Practices Act. (Subchapter III, Chapter 25, Title 6, Delaware Code).

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 May 06, 2000

CHAPTER 302

FORMERLY

HOUSE BILL NO. 382
AS AMENDED BY HOUSE AMENDMENT NO. 1

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 § 1313 of Title 9 of the Delaware Code by creating a new subsection (f) as follows:

(f) Notwithstanding the provisions of subsection (a) above, the Department of Land Use may administratively grant a dimensional variance for existing conditions that do not exceed one foot of the required dimension restrictions without the application being considered by the Board of Adjustment."

Approved May 26, 2000

CHAPTER 303

FORMERLY

HOUSE BILL NO. 392
AS AMENDED BY SENATE AMENDMENT NOS. 3 AND 5

AN ACT TO AMEND PART IV, TITLE 10 OF THE DELAWARE CODE RELATING TO SETTLEMENTS IN
CIVIL ACTIONS; AND PROVIDING FOR A STRUCTURED SETTLEMENT PROTECTION ACT.

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

Section 1. Amend Part IV, Title 10 of the Delaware Code by adding thereto a new Chapter, designated as Chapter 66, which new Chapter shall read as follows:

"CHAPTER 66. STRUCTURED SETTLEMENTS

§6601. Conditions to transfers of structured settlement payment rights.

(a) No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been authorized in advance in a final order of a court of competent jurisdiction or responsible administrative authority, based on express findings by such court or responsible administrative authority that:

(1) the transfer complies with the requirements of this Chapter and will not contravene other applicable law;

(2) not less than ten (10) days prior to the date on which the payee first incurred any obligation with respect to the transfer, the transferee has provided to the payee a disclosure statement in bold type, no small than 14 points, setting forth:

(i) the amounts and due dates of the structured settlement payments to be transferred;

(ii) the aggregate amount of such payments;

(iii) the discounted present value of such payments, together with the discount rate used in determining such discounted present value;

(iv) the gross amount payable to the payee in exchange for such payments;

(v) an itemized listing of all brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, administrative fees, legal fees, notary fees and other commissions, fees, costs, expenses and charges payable by the payee or deductible from the gross amount otherwise payable to the payee;

(vi) the net amount payable to the payee after deduction of all commissions, fees, costs, expenses and charges described in subparagraph (v) of this paragraph;

(vii) the quotient (expressed as a percentage) obtained by dividing the net payment amount by the discounted present value of the payments; and

(viii) the amount of any penalty and the aggregate amount of any liquidated damages (inclusive of penalties) payable by the payee in the event of any breach of the transfer agreement by the payee;

(3) The transfer is fair and reasonable and in the best interests of the payee and the payee's dependents;

(4) the payee has received independent professional advice regarding the legal, tax and financial implications of the transfer;

(5) if the transfer would contravene the terms of the structured settlement:

(i) the transfer has been expressly approved in writing by:

a. each interested party; provided, however, that the approval of the annuity issuer and the structured settlement obligor shall not be required if all other interested parties approve the transfer and waive any and all rights to require that the transferred payments be made to the payee in accordance with the terms of the structured settlement; and

b. any court or government authority, other than the court or responsible administrative authority from which authorization of the transfer is sought under this Chapter, which previously approved the structured settlement; and

(ii) signed originals of all approvals required under subparagraph (I) of this paragraph have been filed with the court or responsible administrative authority from which authorization of the transfer is sought under this Chapter, and originals or copies have been furnished to all interested parties; and

(5) the transferee has given written notice of the transferee's name, address and taxpayer identification number to the annuity issuer and the structured settlement obligor and has filed a copy of such notice with the court or responsible administrative authority.

§6602. Definitions

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

(a) "Annuity issuer" shall mean an insurer that has issued an insurance contract used to fund periodic payments under a structured settlement;

(b) "Applicable law" shall mean:

(i) the federal laws of the United States;

(ii) the laws of this State, including principles of equity applied in the courts of this State; and

(iii) the laws of any other jurisdiction:

a. which is the domicile of the payee or any other interested party;

b. under whose laws a structured settlement agreement was approved by a court;

or

c. in whose courts a settled claim was pending when the parties entered into a structured settlement agreement;

(c) "Dependents" shall include a payee's spouse and minor children and all other family members and other persons for whom the payee is legally obligated to provide support, including alimony;

(d) "Discounted present value" shall mean the fair present value of future payments, as determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service;

(e) "Favorable tax determination" shall mean, with respect to a proposed transfer of structured settlement payment rights, any of the following authorities that definitively establishes that the federal income tax treatment of the structured settlement for the parties to the structured settlement agreement and any qualified assignment agreement, other than the payee, will not be affected by such transfer:

(i) a provision of the United States Internal Revenue Code, United States Code Title 26, as amended from time to time, or a United States Treasury regulation adopted pursuant thereto;

(ii) a revenue ruling or revenue procedure issued by the United States Internal Revenue Service;

(iii) a private letter ruling by the United States Internal Revenue Service with respect to such transfer;

(iv) a decision of the United States Supreme Court or a decision of a lower federal court in which the United States Internal Revenue Service has acquiesced;

(f) "Federal hardship standard" shall mean a federal standard applicable to transfers of structured settlement payment rights based on findings of a court or responsible administrative authority regarding the payees' needs, as contained in the United States Internal Revenue Code, United States Code Title 26, as amended from time to time, or in a United States Treasury regulation adopted pursuant thereto;

(g) "Independent professional advice" shall mean the advice of an attorney, certified public accountant, actuary or other licensed professional adviser:

(i) who is engaged by a payee to render advice concerning the legal, tax and financial implications of a transfer of structured settlement payment rights;

(ii) who is not in any manner affiliated with or compensated by the transferee of such transfer; and

(iii) whose compensation for rendering such advice is not affected by whether a transfer occurs or does not occur.

(h) "Interested parties" shall mean, with respect to any structured settlement, the payee, any beneficiary designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations under such structured settlement;

(i) "Payee" shall mean an individual who is receiving tax-free damage payments under a structured settlement and proposes to make a transfer of payment rights thereunder;

(j) "Qualified assignment agreement" shall mean an agreement providing for a qualified assignment within the meaning of section 130 of the United States Internal Revenue Code. United States Code Title 26, as amended from time to time;

(k) "Responsible administrative authority" shall mean, with respect to a structured settlement, any government authority vested by law with exclusive jurisdiction over the settled claim resolved by such structured settlement;

(l) "Settled claim" shall mean the original tort claim or workers' compensation claim resolved by a structured settlement;

(m) "Structured settlement" shall mean an arrangement for periodic payment of damages for personal injuries established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim;

(n) "Structured settlement agreement" shall mean the agreement, judgment, stipulation, or release embodying the terms of a structured settlement, including the rights of the payee to receive periodic payments;

(o) "Structured settlement obligor" shall mean, with respect to any structured settlement, the party that has the continuing periodic payment obligation to the payee under a structured settlement agreement or a qualified assignment agreement;

(p) "Structured settlement payment rights" shall mean rights to receive periodic payments (including lump sum payments) under a structured settlement, whether from the settlement obligor or the annuity issuer, where:

(i) the payee, the settlement obligor, the annuity issuer, or any other interested party is domiciled in this State;

(ii) the structured settlement agreement was approved by a court or responsible administrative authority in this State; or

(iii) the settled claim was pending before the courts of this State when the parties entered into the structured settlement agreement;

(q) "Transfer" shall mean any sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made by a payee for consideration; and

(r) "Terms of the structured settlement" shall include, with respect to any structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement and

Chapter 303
Vol.72

any order or approval of any court or responsible administrative authority or other government authority authorizing or approving such structured settlement;

(s) "Transfer agreement" shall mean the agreement providing for transfer of structured settlement payment rights from a payee to a transferee.

§6603. Jurisdiction; procedure for approval of transfers.

(a) The Superior Court shall have non-exclusive jurisdiction over any application for authorization, under §6601 of this Chapter, of a transfer of structured settlement payment rights.

(b) Not less than twenty (20) days prior to the scheduled hearing on any application for authorization of a transfer of structured settlement payment rights under §6601 of this Chapter, the transferee shall file with the court and serve on any other government authority which previously approved the structured settlement, on all interested parties, and on the Office of the Attorney General, the Director of the Consumer Affairs Unit, the Insurance Commissioner and any known State official who is vested with discretionary authority to be heard in proceedings under this Chapter, a notice of the proposed transfer and the application for its authorization, including in such notice:

(i) a copy of the transferee's application;

(ii) a copy of the transfer agreement;

(iii) a copy of the disclosure statement required under §6601(b) of this Chapter;

(iv) notification that any interested party is entitled to support, oppose or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or responsible administrative authority or by participating in the hearing; and

(v) notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed (which shall be not less than fifteen (15) days after service of the transferee's notice) in order to be considered by the court or responsible administrative authority.

(c) Those parties, persons and officials named in §6603(b) shall have standing to raise, appear and be heard on any matter relating to an application for authorization of a transfer of structured settlement payment rights under this Chapter.

§6604. No waiver; no penalties.

(a) The provisions of this Chapter shall not be waived.

(b) No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee based on any failure of such transfer to satisfy the conditions of §6601 of this Chapter.

Section 2. CONSTRUCTION.

Nothing contained in this Chapter shall be construed to authorize any transfer of structured settlement payment rights in contravention of applicable law or to give effect to any transfer of structured settlement payment rights that is invalid under applicable law.

Section 3. EFFECTIVE DATE.

This Chapter shall apply to any transfer of structured settlement payment rights under a transfer agreement entered into on or after the thirty-first (31st) day after the date of enactment of this Chapter; provided, however, that nothing contained herein shall imply that any transfer under a transfer agreement reached prior to such date is effective.

Approved May 26, 2000

CHAPTER 304

FORMERLY

HOUSE BILL NO. 472

AN ACT TO AMEND TITLE 14 AND TITLE 29 OF THE DELAWARE STATE CODE RELATING TO THE
CALCULATION OF INTEREST ON SCHOOL FUNDS.

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

Section 1. Amend Section 1923, Chapter 19, Title 14 of the Delaware Code by deleting the entire section and substituting the following in lieu thereof:

"§1923. Payment of interest upon local school funds on deposit.

The State Treasurer shall credit to the account of each local school district that has funds on deposit with the State Treasurer such amount of interest as determined by this section upon such funds. The rate of interest applied shall be based upon net interest earned and calculated under guidelines established by the Cash Management Policy Board.

(a) On or before the last day of each month, the State Treasurer shall credit the operating and debt service accounts respectively of each school district's operating and debt service funds with interest on the average balances in operating and debt service funds for the preceding month. The amount of interest due shall be calculated upon the average daily account balances determined by the respective financial activity reports of the Department of Finance.

(b) On or before the last day of each month, the State Treasurer shall credit the debt service account of each local school district's construction fund with interest on the average balance of that proportion of the construction account contributed by the local school district. The amount of interest due shall be calculated upon the average daily account balances determined by the respective financial activity reports of the Department of Finance."

Section 2. Amend Section 7514, Chapter 75, Title 29 of the Delaware Code by deleting the entire section and substituting the following in lieu thereof:

§7514. Local funds and State appropriations to be deposited.

The monies paid to the State Treasurer by a school district as its local share under any school construction bond authorization act and any funds appropriated as its local share by the State under any school construction bond authorization act, including any additional amount appropriated to such school district by the State, and for the financing of which bonds of the State are to be issued, shall be deposited by the State Treasurer in a special fund and shall be expended only for school construction in such district. Each of said local shares and additional amounts shall be credited with interest in the following manner:

(1) The State Treasurer shall credit to the account of each local school district which has funds on deposit with the State Treasurer such amount of interest as determined by this section upon such funds. The rate of interest applied shall be based upon net interest earned and calculated under guidelines established by the Cash Management Policy Board.

(2) On or before the last day of each month, the State Treasurer shall credit the operating and debt service accounts respectively of each school district's operating and debt service funds with interest on the average daily balances in operating and debt service funds for the preceding month. The amount of interest due shall be calculated upon the average daily account balances determined by the respective financial activity reports of the Department of Finance.

(3) On or before the first day of each month, the State Treasurer shall credit the debt service of each local school district's construction fund with interest on the average balance of that proportion of the construction account contributed by the local district. The amount of interest due shall be calculated upon the

Chapter 304

Vol.72

average daily account balances determined by the respective financial activity reports of the Department of Finance."

Approved May 26, 2000

CHAPTER 305

FORMERLY

HOUSE BILL NO. 477

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE REGULATION OF NURSING FACILITIES AND SIMILAR FACILITIES.

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

AMEND Chapter 11 of Title 16 of the Delaware Code by adding the following new subsection (g) to Section 1104:

"(g) The Department shall grant a provisional license to any newly established or newly transferred nursing facility or related facility, provided that the requirements of this section are met. The term of such provisional license shall be 90 days, and thereafter the nursing facility or similar facility shall be entitled to an annual license, provided that the requirements of this section are met.

FURTHER AMEND § 1109(c), Chapter 11 of Title 16 of the Delaware Code by replacing "10,000" with "\$5,000".

FURTHER AMEND § 1113, Chapter 11, of Title 16 of the Delaware Code by adding the following subsection (6) to read as follows:

"(6) Issuance of a provisional license for a nursing facility that is in substantial but not full compliance with applicable laws and regulations."

Approved May 26, 2000

CHAPTER 306

FORMERLY

HOUSE BILL NO. 484

AN ACT TO AMEND TITLES 13 AND 16 OF THE DELAWARE CODE RELATING TO FOREIGN ADOPTIONS.

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

Section 1. Amend Section 927(a), Title 13 of the Delaware Code by deleting the phrase "entitled to the application of the principles of full faith and credit" as it appears in that subsection and inserting in lieu thereof the following phrase; "valid in this state."

Section 2. Amend Section 927 of Title 13 of the Delaware Code by adding a new subsection (c) to read as follows:

"(c) Adoptive parents seeking an order certifying the validity of their foreign adoption decree shall file the decree with the Family Court in the county in which they reside. An affidavit shall be filed with the decree indicating that the decree was issued in accordance with the laws of the issuing jurisdiction and that the adopted child was not brought into Delaware until the adoption was finalized. The Court shall review the affidavit, decree, and other documents, and if the adoption meets the requirements of this section, the Court shall issue an order certifying the validity of the adoption."

Section 3. Amend Section 3126, subsection (a), of Title 16 of the Delaware Code by deleting the entire subsection and inserting the following in lieu thereof:

" (a) Upon the issuance of a final decree of adoption or of an order certifying the validity of a foreign adoption, the clerk of the court in which the decree of adoption was made, or filed in the case of a foreign adoption under § 927 of Title 13 of this code, shall immediately file in the office of the State Registrar, on forms provided by the State Registrar for this purpose, a report setting forth the information required by § 921 of Title 13 of this code, together with a certified copy of the final decree of adoption."

Approved May 26, 2000

CHAPTER 307

FORMERLY

HOUSE BILL NO. 505

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMES AND CRIMINAL PROCEDURES.

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

Section 1. Amend § 8603(c), Title 11, Delaware Code by deleting the following phrase:

"14 members, 9" and replacing thereto with "16 members, 11"

Section 2. Further amend § 8603(c)(2), Title 11, Delaware Code by deleting the following phrase: "county or".

Section 3. Further amend § 8603(c), Title 11, Delaware Code by adding as a new subsection the following:

"(9) One member of the New Castle County Police Department as designated by the Colonel of the New Castle County Police."

Section 4. Further Amend § 8603(c)(5), Title 11, Delaware Code, by deleting the word "Two" as it exists therein, and by inserting in lieu thereof the word "Three".

Approved May 26, 2000

CHAPTER 308

FORMERLY

HOUSE BILL NO. 507
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO NOTIFICATION OF PATIENTS
BY A PHYSICIAN OR THE PERSONAL REPRESENTATIVE OF A PHYSICIAN'S ESTATE.

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

Section 1. Amend §1761(a), Title 24 of the Delaware Code by striking subsection (a) in its entirety and by substituting in lieu thereof the following:

"(a) Every physician licensed to practice under this chapter who is discontinuing a business in this State or is leaving this State and who is not transferring patient records to another physician shall notify his or her patients of record by publishing a notice to that effect in a newspaper of daily circulation in the area where the physician practices. The notice must be published at least 3 times over a three-month period in advance of discontinuing the business or leaving the State and must explain how a patient can procure his or her patient records. All patients of record who have not requested their records 30 days before the closing of the business shall be notified by first class mail by the physician to permit the patients to procure their records. Any patient records that have not been procured within 7 years after the physician discontinues business or leaves the State may be permanently disposed of in a manner that ensures confidentiality of the records."

Section 2. Amend §1761(b), Title 24 of the Delaware Code by striking subsection (b) in its entirety and by substituting in lieu thereof the following:

"(b) When a physician licensed to practice under this chapter dies and has not transferred patient records to another physician and has not made provisions for a transfer of patient records to occur upon the physician's death, a personal representative of the physician's estate shall notify the physician's patients of record by publishing a notice to that effect in a newspaper of daily circulation in the area where the physician practiced. The notice must be published at least 3 times over a three-month period after the physician's death and must explain how a patient can procure his or her patient records. All patients of record who have not requested their records 30 days after publication shall be notified by first class mail by the personal representative of the estate to permit the patients to procure their records. Any patient records that have not been procured within 7 years after the death of the physician may be permanently disposed of in a manner that ensures confidentiality of the records."

Section 3. Amend §1761, Title 24 of the Delaware Code by adding thereto a new subsection to read:

"(d) A physician, or the personal representative of the estate of a physician, who disposes of patient records in accordance with the provisions of this section is not liable for any direct or indirect loss suffered as a result of the disposal of a patient's records."

Approved May 26, 2000

CHAPTER 309

FORMERLY

SENATE BILL NO. 239

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE DELAWARE STATE TESTING PROGRAM SCHOLARSHIPS.

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

Section 1. Amend §153(c), Title 14 of the Delaware Code, by striking the fourth sentence therein in its entirety and substituting in lieu thereof the following:

"Scholarships awarded pursuant to this program shall be known as the Michael C. Ferguson Achievement Awards and shall be administered by the Higher Education Commission."

Approved May 26, 2000

CHAPTER 310

FORMERLY

SENATE BILL NO. 339

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO THE INSURANCE CONTRACT AND MINORS.

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

Section 1. Amend Title 18 of the Delaware Code by striking §2723 thereof in its entirety.

Approved May 26, 2000

CHAPTER 311

FORMERLY

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

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH CARE BENEFITS & EQUITY PRESCRIPTION COVERAGE.

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

Section 1. Amend Chapter 35, Title 18 of the Delaware Code by adding a new Section 3559 to read as follows:

"§3559. Reversible Contraceptives.

- (a) All group and blanket health issuance policies which are delivered or issued for delivery in this State by any health insurer, health service corporation, health maintenance organization or any health services and facilities reimbursed programs for the State, which provides coverage for outpatient prescription drugs, shall provide coverage, under terms and conditions applicable to other benefits, for prescription contraceptive drugs and devices approved by the Food and Drug Administration (FDA) and for outpatient

contraceptive services including consultations, examinations, procedures and medical services related to the use of contraceptive methods to prevent unplanned pregnancy.

- (b) All such entities addressed in subsection (a) of this Section shall provide coverage for the insertion and removal and medically necessary examination associated with the use of such FDA approved contraceptive drug or device. Any such policy or contract may not impose a co-payment, co-insurance requirement or deductible for directly accessed gynecological services as required under this section, unless such additional cost sharing is imposed for access to healthcare practitioners for other types of healthcare.
- (c) Provisions of this bill shall be applied to the enrollee and all insured parties covered by the health policy.
- (d) A religious employer may request, and an entity subject to this section shall grant an exclusion from coverage under the policy, plan or contract for the coverage required under subsection (b) of this section if the required coverage conflicts with the religious organization's bona fide religious beliefs and practices. A religious employer that obtains an exclusion under this subsection shall provide its employees reasonable and timely notice of the exclusion."

Approved June 07, 2000

CHAPTER 312

FORMERLY

SENATE BILL NO. 308 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO CHARTER SCHOOLS.

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

Section 1. Amend §506(b), Title 14, Delaware Code by adding thereto the following:

"(4) Children of a school's founders so long as they constitute no more than 5% of the school's total student population. For the purposes of this paragraph 'founder' shall not include anyone whose sole significant contribution to the school was monetary but otherwise shall be determined by the founding Board of Directors subject to Department of Education regulations."

Approved June 07, 2000

CHAPTER 313

FORMERLY

SENATE BILL NO. 284

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO REAL PROPERTY DISPOSITION.

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

Section 1. Amend Section 9403, Title 29 by adding at the end the following:

"For purposes of this chapter the granting of an easement shall not be considered a

conveyance of real property. The determination to grant an easement shall be at the discretion of the Secretary of Administrative Services."

Section 2. Amend Section 9405(f), Title 29 by striking the last sentence and substituting in lieu thereof the following:

"Sales of State surplus property pursuant to this section shall be at fair market value or for such other price as may be approved in writing by the Commission."

Approved June 12, 2000

CHAPTER 314

FORMERLY

SENATE BILL NO. 350 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO FELON VOTING RIGHTS.

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

Section 1. Amend Part IV, Title 15 of the Delaware Code by adding thereto a new Chapter, designated as Chapter 61, which new Chapter shall read as follows:

"CHAPTER 61. REGISTRATION OF FORMER FELONS

§6101. Statement of Purpose

The Constitution of the State of Delaware provides that certain persons who previously lost voting rights because of a felony conviction shall be permitted to vote. It is the purpose of this Chapter to provide a procedure whereby such persons may register to vote.

§6102. Definitions

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

(1) 'Commissioner of Elections' shall mean the State Election Commissioner or the Commissioner's designee.

(2) 'Disqualifying felony' shall mean that type of felony set forth in Section 2,

Article V of the Delaware Constitution which permanently disqualifies any person convicted of such felony from voting.

(3) 'Financial obligations' includes such fees, fines, costs and restitution which a felony offender may be required to pay as part of the criminal sanctions imposed upon such offender.

(4) 'Full discharge' or 'fully discharged' shall mean that a person convicted of a criminal offense has served the required sentence of imprisonment, parole, work release, early release, supervised custody, probation and community supervision; and has also paid all financial obligations required by the sentence.

(b) For the purposes of Section 2 of Article V of the Constitution of the State of Delaware, and for the purposes of this Chapter, no sentence shall be deemed to be expired until a person convicted of a criminal offense has served the required sentence of imprisonment, parole, work release, early release, supervised custody and community supervision and has also paid all financial obligations and restitution required by the sentence."

§6103. Application for Registration: felony conviction reviews

Chapter 314
Vol.72

(a) The County Department of Elections shall not register any applicant as a qualified voter until it has been determined that such applicant is lawfully eligible to vote. The County Department shall, for each registration application, perform an electronic inquiry against the Criminal Justice Information System (CJIS), and other data to determine if the applicant has been convicted of a felony. If the applicant has not been convicted of a felony, and is otherwise eligible to register to vote pursuant to the Delaware Constitution and this Title the applicant shall be registered.

(b) If a review by the County Department of Elections shows that the applicant has been convicted of a disqualifying felony, the registration application shall be denied, and the applicant shall not be permitted to register.

(c) If the applicant has been convicted of a felony which is not disqualifying, but the felony conviction occurred within five years preceding the date of the application, then the registration application shall be denied.

(d) If the results of the (CJIS) inquiry cannot determine the eligibility of the applicant, the respective County Department of Elections shall forward the application to the Commissioner of Elections.

§6104. Commissioner's Review of Application

(a) If the applicant has not been convicted of a felony within the five years preceding the date of the application, the Commissioner of Elections shall request that both the Office of State Court Collections Enforcement (OSCCE) and the Department of Correction separately conduct a review and data search of all records relating to the applicant.

(b) Upon request by the Commissioner of Elections, the OSCCE shall review its records to determine if the applicant has paid all financial obligations assessed against such applicant. Upon request by the Commissioner of Elections, the Department of Correction shall review its records to determine if all sentences of imprisonment and community supervision imposed upon the applicant have been fully discharged.

(c) Where it has been determined that the applicant was convicted of a felony which is not disqualifying, has fully discharged all imposed sentences, and otherwise meets all constitutional requirements, the applicant shall be permitted to register as a qualified voter. Each stage of the review process shall be completed within a reasonable time.

(d) Where the Commissioner of Elections determines from information received from OSCCE or from the Department of Correction that there are financial obligations which have not been paid; or that not all sentences have been fully discharged; or that other questions or issues relating to the applicant's eligibility are still unresolved, the Commissioner shall deny the application for registration. Upon denial of an application under this section, the applicant shall be notified by mail.

§6105. Cooperation between agencies; waiver of fees

Notwithstanding any statute or other provision to the contrary, in any request for information or any act by the Commissioner of Elections under this Chapter, fees which would otherwise be assessed for criminal background or other computer searches shall be waived. Each State agency and public subdivision of this State shall cooperate with and assist the Commissioner of Elections in the performance of his duties in implementing the provisions of this Chapter, including but not limited to fingerprinting, background investigations, and record reviews.

§6106. Rules and Regulations

The Commissioner of Elections shall promulgate rules and regulations when information regarding an applicant is incomplete or uncertain. These guidelines and standards shall be used to determine whether or not the applicant shall be permitted to register to vote.

§6107. Appeals

Any decision by the Commissioner of Elections may be appealed to the Superior Court. No person whose registration application has been denied by the Commissioner of Elections shall be permitted to register or to vote until the Commissioner of Elections or the Court, in writing, approves such person's registration application."

Section 2. The provisions of this Act shall become effective only upon passage of the second leg of a Constitutional Amendment which permits the restoration of voting rights to persons convicted of certain felonies.

Approved June 13, 2000

CHAPTER 315

FORMERLY

SENATE BILL NO. 262

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 3344(c), Title 19 of the Delaware Code, by striking the language following the word "after" in the first sentence of this subsection and, in lieu thereof, inserting the following:

"mailing thereof the Complainant or the Department appeals to the Superior Court for the County in which the Complaint resides. The Department may be represented in any such appeal by any qualified attorney employed by the Department and designated by it for that purpose or at the Department's request, by the Attorney General."

Section 2. Amend Sections 3344(d), (e) and (f) of Title 19 of the Delaware Code by redesignating them as Sections (e), (f) and (g) respectively.

Section 3. Amend Section 3344, Title 19 of the Delaware Code by adding a new subsection (d) to read as follows:

"(d) In every such appeal the cause shall be decided by the Court from the record, without the aid of a jury, and the Court may affirm, reverse or modify the Unemployment Insurance Appeal Board's decision. The Unemployment Insurance Appeal Board's findings of fact shall not be set aside if the Court finds the record contains substantial evidence to reasonably support the findings. If the Court finds that additional evidence should be taken, the Court shall remand the case to the Unemployment Insurance Appeal Board for completion of the record. If the Court finds that the Unemployment Insurance Appeal Board has made an error of law, the Court shall reverse or modify the Unemployment Insurance Appeal Board's decision and render an appropriate judgment."

Approved June 16, 2000

CHAPTER 316

FORMERLY

SENATE BILL NO. 301

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO CHARTER SCHOOLS.

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

Section 1. Amend Section 506(b)(3)d. by deleting the period "." and by substituting in lieu thereof a semicolon ";".

Section 2. Amend Section 506(b)(3) of the Title 14, Delaware Code, by adding a new subparagraph e. to read as follows:

"Children of persons employed on a permanent basis for at least 30.0 hours per week during the school year by the charter school."

Approved June 16, 2000

CHAPTER 317

FORMERLY

SENATE BILL NO. 182

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO POLICE CHIEF DUE PROCESS.

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

Section 1. Amend §9301, Title 11 of the Delaware Code by striking the phrase "\$0,000, shall be dismissed" and replacing said phrase with the phrase "60,000, shall be dismissed, demoted or otherwise removed from office".

Section 2. Amend §9301. Title 11 of the Delaware Code by striking the word "dismissal" after the words "grounds for such" as it appears in the first sentence of said section and substituting in lieu thereof the word "action".

Section 3. Amend §9301, Title 11 of the Delaware Code by designating the existing section as subsection "(a)".

Section 4. Amend §9301, Title 11 of the Delaware Code by adding thereto a new subsection (b) to read as follows:

"(b) Any appeals from the process described in subsection (a) of this section shall be to the Superior Court for the county in which the public hearing was held. All such appeals shall be undertaken by filing a notice of appeal with the Court within ninety (90) days of receipt of the written decision of the governing body."

Approved June 20, 2000

CHAPTER 318

FORMERLY

SENATE BILL NO. 185
AS AMENDED BY HOUSE AMENDMENT NO. 2 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO DEBRIS DISPOSAL REMEDIATION.

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 3. This Act shall be effective only upon a specific appropriation by the General Assembly funding costs of this program.

Approved June 20, 2000

CHAPTER 319

FORMERLY

SENATE BILL NO. 266
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NOS. 1 AND 2

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 §2327(a), Chapter 23, Title 19 of the Delaware Code by adding the following at the end thereof:

"; Any insurance carrier desiring reimbursement from the Fund shall file a petition for payment, provided all claim for reimbursement shall be forever barred unless the insurance carrier files a petition with the Department for reimbursement for payments under this section within 2 year after the date on which the employee was first paid total disability benefits following the subsequent permanent injury."Section 2. This Act shall take effect on July 1, 2001.

Approved June 20, 2000

CHAPTER 320

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 329

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

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

Section 1. Amend §205(i), Title 11, Delaware Code by redesignating it as subsection (j), deleting "or (h)" as it appears both times therein and by inserting in lieu thereof each time ", (h) or (i)".

Section 2. Amend §205, Title 11, Delaware Code by inserting a new subsection as follows: "(i) If the period prescribed by subsection (b) of this section has expired, a prosecution for any offense in this Title may be commenced within 10 years after it is committed if based upon forensic DNA testing."

Section 3. Amend Chapter 45, Title 11, Delaware Code by adding to the Chapter Title "; post conviction remedy" and by adding thereto the following:

"§4504. Postconviction Remedy

(a) Except at a time when direct appellate review is available, and subject to the time limitations set forth in this subsection, a person convicted of a crime may file in the court that entered the judgement of conviction a motion requesting the performance of forensic DNA testing to demonstrate the person's actual innocence. Any such motion may not be filed more than three years after the judgement of conviction is final. The motion may be granted if:

(1) the testing is to be performed on evidence secured in relation to the trial which resulted in the conviction; and

(2) the evidence was not previously subject to testing because the technology for testing was not available at the time of the trial; and

(3) the movant presents a prima facie case that identity was an issue in the trial; and

(4) the movant presents a prima facie case that the evidence to be tested has been subject to a chain of custody sufficient to establish that the evidence has not been substituted, tampered with, degraded, contaminated, altered or replaced in any material aspect; and

(5) the requested testing has the scientific potential to produce new, non-cumulative evidence materially relevant to the person's assertion of actual innocence; and

(6) the requested testing employs a scientific method which is generally accepted within the relevant scientific community, and which satisfies the pertinent Delaware Rules of Evidence concerning the admission of scientific testimony or evidence.

(b) Except at a time when direct appellate review is available, a person convicted of a crime who claims that DNA evidence not available at trial establishes the petitioner's actual innocence may commence a proceeding to secure relief by filing a motion for a new trial in the court that entered the judgement of conviction. The court may grant a new trial if the person establishes by clear and convincing evidence that no reasonable trier of fact, considering the evidence presented at trial, evidence that was available at trial but was not presented or was excluded, and the evidence obtained pursuant to subsection (a) of this section, would have convicted the person.

(c) The court shall impose reasonable conditions on the testing designed to protect the state's interests in the integrity of the evidence and the testing process.

(d) Any motion filed pursuant to this section shall be served upon the State. The State shall have an absolute right to appeal to an appellate court any order granting a motion for a new trial pursuant to this section.

(e) The cost of DNA testing ordered under subsection (a) of this section shall be borne by the State or the applicant, as the court may order in the interests of justice, if it is shown that the applicant is not indigent and possesses the means to pay."

Section 4. The time limits set forth in §4504(a) of Title 11 as promulgated by Section 3 of this Act shall not apply to any motion filed pursuant to said subsection by any person whose judgement of conviction is final prior to September 1, 2000. Any motion filed pursuant to the provisions of §4504(a) of Title 11 as promulgated by Section 3 of this Act by any person whose judgement of conviction is final prior to September 1, 2000 may not be filed after September 1, 2002.

Section 5. This Act shall be effective on September 1, 2000.

Approved June 20, 2000

CHAPTER 321

FORMERLY

SENATE BILL NO. 336

AN ACT TO AMEND AN ACT BEING CHAPTER 295, VOLUME 65, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BETHANY BEACH" TO MODIFY THE LIMIT ON THE AMOUNT FOR ANY SPECIAL TAX FOR SINKING FUNDS.

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 §12.2.7, Chapter 295, Volume 65, Laws of Delaware, by deleting the words "shall not in any one year exceed a sum equal to five per centum of the total of such indebtedness" and in place thereof inserting the

words "shall not, in any one year, exceed the total amount necessary to pay all currently due principal amounts of the bonded indebtedness together with all interest currently due thereon within that year".

Approved June 20, 2000

CHAPTER 322

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 200

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO PUBLIC NOTIFICATION OF
PROPERTY CONTAMINATED BY HAZARDOUS SUBSTANCES.

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

Section 1. Amend § 9107, Title 7 of the Delaware Code, by redesignating subsection (a) as (a)(2).

Section 2. Amend § 9107, Title 7 of the Delaware Code, by inserting a new subsection, to be designated as subsection (a)(1), to read as follows:

"(a)(1) When the Secretary or his or her designee has determined that a release or imminent threat of a release of a hazardous substance as defined herein will require a remedy, the Secretary shall, within twenty days of such determination, provide public notice of that fact. The Secretary shall likewise provide public notice within twenty days after entering into negotiations for a voluntary cleanup settlement agreement with any person that agrees to perform a remedy. Such public notice shall be published in a newspaper of general circulation in the county in which the facility is located. Such notice shall also be provided to:

- (i) all elected members of the General Assembly in whose district such facility, or any part thereof, lies;
- (ii) if the facility, or any part thereof, is located within the boundaries of any municipality, then such notice shall also be given to the governing body of all municipalities in which the facility, or any part thereof, lies;
- (iii) in the event the facility, or any part thereof, is not located within the boundaries of a municipality, then such notice shall also be given to the governing body of the county in which the facility, or any part thereof, lies; and
- (iv) the governing body of any civic, neighborhood or similar association in which the facility, or any part thereof, lies; provided, that such association makes itself known to the Department and provides a legal mailing address."

Approved June 20, 2000

CHAPTER 323

FORMERLY

HOUSE BILL NO. 318
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO UNDERGROUND UTILITY
DAMAGE PREVENTION AND SAFETY.

WHEREAS, the Department of Natural Resources and Environmental Control is charged with protecting public health, welfare and the environment in the State; and

WHEREAS, the Department of Natural Resources and Environmental Control has cleaned up, or has overseen the clean up, of numerous contaminated sites in the State, and has information on other sites which still need to be cleaned up; and

WHEREAS, prior to being, or after having been, cleaned up, numerous parcels of land throughout the State may still contain solid wastes, hazardous wastes, hazardous substances, pollutants or contaminants; and

WHEREAS, demolition or excavation activities on such parcels of land may be subject to regulation by the Department of Natural Resources and Environmental Control under statutes and regulations administered by it; and

WHEREAS, effective protection of public health, welfare and the environment from the risks associated with the demolition or excavation of these parcels of land may require the oversight or approval of such activities by the Department of Natural Resources and Environmental Control.

NOW, THEREFORE:

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

Section 1. Amend § 802, Title 26 of the Delaware Code by redesignating subsections (5)-(12) as (6)-(13).

Section 2. Further Amend § 802, Title 26 of the Delaware Code by inserting a new subsection, designated as subsection (5), which new subsection shall read as follows:

"(5) 'DNREC Regulated Site' shall mean any parcel of land, or portion thereof, for which a final permit, remediation plan, institutional or administrative control, use restriction, or similar limitation is imposed under the authority granted to the Department of Natural Resources and Environmental Control under 7 Delaware Code and for which due process opportunities have been provided."

Section 3. Amend § 807(b), Title 26 of the Delaware Code by adding thereto a new paragraph, designated as paragraph (10), which new paragraph shall read as follows:

"(10) Promptly transmit to the appropriate contact of DNREC the information contained in the notice by excavators or designers of intended excavation or demolition activity as to any DNREC Regulated Site."

Section 4. Amend § 811, Title 26 of the Delaware Code by adding thereto a new subsection, designated as subsection "(c)", which new subsection shall read as follows:

"(c) Failure by DNREC to notify or otherwise contact an excavator or designer prior to a properly noticed excavation or demolition at any DNREC Regulated Site shall not relieve such excavator or designer from complying with all applicable Federal, State, County or Municipal laws or regulations, nor shall it create any liability in DNREC for any damage or injury resulting from any such excavation or demolition."

Approved June 20, 2000

CHAPTER 324

FORMERLY

HOUSE BILL NO. 427

AN ACT TO AMEND TITLE 20 OF THE DELAWARE CODE RELATING TO THE DELAWARE EMERGENCY MANAGEMENT AGENCY (DEMA) AND PROVIDING FOR THE ESTABLISHMENT OF THE DEMA ASSISTANCE AND RELIEF FUND.

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

Section 1. Amend Title 20 of the Delaware Code by adding thereto a new section to read:

"§3107A. The DEMA Assistance and Relief Fund (Fund) is hereby established to provide funding for DEMA to make purchases for persons in need of urgent aid and assistance due to harmful acts of nature. The Fund may be used only for the purchase of life-sustaining equipment, such as generators, bottled water, food provisions, dry ice, chain saws, and other items related to disaster relief, deemed necessary by DEMA. The Fund may be used only in cases in which harm results from severe acts of nature that do not qualify the State for federal disaster assistance or when a federal disaster has not been declared. Purchases using the Fund must be made by DEMA on a priority need basis. The annual appropriation to the Fund must be sufficient to maintain a fifty-thousand-dollar (\$50,000) balance in the fund."

Approved June 20, 2000

CHAPTER 325

FORMERLY

HOUSE BILL NO. 463

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO ARRESTS FOR VIOLATION OF THE MOTOR VEHICLE AND TRAFFIC LAWS OF THE STATE.

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

Section 1. Amend § 701(a)(2), Title 21, Delaware Code by deleting "." after the word "detected" and inserting in lieu thereof "; or".

Section 2. Amend § 701(a) by adding thereto a new subsection (3) to read as follows:

"(3) For violations of § 4108(a)(3) of this title relating to red traffic lights, when the violation is determined by personal observation by another law enforcement officer who communicates the information to the arresting officer by radio or other telecommunications device, provided that the arresting officer is working in conjunction with the observing officer, the arresting officer is immediately advised of the violation, and the vehicle being apprehended is the vehicle detected."

Approved June 20, 2000

CHAPTER 326

FORMERLY

HOUSE BILL NO. 469

AN ACT AMENDING TITLE 2 OF THE DELAWARE CODE RELATING TO PUBLIC CARRIERS.

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

Section 1. Amend Section 1802(g), Title 2, Delaware Code, by deleting the phrase "each of the State's fiscal years" appearing therein and inserting in lieu thereof the phrase "the applicable calendar year for which the assessment is made."

Section 2. Further amend Section 1802(g), Title 2, Delaware Code, by deleting the phrase "July 1, so that it has not operated for a full fiscal year" appearing in the last sentence therein, and inserting in lieu thereof the following: "January 1, so that it has not operated for a full calendar year".

Section 3. Further amend Section 1802(h), Title 2, Delaware Code, by deleting the word "October" appearing therein and inserting in lieu thereof the word "April".

Section 4. Further amend Section 1802(h), Title 2, Delaware Code, by inserting the following after the first sentence thereof:

"The annual returns shall be completed on a calendar year basis."

Section 5. For purposes of implementation, the annual return for calendar year 2000 shall also include the six-month period of operations between July 1, 1999 and December 31, 1999. The assessment required under subsection (g) of this section shall be pro-rated accordingly.

Approved June 20, 2000

CHAPTER 327

FORMERLY

HOUSE BILL NO. 482

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO THE CHILD DEATH REVIEW COMMISSION.

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

Section 1. Amend 31 Del. C., Section 321(a) after the comma which follows the words "Children, Youth, and Their Families" by inserting the following:

"The person appointed as the Child Advocate pursuant to 29 Del. C., Section 9003A,".

Approved June 20, 2000

CHAPTER 328

FORMERLY

HOUSE BILL NO. 510

AN ACT TO AMEND TITLE 16, DELAWARE CODE, RELATING TO WATER AND/OR SEWER AUTHORITIES.

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

Section 1. Amend 1408§ (a)(2), Chapter 14, Title 16, Delaware Code by striking the phrase "not exceeding five (5) percent per annum", as it appears therein.

Section 2. Amend 1408§ (a)(6), Chapter 14, Title 16, Delaware Code by striking such paragraph in its entirety and substituting in lieu thereof the following:

"(6) The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law and the authority may sell such bonds in such manner, either at public or at private sale, and for such price as it may determine to be in the best interests of the authority and the municipality to be served thereby."

Approved June 20, 2000

CHAPTER 329

FORMERLY

HOUSE BILL NO. 511

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO IMMUNITY FROM CIVIL LIABILITY.

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

Section 1. Amend Chapter 67, Title 16 of the Delaware Code, by deleting § 6712 in its entirety.

Approved June 20, 2000

CHAPTER 330

FORMERLY

HOUSE BILL NO. 514

AS AMENDED BY HOUSE AMENDMENT NOS. 1, 3, AND 5

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO DIABETES.

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

Section 1. Amend Title 30 of the Delaware Code by adding to said title a new § 1160 to read as follows:

"§ 1160. Delaware Diabetes Education Fund.

- (a) There is hereby established a Delaware Diabetes Education Fund for individuals who claim an overpayment of taxes to designate an amount to be deposited in such an account for individuals who have an income tax liability to designate an amount to be paid to that Fund, pursuant to subsections (b) and (c) of this section.
- (b) An individual who claims an overpayment of taxes on an income tax return may designate a contribution to be deducted from the refund that would otherwise be payable to the individual and paid to the Delaware Diabetes Education Fund. The Division of Revenue shall forward the amounts so designated to the Delaware Chapter of the American Diabetes Association, to be used for diabetes education in the State of Delaware.
- (c) An individual who has an income tax liability may, in addition to the obligation, include a donation to be paid to the Delaware Diabetes Education Fund. The Division of Revenue shall forward the amounts so designated to the Delaware Chapter of the American Diabetes Association, to be used for diabetes education in the State of Delaware.
- (d) The Division of Revenue shall provide a space on the Delaware income tax return form whereby an individual may voluntarily designate a contribution to the Delaware Diabetes Education Fund.
- (e) The amount so designated by the individual on the income tax form shall be deducted from the tax refund to which such individual is entitled, or the amount so designated may be added to the individual's payment of taxes due and shall not be included in the general revenue of the State.
- (f) From time to time as determined by the Delaware State Clearinghouse, the Delaware Chapter of the American Diabetes Association shall submit a detailed report to the members of the Committee detailing revenues, expenditures, and program measures for the fiscal period in question. The Committee may cause any person employed by or associated with the Delaware Chapter of the American Diabetes Association to appear before the Committee and to answer such questions as the Committee may require."

Section 2. Amend § 563, Title 30 of the Delaware Code by adding to said section a new subsection (d) to read as follows:

"(d) The Director may mail, on behalf of the Delaware Diabetes Education Fund upon the written request of the Delaware Chapter of the American Diabetes Association, communications to taxpayers who have donated to the fund. The Director shall charge the fund for the full cost of any such mailing. Such mailed communications shall make clear that said mailing does not constitute solicitation on behalf of the State of Delaware and shall be done in a manner designed to protect the address and names of taxpayers."

Section 3. Section 2 shall be effective for donations made on returns filed on or after January 1, 2000."

Approved June 20, 2000

CHAPTER 331

FORMERLY

HOUSE BILL NO. 550

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE AND VOLUME 70 OF DELAWARE LAWS RELATING TO THE BANK FRANCHISE TAX.

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

Section 1. Amend §1105(d), Title 5 of the Delaware Code by striking "2002" as it appears therein and by substituting in lieu thereof "2007".

Section 2. Amend Section 4, Chapter 486, Volume 70 of Delaware Laws by striking "2002" as it appears therein and by substituting in lieu thereof "2007".

Section 3. This Act shall be effective for tax years beginning after December 31, 1999 and ending before January 1, 2007.

Approved June 20, 2000

CHAPTER 332

FORMERLY

HOUSE BILL NO. 360

AN ACT TO AMEND CHAPTER 7 OF TITLE 7 OF THE DELAWARE CODE RELATING TO THE REGULATIONS AND PROHIBITIONS CONCERNING GAME AND FISH.

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

Section 1. Amend § 703(2), Title 7 of the Delaware Code by striking said paragraph in its entirety and substituting in lieu thereof the following:

"(2) Red fox: October 1 to April 30, next following, but no person shall shoot, kill, wound, take or destroy any red fox from October 1 to April 30, this being set apart merely for the privilege of hunting red foxes with dogs."

Section 2. Amend § 788, Title 7 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§ 788. Exceptions to the prohibition against the killing of red fox.

(a) Notwithstanding § 703(2) of this title, red foxes may be shot in New Castle County commencing at the Chesapeake and Delaware Canal and thence proceeding in a southerly direction to embrace the remainder of New Castle County, thence proceeding southerly to include Duck Creek Hundred in Kent County from November 1 through December 31; provided, however, no red fox may be shot during a time when it is lawful to take deer with a firearm; provided further, however, no red fox may be shot while being pursued by a pack of hounds; provided further, however, no person shall take or kill, in any 1 day, more than 4 red foxes.

(b) Notwithstanding § 703(2) of this title, the Department may issue a permit to a private landowner authorizing the landowner to manage red foxes on his or her property, provided there is a wildlife management plan for the property, the wildlife management plan has been approved by the Department, and a reduction in the number of foxes was recommended by such plan. The permit shall specify the time during which, the means and methods by which, and the person or persons by whom the red foxes may be killed or captured. The Department shall not charge a fee for the issuance of a permit under this section.

(c) Nothing in this chapter shall be construed to prevent the killing of a red fox by the owner of poultry if such fox is in the act of attacking such poultry. Such person may kill such foxes within a reasonable time after the pursuit, killing or carrying away of the poultry."

Section 3. Amend § 789(a), Title 7 of the Delaware Code by adding to the end of said section the following sentence:

"Nothing in this section shall be construed to prevent the possession or transfer without compensation of red foxes or red fox hides legally taken in Delaware or in another state."

Section 4. Amend § 790(c), Title 7 of the Delaware Code by striking said subsection in its entirety.

Approved June 23, 2000

CHAPTER 333

FORMERLY

HOUSE BILL NO. 425

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO LAND USE.

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

Section 1. Amend § 9236 of Title 29 of the Delaware Code by deleting the second and third sentences of the section and replacing thereto as follows:

"The Advisory Panel shall serve as the board to which an appeal may be made by any local jurisdiction, as defined in 29 Del. C. § 9202(8), and such appeal shall be heard in accord with the Administrative Procedures Act, 29 Del. C. § 10142."

Approved June 23, 2000

CHAPTER 334

FORMERLY

HOUSE BILL NO. 439

AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO AN INTERSTATE NURSE LICENSURE COMPACT

WHEREAS the health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws; and

WHEREAS, violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public; and

WHEREAS, the expanded mobility of nurses and the use of advanced communication technologies as part of our nation's healthcare delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation; and

WHEREAS, new practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex; and

WHEREAS, the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states;

NOW THEREFORE

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

Section 1. Amend Title 24 of the Delaware Code by adding thereto a new chapter, designated as Chapter 19A, as follows:

"Chapter 19A. INTERSTATE NURSE LICENSURE COMPACT

§ 1901A. The Interstate Nurse Licensure Compact

The State of Delaware hereby enters into the Interstate Nurse Licensure Compact as set forth in this chapter. The text of the Compact is as follows:

'INTERSTATE NURSE LICENSURE COMPACT

ARTICLE I.

Findings and Declaration of Purpose

Findings and Declaration of Purpose

(a) The party states find that:

- (1) the health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;
- (2) violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
- (3) the expanded mobility of nurses and the use of advanced communication technologies as part of our nation's healthcare delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;
- (4) new practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex; and
- (5) the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

(b) The general purposes of this Compact are to:

- (1) facilitate the states' responsibility to protect the public's health and safety;
- (2) ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
- (3) facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;
- (4) promote compliance with the laws governing the practice of nursing in each jurisdiction; and
- (5) invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

ARTICLE II.

Definitions

As used in this Compact:

- (a) "Adverse Action" means a home or remote state action.
- (b) "Alternative program" means a voluntary, non-disciplinary monitoring program approved by a nurse licensing board.
- (c) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of and controlled by state nurse licensing boards.
- (d) "Current significant investigative information" means:
 - (1) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - (2) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
- (e) "Home state" means the party state which is the nurse's primary state of residence.
- (f) "Home state action" means any administrative, civil, equitable, or criminal action permitted by the home state's laws which are imposed on a nurse by the home state's licensing board or other authority including actions against an individual's license such as: revocation, suspension, probation or any other action which affects the nurse's authorization to practice.

- (g) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.
- (h) "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation, or any other action which affects a nurse's authorization to practice.
- (i) "Nurse" means a registered nurse or licensed practical/vocational nurse, as those terms are defined by each party's state practice laws.
- (j) "Party state" means any state that has adopted this Compact.
- (k) "Remote state" means a party state, other than the home state,
 - (1) where the patient is located at the time nursing care is provided, or,
 - (2) in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.
- (l) "Remote state action" means
 - (1) any administrative, civil, equitable, or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state, and
 - (2) cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.
- (m) "State" means a state, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.
- (n) "State practice laws" means those individual party state's laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III.

General Provisions and Jurisdiction

- (a) A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.
- (b) Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.
- (c) Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.
- (d) This Compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing

granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

- (e) Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

ARTICLE IV.

Applications for Licensure in a Party State

- (a) Upon application for a license, the licensing board in a party state shall ascertain through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.
- (b) A nurse in a party state shall hold licensure in only one party state at a time issued by the home state.
- (c) A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.
- (d) When a nurse changes primary state of residence by:
 - (1) moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid;
 - (2) moving from a non-party state to a party state, and obtains a license from the new home state, the individual state license issued by the non-party state is not affected and will remain in full force if so provided by the laws of the non-party state;
 - (3) moving from a party state to a non-party state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

ARTICLE V.

Adverse Actions

In addition to the General Provisions described in Article III, the following provisions apply:

- (a) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.
- (b) The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action(s), and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.
- (c) A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state.
- (d) For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

- (e) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.
- (f) Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain non-public if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

ARTICLE VI.

Additional Authorities Invested in Party State Nurse Licensing Boards

Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

- (a) if otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;
- (b) issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located.
- (c) issue cease and desist orders to limit or revoke a nurse's authority to practice in their state;
- (d) promulgate uniform rules and regulations as provided for in Article VIII(c).

ARTICLE VII.

Coordinated Licensure Information System

- (a) All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses and licensed practical/vocational nurses. This system shall include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.
- (b) Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.
- (c) Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.
- (d) Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.
- (e) Any personally identifiable information obtained by a party states' licensing board from the coordinated licensure information system may not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.
- (f) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information, shall also be expunged from the coordinated licensure information system.
- (g) The Compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this Compact.

ARTICLE VIII.

Compact Administration and Interchange of Information

- (a) The head of the nurse licensing board, or his/her designee, of each party state shall be the administrator of this Compact for his/her state.
- (b) The Compact administrator of each party state shall furnish to the Compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this Compact.
- (c) Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this Compact. These uniform rules shall be adopted by party states, under the authority invested under Article VI(d).

ARTICLE IX.

Immunity

No party state or the officers or employees or agents of a party state's nurse licensing board who acts in accordance with the provisions of this Compact shall be liable on account of any act or omission in good faith while engaged in the performance of their duties under this Compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE X.

Entry into Force, Withdrawal, and Amendment

- (a) This Compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.
- (b) No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the Compact of any report of adverse action occurring prior to the withdrawal.
- (c) Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this Compact.
- (d) This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

ARTICLE XI.

Construction and Severability

- (a) This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state party thereto, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.
- (b) In the event party states find a need for settling disputes arising under this Compact:
 - (1) The party states may submit the issues in dispute to an arbitration panel which will be comprised of an individual appointed by the Compact administrator in the home state; an individual appointed by the Compact administrator in the remote state(s) involved; and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.

(2) The decision of a majority of the arbitrators shall be final and binding.'

§ 1902A. Disciplinary action in Delaware.

- (a) All nurses holding a Delaware nursing license which is either under suspension or under probation by the Delaware Board of Nursing or who are participating in an established treatment program which is an alternative to disciplinary action, shall not practice in any other party state during the term of such suspension, probation or participation without prior authorization from such other party state. The Delaware nursing licensure of any nurse under such suspension, probation or participation who practices nursing in another party state without prior authorization from that state may be revoked by the Delaware Board of Nursing.
- (b) The multi-state licensure privilege granted by this State is subject to revocation or other disciplinary action as the result of any disciplinary action imposed by a nurse's home state.

§ 1903A. Effect of other obligations.

This Compact is intended to facilitate the regulation of the practice of nursing and does not relieve employers from complying with contractual and statutorily imposed obligations.

§ 1904A. Compact as controlling law.

If there is an irreconcilable conflict between the Interstate Nurse Licensure Compact and Chapter 19 of Title 24, the Compact shall control."

Section 2. Amend § 1902, Title 24 of the Delaware Code by adding thereto the following new subsections:

- "(l) The 'Head of the Nursing Licensing Board' shall be the President of the Delaware Board of Nursing; and
- (m) The 'Compact Administrator' shall be the Executive Director of the Delaware Board of Nursing who shall be designated as the Compact Administrator by the President of the Board.
- (n) 'Licensure' means the authorization to practice nursing within this State granted by the Delaware Board of Nursing and includes the authorization to practice in Delaware under the Interstate Nurse Licensure Compact."

Section 3. The appointment of an individual to the arbitration panel by the Compact Administrator pursuant to Article XI of the Compact must be coordinated with, and the individual to be appointed shall be approved by, the Director of the Division of Professional Regulation prior to the appointment.

Section 5. The provisions of the Interstate Nurse Licensure Compact shall be fully implemented by July 1, 2000 unless the Director of the Division of Professional Regulation, based upon a recommendation from the Delaware Board of Nursing, determines that a later date of implementation would be in the best interest of the citizens of this State. This State's participation in the Interstate Nurse Licensure Compact shall terminate on June 30, 2005 unless prior to that date this section is amended to extend the State's participation.

Approved June 23, 2000

CHAPTER 335

FORMERLY

HOUSE BILL NO. 474
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE TO ENABLE THE ISSUANCE OF A DRIVER LICENSE AND IDENTIFICATION CARD TO PERSONS INELIGIBLE FOR A SOCIAL SECURITY ACCOUNT.

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

Section 1. Amend § 2711(b), Title 21, Delaware Code by adding the words, "if eligible," after the words "social security number" in the first sentence.

Section 2. Amend § 2718(a), Title 21, Delaware Code by adding the words, "if eligible," after the words "social security number" in the first sentence and the last sentence.

Section 3. Amend § 3102(b), Title 21, Delaware Code by adding the words, "if eligible," after the words "social security number."

Section 4. Amend § 3104(a), Title 21, Delaware Code by adding the words, "if eligible," after the words "social security number" in the first sentence and after the words "social security account number" in the last sentence.

Section 5. Amend § 3102(b), Title 21, Delaware Code by adding the words, "except as otherwise provided in § 2711 of this chapter" after the word "number" in the first sentence.

Section 6. Amend §2718(d), Title 21, Delaware Code by adding the words "if eligible" after the words "social security number".

Approved June 23, 2000

CHAPTER 336

FORMERLY

HOUSE BILL NO. 496

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO ANTIQUE MOTOR VEHICLES.

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

Section 1. Amend Chapter 21, Title 21 of the Delaware Code, by striking, within Subchapter VII thereof, the words "automobile" and "automobiles" wherever they may appear therein and by substituting in lieu thereof the words "motor vehicle" or "motor vehicles" as appropriate.

Section 2. Amend § 2196, Title 21 of the Delaware Code, by inserting therein, between the phrase, "includes every" and the phrase, "motor vehicle" the phrase, "automobile, truck, motorcycle, or other".

Section 3. Special antique automobile plates previously issued pursuant to 21 Del. C. § 2196, shall remain valid and retain the same force and effect as any special antique motor vehicle plate issued henceforth.

Approved June 23, 2000

CHAPTER 337

FORMERLY

HOUSE BILL NO. 534
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO HEALTH CARE FRAUD.

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

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

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by adding a new section thereto to be designated as Section 913A, which new section shall read as follows:

"§913A. Health Care Fraud; class G felony; class E felony; class C felony.

(a) A person is guilty of health care fraud when the person knowingly:

(1) Presents or causes to be presented any fraudulent health care claim to any health care benefit program; or

(2) Engages in a pattern of presenting or causing to be presented fraudulent health care claims to any health care benefit program.

(b) For the purpose of this section:

(1) 'Health Care Benefit Program' means any plan or contract, whether public or private, under which any medical benefit, equipment, medication, or service is provided to any individual. 'Health Care Benefit Program' also includes any individual or entity who is providing a medical benefit, equipment, medication, or service for which payment may be made under a plan or contract for the provision of such benefits or services.

(2) 'Fraudulent Health Care Claim' means any statement, whether written, oral or in any other form, which is made as part of or in support of a claim or request for payment from any health care benefit program when such statement knowingly contains false, incomplete or misleading information concerning any fact or thing material to such claim.

(3) 'Pattern of presenting or causing to be presented' means 3 or more instances of conduct that constitute presenting or causing to be presented fraudulent health care claims.

(4) 'Health care provider' means any health care professional, an owner or operator of a health care practice or facility, any person who creates the impression that he or she or the person's practice or facility can provide health care services, or any person employed or acting on behalf of any of the aforementioned persons.

(5) 'Health care professional', 'health care practice', 'health care facility' or 'health care services' includes but is not limited to any person who or entity which, for payment, practices in or employs the procedures of medicine, surgery, chiropractic, podiatry, dentistry, optometry, psychology, social work, pharmacy, nursing, physical therapy, or any other field concerned with the maintenance or restoration of the health of the body or mind.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, health care fraud is a class G felony.

(2) Health care fraud is a class E felony if the elements of subsection (a) of this section are met and if:

a. The intended loss to the health care benefit program is more than \$50,000 but less than \$100,000; or

b. The offender is a health care provider at the time of the offense or offenses; or,

c. The conduct constitutes a pattern of presenting or causing to be presented fraudulent health care claims.

(3) Health care fraud is a class C felony if the elements of subsection (a) of this section are met and if:

a. The intended loss to the health care benefit program is \$100,000 or more; or

b. The offender is a health care provider at the time of the offense or offenses and the conduct constitutes a pattern of presenting or causing to be presented fraudulent health care claims.

(4) In addition to the penalties otherwise authorized by this subsection, a person convicted under this section may be subject to a fine of up to five times the pecuniary benefit obtained or sought to be obtained through the person's violation of this section.

(d) A conviction is not required for an act of presenting or causing presentation of a fraudulent health care claim to be used in prosecution of a matter under this section, including an act used as proof of a pattern as defined in paragraph (b)(3) of this section. A conviction for any act of presenting or causing presentation of fraudulent health care claims, including one which may be relied upon to establish a pattern of presenting or causing presentation of a fraudulent health care claim, does not preclude prosecution under this section. Prosecution under this section does not preclude prosecution under any other section of the Code."

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 severable.

Approved June 23, 2000

CHAPTER 338

FORMERLY

HOUSE BILL NO. 540

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

AN ACT TO AMEND TITLES 10, 14, 29, AND 31 OF THE DELAWARE CODE RELATING TO THE CHILD PLACEMENT REVIEW ACT AND THE CHILD PLACEMENT REVIEW BOARD.

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

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

Section 1. Amend Chapter 38, Title 31 of the Delaware Code by striking Chapter 38 in its entirety as it appears therein and by substituting in lieu thereof the following:

"CHAPTER 38. CHILD PLACEMENT REVIEW ACT

§3801. Purpose.

Establishing an independent monitoring system to identify and periodically review children in the care and custody of a placement agency is in the best interests of the health and welfare of all citizens of Delaware. The purposes of this chapter are to provide a system of independent child placement review that insures continuing efforts to obtain permanent homes for these children; to acknowledge that the time perception of children differs from that of adults; to provide stability and safety in the lives of children who must be removed from their caretakers; to make the ongoing needs of children for proper physical, mental, and emotional growth and development the decisive considerations in permanency planning; and to advocate as necessary for the paramount concerns of best interest and safety for the children.

§3802. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

(1) 'Administrative review' means an administrative review as codified in 42 U.S.C. §671(a)(16), 675(5)(A)-(G), and 675(6) that includes (i) the periodic review of a child's placement conducted by a panel of appointed persons (Review Committee) to evaluate all plans for care and other needs of the child; (ii) the Review Committee's recommendations to the court, to the Division of Family Services, and/or to the Division of Youth Rehabilitative Services through the distribution of the Committee's findings and recommendations report; and (iii) the continued advocacy for the needs and safety of the child as identified and determined necessary.

(2) 'Board' means the Child Placement Review Board.

(3) 'Child' means any child in the custody or care of the Division of Family Services or a child in the custody or care of the Division of Youth Rehabilitative Services who is in an alternative placement or in out-of-home care, but who is not in a detention or incarceration facility.

(4) 'Contract agency' means a private organization, agency, or institution with which a placement agency contracts for residential and/or case-management services for a child.

(5) 'Placement agency' means the Division of Family Services (DFS) and/or the Division of Youth Rehabilitative Services (YRS) of the Department of Services for Children, Youth and Their Families.

§3803. Child Placement Review Board: composition; terms; appointment; removal; vacancies.

(a) The Delaware Child Placement Review Board is hereby established. For administrative purposes, the Board is within the Administrative Office of the Courts.

(b) The Board shall conduct administrative reviews for every child. A review must be conducted no less frequently than once during the first twelve months after a child's initial custody or care placement, and no less frequently than annually thereafter until the child exits custody or care placement. For the purpose of conducting administrative reviews, the Board may divide its general membership into Review Committees with not less than 3 members on each committee.

(c) The Board must consist of no fewer than 56 members. No more than a simple majority of the Board members may be registered members of the same political party. A Board member must be a resident of Delaware for at least 1 year immediately preceding the appointment and must continue to be a resident of Delaware while serving as a member of the Board. However, a member may continue to serve until a successor is appointed.

(1) The Governor shall designate 1 Board member as chairperson of the Board to serve at the Governor's pleasure and shall designate 5 Board members as members of the Executive Committee of the Board. When appointing Executive Committee members, preference must be given to current Board members and to former Board or Foster Care Review Board members. An appointment under this paragraph is for 3 years. The chairperson of the Board is also the chairperson of the Executive Committee, as well as a member of the Committee on Dispositional Guidelines for Juveniles pursuant to 10 Del. C. §1008(b)(11).

(2) The Governor shall appoint no fewer than 50 Board members as general members. Upon the advice of the chairperson, the Governor may increase or decrease the number of general Board members, but may never decrease the general membership below 50 members. The term of a general Board member's appointment may not exceed 3 years. A Board member may be reappointed without limitation.

(3) When a membership vacancy occurs, the Governor shall appoint a replacement member to serve the unexpired term only.

(4) The Governor may remove a Board member for cause.

§3804. Qualifications of Board members.

(a) A Board member must be a citizen of Delaware who has demonstrated an interest in children and their welfare through community service or professional experience, or who possesses a background in law, sociology, psychology, psychiatry, education, theology, social work, medicine, or related fields.

(b) A person employed by a placement agency, contract agency, or the Family Court of this State may not be appointed to the Board.

(c) Discrimination in the Board member appointment procedure on the basis of gender, marital status, socioeconomic status, handicap, religion, creed, sex, age, race, color, national origin, or ethnicity is prohibited.

§3805. Powers and duties of the Board.

The Board has the power and duty to:

(1) adopt goals and objectives to measure the Board's effectiveness in facilitating permanent placement for children reviewed and to measure the effectiveness of other goals established by the Executive Committee;

(2) adopt rules and regulations consistent with the purpose and provisions of this chapter and with applicable federal and State laws, subject to the Administrative Procedures Act, subchapter II of Chapter 101, Title 29 of the Delaware Code;

(3) assign to the Executive Committee, through the Board's rules and regulations, duties and responsibilities which are consistent with the purpose and provisions of this chapter and which are not otherwise assigned to the Executive Committee;

(4) designate annually no more than 5 additional general Board members to the Executive Committee;

(5) approve the Executive Committee's written annual report to the Governor, the Chief Justice of the Supreme Court of the State, and the General Assembly;

(6) conduct the 2-month review of child offenders required by 10 Del. C. §1009(j)(4);

(7) administer the Ivyane D. F. Davis Memorial Scholarship Fund pursuant to 14 Del. C. §§3470-3474.

§3806. Compensation and expenses for Board members.

A member of the Board is entitled to receive, upon request, reimbursement for necessary expenses to attend meetings and other business activities of the Board. Travel expenses may not exceed the mileage rate paid to State employees, per mile actually traveled, or the cost of public transportation. Other miscellaneous necessary expenses may not exceed \$25 per meeting or activity.

§3807. Meetings of the Executive Committee and Board.

The Executive Committee shall meet at least 6 times each year. The Board as a whole shall meet at least once a year and shall annually elect its officers from among its members.

§3808. Duties of the Executive Committee.

The Executive Committee has the authority and duty to:

(1) Monitor and evaluate the effectiveness of the Board's child placement review program. To ensure a comprehensive monitoring and evaluation effort, the Executive Committee shall solicit comments, at a minimum, from the biological parents and family members, foster parents, the child, the Court Appointed Special Advocate, contract agencies, and placement agencies;

(2) Determine what information is necessary for reviewing and monitoring a child's placement and advise the placement agency of the information that is necessary for reviewing and monitoring a child's placement;

(3) Review and analyze reports prepared by the Executive Director. The Executive Committee may advise the Executive Director on report preparation;

(4) Provide an accounting to the Board on the Executive Committee's review and analysis of reports provided by placement agencies and the Executive Director;

(5) Identify the need for child advocacy programs that are determined to be in the best interest of the child welfare system;

(6) Employ, supervise, and evaluate the Executive Director of the Board, who serves as chief administrator to implement and administer the provisions of this chapter;

(7) Advise the Executive Director on the establishment of training for the Board, and provide periodic in-service training for the Board;

(8) Review the Executive Director's annual budget request and other applications for funds from any source;

(9) Develop and produce a written annual report that includes an analysis of the effectiveness of this chapter and recommendations to the Governor, the Chief Justice of the Supreme Court of the State, and the General Assembly concerning resources, policies, procedures, and statutes which affect the goal of permanency for children.

§3809. Duties of the Executive Director.

Under the direction of the Executive Committee, the Executive Director's duties include, but are not limited to:

(1) Applying for and administering funds for the administrative review system established by this chapter;

(2) Hiring and supervising Board employees, maintaining all necessary records and files, and directing the daily operations of the Board, including the implementation of the policies and procedures developed and approved by the Board;

(3) Reviewing and analyzing reports submitted by the placement agency on the status of every child for whom an administrative review is required;

(4) Ensuring the collection of necessary data and statistics and preparing reports to provide sufficient information the Board so that the Board can advocate effectively on behalf of children;

(5) Consulting with placement agency personnel and other appropriate persons to develop policies and procedures which maximize the coordination and cooperation between the Board and organizations involved in the provision of services to children;

(6) Monitoring and advising the Executive Committee on the changes, progress, and development of advocacy programs and of new initiatives designed to improve the lives of children;

(7) Representing and advocating for the views and the opinions of the Board, as approved by the Executive Committee. The Executive Director shall work with appropriate organizations, agencies, and individuals towards the goal of assuring that the safety and best interests of the child is the paramount concern in the provision of services to the child;

(8) Ensuring the accurate preparation and distribution of findings and recommendations reports pursuant to §3810(7) and (8) of this chapter.

§3810. Administrative review: Purposes.

The purposes of administrative review are:

(1) To determine if a plan has been developed for a child which adheres to the appropriate policy, maintains the child's safety and best interest as paramount concerns, has been appropriately implemented and complied with, and specifies a projected date for when the child can be safely returned home or maintained in an alternate permanent home;

(2) To assess the efforts of the placement agency and/or contract agency to achieve permanence for the child. The assessment must include, but is not limited to, an assessment of the child's safety, best interest, stability of placement, and other special needs;

(3) To assess if the current placement of a child is appropriate and in the child's best interest;

(4) To encourage and facilitate permanency for a child through reunification with his or her parents(s) or guardian(s), through the initiation of termination of parental rights proceedings and adoption, as appropriate, or through placement in another planned permanent living arrangement;

(5) To encourage and facilitate stability in a child's life through quality placements and fewer changes in placement;

(6) To collect information from the placement agency, contract agency, and other individuals or organizations involved with a child for the purpose of data collection and advocacy on behalf of the child;

(7) To submit a written findings and recommendations report regarding the plan and status of a child to the placement and/or contract agency, Family Court, parents or legal guardians, and guardian ad litem or Court Appointed Special Advocate (CASA) that will assist in the decision making processes regarding the child and carry out the purposes of paragraphs (1) through (5) of this section;

(8) To distribute the recommendations portion of the findings and recommendations report as determined by the Executive Committee. The Executive Committee may consult with the placement agency in this determination.

§3811. Administrative Review: General responsibilities of the Review Committee.

For purposes of administrative review, the Review Committee shall:

(1) Disseminate information about the rights and responsibilities of biological parents, foster parents, and other interested persons regarding a child;

(2) Make recommendations to the Executive Committee regarding policies and procedures used by State agencies in the provision of services to children;

(3) Comply with the requirements set forth in the federal Adoption and Safe Families Act of 1997, §§475(5)(B), 427(a)(2)(B) [42 U.S.C. §§675(5)(B), 627(a)(2)(B) as amended], which requires periodic review of case plans for all children eligible for and receiving funding under the Act;

(4) Submit a written report following an administrative review stating the findings and recommendations of the Review Committee pursuant to §3815 of this chapter;

(5) Refer the findings and recommendations report of an administrative review to the Board's staff for distribution in accordance with §3810(7) and (8) of this chapter;

(6) Forward to the Executive Committee those cases where the Review Committee recommends that further advocacy for a child is necessary.

§3812. Administrative review: Notice.

To insure adequate notice of administrative review:

(1) The Board shall request of the placement agency no less than 60 days in advance of a scheduled review a list of the prospective review participants, as set forth in paragraph (2) of this section. Within 15 days of receipt of the request, the placement agency shall provide the Board with the requested list and shall include for each identified review participant the most current mailing address available.

(2) The Board shall send out written notice of a scheduled review at least 21 days in advance of the review date to the following review participants, if applicable: the placement agency; the contract agency; the child, unless inappropriate; the child's parents or legal guardian; the child's foster parents; the child's guardian ad litem or court-appointed special advocate (CASA); and the child's educational surrogate parent. The Board shall also send out written notice of a scheduled review at least 21 days in advance of the review date to any person or agency, including school officials, interested in or having knowledge or information about the child. In order to be notified of a review, an interested person or agency not identified by the placement agency must notify the Board of interest in the review at least 10 days prior to the scheduled review.

§3813. Administrative review: Documents required for the review.

(a) At least 7 days before a child's review, the placement agency shall submit to the Child Placement Review Board the child's permanent placement plan and other information as requested by the Board.

(b) The permanent placement plan for a child must include, but is not limited to:

(1) A description of the type of home or institution in which the child is presently placed, including a discussion of the safety and appropriateness of the placement;

(2) The identification of specific goals for the responsible placement or contract agency and for the child and/or the child's family which need to be accomplished in order to alleviate or mitigate the causes necessitating placement of the child;

(3) The identification of specific services to be provided and of the requirements on the placement agency, parents or legal guardian, foster parents or contract agency, and/or child to achieve the desired outcome;

(4) The projected date by which the child may be safely returned home or maintained in an alternate permanent home;

(5) A permanent placement goal;

(6) The date and signature by each necessary person accepting the plan or an explanation for the lack of a signature.

(c) A placement agency must provide the Board with information requested by the Board for a review, so long as providing the information requested does not violate federal or State law. The Executive Committee may petition Family Court for a hearing if a placement agency fails to provide requested and or required information.

§3814. Administrative review: Procedures.

(a) Administrative review procedures for a Review Committee must include, but are not limited to, consideration and evaluation of the following:

(1) the safety and best interests of the child under review;

(2) the goal of the permanent placement plan;

(3) services to the child and others involved;

(4) for children in the care or custody of DFS, the placement of siblings;

(5) length of time spent in out-of-home placements;

(6) number of placements;

(7) the child's wishes, where appropriate;

(8) efforts made by all involved to fulfill the case plan;

(9) the opportunity for parents, legal guardians, and siblings to visit regularly with the child; and

(10) obstacles which hinder or prevent attainment of the placement goal.

(b) The DFS and/or YRS caseworker or supervisor most closely involved with a case shall attend the administrative review of the case, unless prior approval of the absence is obtained from the Executive Director or the Director's designee, or unless an emergency or other good cause exists that prevents attendance at the review.

(c) A Board member who has personal knowledge of, or is acquainted with, any of the principals in a case shall disqualify himself or herself from reviewing the case.

(d) An administrative review is not a court proceeding, and the formal rules of evidence do not apply. The Board may exclude factual data, documents, testimony, and argument that are plainly irrelevant, immaterial, insubstantial, cumulative, or privileged. The Board may also limit any factual data, documents, testimony, and argument that are unduly repetitive.

(e) Placement agencies, the child's parents or legal guardians, and the guardian ad litem or CASA for the child, and/or their attorneys, and Board staff may be present throughout the review, unless the Review Committee reasonably believes that a safety issue exists. Other participants with notice to provide information at the review and anyone else deemed by the Committee as necessary to the review process may be present throughout all or part of the review at the discretion of the Review Committee.

(f) A child of appropriate age and mental capacity who requests a private interview with the Review Committee may be interviewed privately at the Committee's discretion.

(g) An administrative review is not subject to the provisions of §10004 of Title 29.

(h) Case and review records of the Board are exempt from the provisions of Chapter 100 of Title 29.

§3815. Administrative review: Findings and recommendations report.

(a) A Review Committee shall submit a written findings and recommendations report of its administrative review to the placement agency and/or contract agency, to the child's parents or legal guardians, and to the child's guardian ad litem or CASA within 15 days of the review. If a case is referred to the Executive Committee for review before the report is distributed, then the report must be submitted within 15 days following the Executive Committee's review.

(b) A findings and recommendations report must offer recommendations regarding:

- (1) the appropriateness of the case plan and the length of time determined to be necessary to achieve the identified goal with consideration of the best interest and safety of the child;
- (2) the safety and appropriateness of the child's current placement in meeting the child's needs;
- (3) the appropriateness and timely provision of the services necessary for the identified goal;
- (4) whether further advocacy by the Board is necessary and appropriate.

(c) Upon the receipt of a findings and recommendations report, a placement agency shall, within 10 working days, notify the Board in writing of the agency's agreement or disagreement with the Review Committee's recommendations.

(d) Upon the receipt of a findings and recommendations report, a person, other than a placement agency, who disagrees with the report may, within 10 working days, submit to the Board in writing a statement of no more than two pages in length stating their disagreement with the Review Committee's recommendations.

(e) The findings and recommendations report and any response to the report pursuant to subsections (c) and (d) of this section must be submitted by the Review Committee to the Family Court and must be made a part of the child's Family Court file within 7 working days after the 10-day response period has ended. The Court shall review the report and consider the recommendations in it. A report by the Review Committee submitted to the Court pursuant to this subsection is a communication authorized by law and is not an ex parte communication with a judge or commissioner. A findings and recommendations report may be received as evidence and may be considered by a court along with other evidence.

§3816. Confidentiality of records.

(a) All Child Placement Review Board records and information, as well as records and information provided to the Board regarding children and their parents or relatives, are confidential and may be disclosed only pursuant to the provisions of this chapter, or upon an order of a court.

(b) A person who violates the confidentiality provisions of this section is guilty of a class B misdemeanor. The Superior Court has jurisdiction over violations of this section.

(c) Any member of the Board or the administrative staff of the Board who violates a provision of this chapter by improperly disclosing confidential information may be removed or dismissed from his or her position, subject to due process notice and hearing requirements.

§3817. Notice of judicial hearing.

The Family Court shall notify the Child Placement Review Board of every dispositional and permanency hearing regarding a child, as defined in §3802(3) of this title, and shall submit to the Board a copy of the final order resolving the dispositional or permanency hearing within 30 days of the date of the final order.

§3818. Participation in judicial reviews or hearings.

The Board or its designee, with the approval of the Executive Committee, may participate in judicial reviews and/or permanency hearings through its recommendation to the Court regarding the permanency goal, provision of services, and best interests of a child and through presentation consistent with its findings and recommendations report.

§3819. Intervention as a party in an action.

Chapter 338

Vol.72

The Board, with the approval of the Executive Committee, has the unconditional right to intervene, pursuant to Family Court Civil Rule 24(a), in any action involving a child in the care or custody of a placement agency. Upon filing a motion to intervene, the Board shall become a party to the action, with all rights and privileges entitled thereto.

§3820. Petition for judicial review.

The Board, with the approval of the Executive Committee, may petition the Court for a judicial review of a child in the care or custody of a placement agency if:

(1) the placement agency disagrees with the recommendations of the Board and notifies the Board pursuant to §3815(c) of this title; or

(2) the Board determines that there has been a failure by the placement agency to progress towards establishing permanency for the child; or

(3) the Board determines that the placement agency is not fulfilling the requirements of the permanency plan as ordered by the Court.

§3821. Construction of chapter.

This chapter, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof.

§3822. Conflict with existing laws.

Any provision of this chapter which, if enforced, will cause the State to lose federal funding is null and void.

§3823. Continuation of service by present Foster Care Review Board members.

Each member of the present Foster Care Review Board may elect to serve out the term for which the member was appointed. The present chairperson of the Foster Care Review Board may elect to continue to serve as the chairperson of the Child Placement Review Board until a new chairperson is appointed pursuant to §3803(c)(1) of this title."

Section 2. Amend §914, Title 10 of the Delaware Code by striking the phrase "Foster Care Review Board" as it appears therein and by substituting in lieu thereof "Child Placement Review Board".

Section 3. Amend §1008(b)(11), Title 10 of the Delaware Code by striking the phrase "Foster Care Review Board" as it appears in paragraph (11) and by substituting in lieu thereof "Child Placement Review Board".

Section 4. Amend §1009(j)(4), Title 10 of the Delaware Code by striking the phrase "Foster Care Review Board" as it appears in the third sentence of paragraph (4) and by substituting in lieu thereof "Child Placement Review Board".

Section 5. Amend §3471(a), Title 14 of the Delaware Code by striking the phrase "Foster Care Review Board" as it appears in subsection (a) and by substituting in lieu thereof "Child Placement Review Board".

Section 6. Amend §5812(a)(12), Title 29 of the Delaware Code by striking the phrase "the Administrative Coordinator of the Foster Care Review Board" as it appears in paragraph (12) and by substituting in lieu thereof "the Executive Director of the Child Placement Review Board".

Section 7. Amend §10161(a)(44), Title 29 of the Delaware Code by striking the phrase "Foster Care Review Board" as it appears in paragraph (44) and by substituting in lieu thereof "Child Placement Review Board".

Section 8. 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 9. The provisions of this Act become effective on July 1, 2000 or 30 days after this Act is enacted into law, whichever is later.

Approved June 23, 2000

CHAPTER 339

FORMERLY

HOUSE BILL NO. 562

AN ACT TO AMEND THE CHARTER OF THE TOWN OF ODESSA, CHAPTER 141, VOLUME 68, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF ODESSA", TO CLARIFY AND CORRECT SECTIONS OF THE CHARTER; TO UPDATE THE TOWNS EXISTING REGULATORY AUTHORITY, TO PROVIDE FOR SPECIAL REQUIREMENTS TO SELL OR TRANSFER THE OLD ACADEMY BUILDING; TO PROVIDE WRITTEN WAIVER OF NOTICE BY ELECTRONIC MAIL; TO DESIGNATE THE TOWN'S FISCAL YEAR; AND TO PROVIDE FOR AN ANNUAL AUDIT.

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

Section 1. Amend Section 4.2.2 (c) by inserting the phrase "sidewalks, curbs, gutters, storm sewers, drains," between the word "streets," and the word "squares." as they appear therein.

Section 2. Amend Section 4.2.2 (e) by inserting the word "public" between the "(e)" and the word "water" as they appear therein.

Section 3. Amend Section 4.2.3 by designating the existing Section 4.2.3 as Section 4.2.3 (a) and by adding a new SubSection (b) as follows:

"(b) the power to sell or transfer in subsection 4.2.3 (a) shall be specifically limited as follows:

The Old Academy Building located at 315 Main Street shall not be sold or otherwise transferred unless the following conditions are met:

- (i) if the town of Odessa in dire necessity offers for sale or transfer the property at 315 Main Street, the offer to sell or transfer the property shall first be approved by ordinance by Mayor and Council;
- (ii) On approval by ordinance to sell or transfer the property, Mayor and Council shall provide a vote by referendum for the town's qualified registered voters. Approval by ninety per cent (90%) of the qualified registered voters, voting in the town of Odessa referendum, shall be required to sell or transfer the property at 315 Main Street. The Mayor and Council sponsored referendum shall follow the procedure outlined in Section 21.6 (b), 21.6 (c), 21.6 (d) and 21.6 (e).

Section 4. Amend Section 4.2.7 (a) by inserting the phrase "sidewalk, square, lane, storm sewer, between "alley" and "waterway" as they appear therein.

Section 5. Amend Section 4.2.7 (c) by inserting the phrase ", curbs, gutter," between the words "sidewalk" and "or" as they appear therein.

Section 6. Amend Section 4.2.9 by inserting the phrase "sidewalks, alleys, lanes," between the words "streets," and "avenues." as they appear therein.

Section 7. Amend Section 4.2.11 (a) by inserting the word "public" between the words "of" and "wells" as they appear therein.

Section 8. Amend Section 4.2.13 by inserting the phrase "sidewalks, lanes" between the words "alleys," and ", waterways" as they appear therein.

Section 9. Amend Section 4.2.14 by deleting the space between the words "gun" and "powder" as they appear therein to change the words "gun powder" to "gunpowder".

Section 10. Amend Section 4.2.14 by deleting the word "over" between the words "chimney," and "broiler" and inserting the word "oven" in lieu thereof.

Chapter 339
Vol.72

Section 11. Amend Section 4.2.18 by inserting the word "sidewalks," between the words "streets," and "highways" as they appear therein.

Section 12. Amend Section 4.2.19 by deleting the phrase "U. S. Cost" between the words "with" and "Guard" and inserting in lieu thereof the phrase "United States Coast".

Section 13. Amend Section 4. 2. 20 by inserting the word "sidewalk," between the words "streets," and "highways" as they appear therein.

Section 14. Amend Section 4.2.21 by inserting the phrase "spear guns, paint ball guns," between the words "guns," and "air" as they appear therein.

Section 15. Amend Section 7.8.1 by deleting the number "24" and inserting the phrase "twenty-four (24)" in lieu thereof.

Section 16. Amend Section 7.8.1 by deleting the number "60" and inserting the phrase "sixty (60)" in lieu thereof.

Section 17. Amend Section 7.8.2 by deleting the number "90" and inserting the phrase "ninety (90)" in lieu thereof wherever it appears therein.

Section 18. Amend Section 7.9.1 by deleting the number "11" and inserting the phrase "eleven (11)" in lieu thereof as it appears therein.

Section 19. Amend Section 7.9.2 by deleting the word "council" and inserting the word "Council" in lieu thereof as it appears therein.

Section 20. Amend Section 7.9.2 by inserting in the second sentence the number "(7)" between the words "seven" and "days" as they appear therein.

Section 21. Amend Section 7.9.2 by inserting in the third sentence the phrase "electronic mail" between the words "written," and "telegraphic" as they appear therein.

Section 22. Amend Section 15 by deleting the phrase " 15. Biannual Audit" and inserting the phrase "15. Fiscal Year and Annual Audit" in lieu thereof and inserting the subheading "15.2. Annual Audit" before the existing text in Section 15.

Section 23. Amend Section 15 by inserting a new "Section 15.1. Fiscal Year." to read as follows:

"Section 15.1. Fiscal Year. The fiscal year of the Town of Odessa shall be from July 1st to June 30th."

Section 24. Amend the current Section 15 which is now renumbered as Section 15.2 by deleting the phrase "two years and when a different Treasurer is elected or appointed," after the word "every" as it appears therein and inserting the word "year" in lieu thereof.

Section 25. Amend Section 18.1 by inserting the phrase ", sidewalks" between the words "crosswalks" and "and" as they appear therein.

Section 26. Amend Section 18.8 by deleting the word "be" between the words "property" and "dissatisfied" as they appear therein and inserting the word "insert "is" in lieu thereof.

Section 27. Amend Section 19 by inserting the word "Public" between the number "19." and the word "Water" as they appear therein.

Section 28. Amend Section 19 in the second sentence by deleting the word "erect" and inserting the word "erect" in lieu thereof.

Section 29. Amend Section 19 in the second sentence by inserting the word "public" between the words "control" and "wells" as they appear therein.

Section 30. Amend Section 21.6 in the third sentence by deleting the word "be" between the words "not" and "be" and inserting the word "to" in lieu thereof.

Approved June 23, 2000

CHAPTER 340

FORMERLY

SENATE BILL NO. 281

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE LOCATION OF STATE POLICE STATIONS.

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

Section 1. Amend §8305, Title 11, Delaware Code by deleting the words "State Road" as they appear in the first sentence and inserting in lieu thereof "or near the intersection of Routes 40 and 896".

Section 2. This Act shall become effective only upon the construction of a new State Police Troop 2 at or near the intersection of Routes 40 and 896.

Approved June 23, 2000

CHAPTER 341

FORMERLY

SENATE BILL NO. 318

AN ACT TO AMEND TITLE 12, DELAWARE CODE RELATING TO THE QUALIFIED DISPOSITIONS IN TRUST ACT.

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

Section 1. Amend Section 3570(4), Title 12, Delaware Code by inserting the phrase "(including a change in the legal ownership of property occurring upon the substitution of one trustee for another or the addition of one or more new trustees)" following the word "property" where it appears for the first time.

Section 2. Amend Section 3570, Title 12, Delaware Code by deleting paragraph e of Subsection 9 and adding new paragraphs e and f as follows:

"e. In the event that a qualified trustee of a trust ceases to meet the requirements of paragraph a of this subsection, and there remains no trustee that meets such requirements, such qualified trustee shall be deemed to have resigned as of the time of such cessation, and thereupon the successor qualified trustee provided for in the trust instrument shall become a qualified trustee of the trust, or in the absence of any successor qualified trustee provided for in the trust instrument, the Court of Chancery shall, upon application of any interested party, appoint a successor qualified trustee.

f. In the case of a disposition to more than one trustee, a disposition that is otherwise a qualified disposition shall not be treated as other than a qualified disposition solely because not all of the trustees are qualified trustees."

Section 3. Amend Section 3570, Title 12, Delaware Code by deleting Paragraph b of Subsection 10 thereof and inserting new Paragraph b as follows:

"b. Is irrevocable, but a trust instrument shall not be deemed revocable on account of its inclusion of one or more of the following:

1. A transferor's power to veto a distribution from the trust;
2. A special power of appointment exercisable by will or other written instrument of the transferor effective upon the transferor's death;
3. The transferor's potential or actual receipt of income, including rights to such income retained in the trust instrument;

4. The transferor's potential or actual receipt of income or principal from a charitable remainder unitrust or charitable remainder annuity trust as such terms are defined in Section 664 of the Internal Revenue Code of 1986 and any successor provision thereto;

5. The transferor's receipt each year of a percentage (not to exceed 5) specified in the trust instrument of the value of the trust determined from time to time pursuant to the trust instrument;

6. The transferor's potential or actual receipt of principal if such potential or actual receipt of principal is either in the sole discretion of a qualified trustee or qualified trustees or is pursuant to an ascertainable standard contained in the trust instrument; and"

Section 4. Amend Section 3570, Title 12, Delaware Code by adding new paragraph d to Subsection 10 as follows:

"d. A disposition by a trustee that is not a qualified trustee to a trustee that is a qualified trustee shall not be treated as other than a qualified disposition solely because the trust instrument fails to meet the requirements of paragraph a of this subsection."

Section 5. Amend Section 3571, Title 12, Delaware Code by deleting such section in its entirety and substituting the following:

"A qualified disposition shall be subject to Section 3572 of this title notwithstanding a transferor's retention of any or all of the powers and rights described in Section 3570(10)b and the transferor's service as investment adviser pursuant to Section 3570(9)d of this title. The transferor shall have only such powers and rights as are conferred by the trust instrument. Except as permitted by Sections 3570(9)d and 3570(10)b of this title, a transferor shall have no rights or authority with respect to the property that is the subject of a qualified disposition or the income therefrom, and any agreement or understanding purporting to grant or permit the retention of any greater rights or authority shall be void."

Section 6. Amend Section 3572, Title 12, Delaware Code by adding the following new sentence to Subsection (a):

"The Court of Chancery shall have exclusive jurisdiction over any action brought with respect to a qualified disposition."

Section 7. Amend Section 3572, Title 12, Delaware Code by deleting Subsection (b) and substituting in lieu thereof the following new Subsection (b):

"(b) A creditor's claim under subsection (a) of this section shall be extinguished unless:

(1) The creditor's claim arose before the qualified disposition was made, and the action is brought within the limitations of Section 1309 of Title 6 in effect on the later of the date of the qualified disposition or August 1, 2000; or

(2) Notwithstanding the provisions of Section 1309 of Title 6, the creditor's claim arose concurrent with or subsequent to the qualified disposition and the action is brought within 4 years after the qualified disposition is made.

In any action described in subsection (a), the burden to prove the matter by clear and convincing evidence shall be upon the creditor."

Section 8. Amend Section 3572, Title 12, Delaware Code by deleting Subsection c thereof and substituting the following new Subsection c:

"(c) For purposes of this subchapter, a qualified disposition that is made by means of a disposition by a transferor who is a trustee shall be deemed to have been made as of the time (whether before, on or after July 1, 1997) the property that is the subject of the qualified disposition was originally transferred to the transferor (or any predecessor trustee) making the qualified disposition in a form that meets the requirements of § 3570(10)b. and c. of this title."

Section 9. Amend Section 3573, Title 12, Delaware Code by adding the following new sentence:

"Subsection (1) shall not apply to any claim for forced heirship or legitime."

Section 10. If any provision of Subchapter VI, Chapter 35, Title 12, Delaware Code, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of Subchapter VI, Chapter 35, Title 12, Delaware Code, which can be given effect without the invalid provision or application and to this end the provisions of Subchapter VI, Chapter 35, Title 12, Delaware Code, are severable.

Section 11. Sections 1, 2, 4, 5, 8, and 10 of this Act shall be effective as of July 1, 1997. Sections 3, 6, 7, 9 and 11 of this Act shall be effective upon enactment.

Approved June 23, 2000

CHAPTER 342

FORMERLY

SENATE BILL NO. 314

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO THE AFFIDAVIT TO CLEAR TITLE TO JOINTLY-OWNED REAL ESTATE WHEN PROBATE IS NOT REQUIRED.

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

Section 1. Amend §1905, Title 12 of the Delaware Code by adding a new subsection (e) as follows:

"(e) When no letters testamentary or of administration are required for an estate, and real property passes to any person by virtue of joint ownership with right of survivorship or tenancy by the entireties with the decedent, then the personal representative (as defined in §101 (5) of Title 12) or the surviving joint tenant shall, within three (3) months after the decedent's death, complete and file an Affidavit in the office of the Register of Wills of the county in which the real property is located with a statement setting forth a general description of the real estate and the name(s) of the surviving owner(s)."

Section 2. Amend §1912(b), Title 12 of the Delaware Code by deleting the first sentence of said subsection in its entirety and replacing said sentence with the following:

"(b) Whenever any parcel of real estate or any estate or interest therein, described in the statement of the executor or administrator or affidavit filed pursuant to §1905(e), shall be subject to estate taxes under Title 30, the Register of Wills shall make an entry in the Inheritance and Succession Docket that the real estate is subject to tax, and in the event of an appeal to the Superior Court from a determination by the State Tax Appeal Board of the amount of estate taxes to be paid, shall further note in said docket the fact of appeal."

Approved June 23, 2000

CHAPTER 343

FORMERLY

SENATE BILL NO. 363

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 clause (ii) thereof in its entirety and inserting in lieu thereof the following:

"(ii) shall be such as to distinguish it upon the records in the office of the Division of Corporations in the Department of State from the names of other corporations, limited partnerships, limited liability companies or business trusts organized, reserved or registered as a foreign corporation, limited partnership, limited liability company or business trust under the laws of this State, except with the written consent of such other foreign corporation or domestic or foreign limited partnership, limited liability company or business trust, executed, acknowledged and filed with the Secretary of State in accordance with § 103 of this title and".

Section 2. Amend Section 103(a)(1), Title 8, Delaware Code, by adding the words "(or, in the case of any such other instrument, such incorporator's or incorporators' successors and assigns)" at the end of the first sentence thereof, and by adding the following sentence at the end of such paragraph:

"If any incorporator is not available by reason of death, incapacity, unknown address, or refusal or neglect to act, then any such other instrument may be signed, with the same effect as if such incorporator had signed it, by any person for whom or on whose behalf such incorporator, in executing the certificate of incorporation, was acting directly or indirectly as employee or agent, provided that such other instrument shall state that such incorporator is not available and the reason therefor, that such incorporator in executing the certificate of incorporation was acting directly or indirectly as employee or agent for or on behalf of such person, and that such person's signature on such instrument is otherwise authorized and not wrongful."

Section 3. Amend Section 122, Title 8 Delaware Code, to add a new paragraph 17 as follows:

"(17). Renounce, in its certificate of incorporation or by action of its board of directors, any interest or expectancy of the corporation in, or in being offered an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the corporation or one or more of its officers, directors or stockholders."

Section 4. Amend Section 141(b), Title 8, Delaware Code, by deleting in the sixth sentence thereof the words "written notice" and inserting in lieu thereof the words "notice given in writing or by electronic transmission".

Section 5. Amend Section 141(f), Title 8, Delaware Code, by adding after the words "consent thereto in writing" the words "or by electronic transmission", by inserting after the words "the writing or writings" the words "or electronic transmission or transmissions" and by adding at the end a new sentence reading as follows: "Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form."

Section 6. Amend Section 141(i), Title 8, Delaware Code, by deleting the word "similar" and substituting in lieu thereof the word "other".

Section 7. Amend Section 211(a), Title 8, Delaware Code, by deleting the existing text in its entirety and substituting in lieu thereof the following:

"(a)(1) Meetings of stockholders may be held at such place, either within or without this State, as may be designated by or in the manner provided in the certificate of incorporation or bylaws or, if not so designated, as determined by the board of directors. If, pursuant to this paragraph (a)(1) or the certificate of incorporation or the bylaws of the corporation, the board of directors is authorized to determine the place of a meeting of stockholders, the board of directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as authorized by paragraph (a)(2) of this Section 211.

(2) If authorized by the board of directors in its sole discretion, and subject to such guidelines and procedures as the board of directors may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication:

(A) participate in a meeting of stockholders; and

(B) be deemed present in person and vote at a meeting of stockholders whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (i) the corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder, (ii) the corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (iii) if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the corporation."

Section 8. Amend Section 211(e), Title 8, Delaware Code, by deleting the existing text in its entirety and substituting in lieu thereof the following:

"(c) All elections of directors shall be by written ballot, unless otherwise provided in the certificate of incorporation; if authorized by the board of directors, such requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission, provided that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder or proxy holder."

Section 9. Amend Section 219(a), Title 8, Delaware Code, by deleting after the first sentence thereof the remaining text in its entirety and substituting in lieu thereof the following:

"Nothing contained in this Section shall require the corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least 10 days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the corporation. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting."

Section 10. Amend Section 219(b), Title 8, Delaware Code, by adding after the words "election of directors" and before the comma the following words: "held at a place, or to open such a list to examination on a reasonably accessible electronic network during any meeting for the election of directors held solely by means of remote communication".

Section 11. Amend Section 222(a), Title 8, Delaware Code, by adding after the words "the place," and before the word "date" the words "if any," by adding after the words "hour of the meeting," and before the word "and" the words "the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting."

Section 12. Amend Section 222(b), Title 8, Delaware Code, by adding in the third sentence thereof after the words "transfer agent" the words "or other agent".

Section 13. Amend Section 222(c), Title 8, Delaware Code, by deleting in the first sentence thereof the words "and place thereof" and adding in lieu thereof the following words: " , place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting".

Section 14. Amend Section 224, Title 8, Delaware Code, by adding in the first sentence after the words "may be kept on," the words "or by means of," by deleting in the first sentence the words "punch cards, magnetic tape, photographs, microphotographs or", by deleting in the first sentence the word "other" where it appears between the words "any" and "information", by adding in the first sentence after the words "storage device" the words "or method", by deleting in the first sentence the word "written" and substituting in lieu thereof the word "paper", by deleting at the end of the second sentence the words "the same" and substituting in lieu thereof the words "such records pursuant to any provision of this chapter", by replacing in the third sentence the word "written" in each of the three places it appears with the word "paper", by adding in the third sentence after the words "produced from" the words "or by means of", by deleting in the third sentence the words "cards, tapes, photographs, microphotographs or other", and by adding to the third sentence after the words "storage device" the words "or method".

Section 15. Amend Section 228, Title 8, Delaware Code, by re-lettering existing subsection (d) as subsection (e) and adding a new subsection (d) reading in its entirety as follows:

"(d)(1) A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, or by a person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such telegram, cablegram or other electronic transmission sets forth or is delivered with information from which the corporation can determine (A) that the telegram, cablegram or other electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder or proxyholder and (B) the date on which such stockholder or proxyholder or authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the corporation by delivery to its registered office in this State, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded if, to the extent and in the manner provided by resolution of the board of directors of the corporation.

(d)(2) Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing."

Section 16. Amend Section 229, Title 8, Delaware Code, by adding in the first sentence after the words "entitled to notice," the words "or a waiver by electronic transmission by the person entitled to notice," and by adding in the third sentence after the words "waiver of notice" the words "or any waiver by electronic transmission".

Section 17. Amend Section 230, Title 8, Delaware Code, by adding a new subsection (c) reading in its entirety as follows:

"(c) The exception in Section 230(b)(1) to the requirement that notice be given shall not be applicable to any notice returned as undeliverable if the notice was given by electronic transmission."

Section 18. Amend Section 231(d), Title 8, Delaware Code, by deleting in the first sentence the words "§ 212(c)(2)" and inserting in lieu thereof the words "Section 211(e) or Section 212(c)(2) of this title, or any information provided pursuant to Section 211(a)(2)(B)(i) or (iii)".

Section 19. Amend Title 8, Delaware Code, by adding thereto a new section 232 reading in its entirety as follows:

- "(a) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation under any provision of this chapter, the certificate of incorporation, or the bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any such consent shall be deemed revoked if (1) the corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent and (2) such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.
- (b) Notice given pursuant to subsection (a) of this section shall be deemed given: (1) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (2) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (3) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and (4) if by any other form of electronic transmission, when directed to the stockholder. An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.
- (c) For purposes of this chapter, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.
- (d) This section shall apply to a corporation organized under this chapter that is not authorized to issue capital stock, and when so applied, all references to stockholders shall be deemed to refer to members of such a corporation.
- (e) This section shall not apply to §§ 164, 296, 311, 312, or 324 of this chapter."

Section 20. This Act shall become effective July 1, 2000.

Approved June 23, 2000

CHAPTER 344

FORMERLY

HOUSE BILL NO. 489

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE AUTHORIZING COURT APPOINTED CUSTODIANS TO SPONSOR MINORS FOR A DRIVERS LICENSE AND MOTORCYCLE ENDORSEMENT.

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

Section 1. Amend § 2710(e), Title 21, Delaware Code by inserting the words "court ordered custodian" after the word "guardian," in the first sentence and after the word "guardian," in the first sentence of § 2710(e)(1). Further Amend § 2170(e) by inserting the words", or court ordered custodian" after the word "Guardian," in

Chapter 344

Vol. 72

§ 2710(e)(2)(c). Further amend § 2710(e)(3) by deleting the words "or guardian" in the first and second sentence and inserting in lieu thereof the words "guardian, or court ordered custodian" after the word "mother," in the first and after the word "parent," in the second sentence.

Section 2. Amend § 2710(e)(4), Title 21, Delaware Code by inserting the following sentence after second sentence, "If the court terminates the custody order and the minor subsequently resides with a parent in this State, then the parent may cancel the driving privileges of the minor under this section."

Section 3. Amend § 2703(d), Title 21, Delaware Code by inserting the words "court ordered custodian" after the word "guardian," in the first sentence. Further amend § 2703 (d) by inserting the words "court ordered custodian" after the word "guardian," in § 2703(d)(1). Further amend § 2703 (d) by inserting the words "or court ordered custodian," after the word "guardian" in § 2703(d)(2)(c). Further amend § 2703(d)(3) by deleting the words "or guardian" in the first and second sentence and inserting in lieu thereof the words "guardian, or court ordered custodian" after the word "mother," in the first and after the word "parent," in the second sentence.

Section 4. Amend § 2703(d)(4), Title 21, Delaware Code by adding the following sentence after the first sentence; "If the court terminates the custody order and the minor subsequently resides with a parent in this State, then the parent may cancel the driving privileges of the minor under this section."

Approved June 26, 2000

CHAPTER 345

FORMERLY

HOUSE BILL NO. 17

AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO VICTIM'S BILL OF RIGHTS.

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

Section 1. Amend § 9413 of Title 11, Delaware Code, by adding a new subsection (c) after the present subsection (b) as follows:

"(c) Notwithstanding any provision to the contrary, upon the request of the victim, the Department of Correction and the Department of Services for Children, Youth and Their Families shall provide the victim with information concerning the terms of probation, parole or other condition of release and the defendant's compliance or noncompliance with the sentence, probation, parole or other conditions imposed on the defendant. The Department of Correction shall have the authority to promulgate rules and regulations to implement this subsection."

Approved June 27, 2000

CHAPTER 346

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 213

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

AN ACT TO AMEND TITLES 10, 11 AND 14 OF THE DELAWARE CODE RELATING TO TRUANCY.

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

Section 1. Amend Chapter 27, Title 14 of the Delaware Code by designating all of the present Chapter 27 as Subchapter I of said Chapter, which new subchapter shall be entitled as follows:

"SUBCHAPTER I. SCHOOL ATTENDANCE REQUIREMENTS."

Section 2. Amend Chapter 27, Title 14 of the Delaware Code by adding thereto a new subchapter, designated as Subchapter II, which new subchapter shall be entitled as follows:

"SUBCHAPTER II. TRUANCY."

Section 3. Amend § 2702, Chapter 27, Title 14 of the Delaware Code by striking the first sentence of subsection (a), by re-designating the remainder of subsection (a) as subsection (b), and by inserting a new subsection (a) to read as follows:

"(a) Except as otherwise provided, the following provisions are applicable to school attendance in this State:

(1) Every person in this State who has legal custody, guardianship of the person, or legal control of a child between 5 and 16 years of age shall enroll the child in a public school in the school district of the person's residence.

(2) Every person who has legal custody, guardianship of the person, or legal control of a student who is enrolled in a public school of this state shall send the student to the school each day of the minimum school term and to any academic improvement activities required by Section 153 of this title.

(3) Every student who is enrolled in a public school of this state shall attend the school each day of the minimum school term and any academic improvement activities required by Section 153 of this title. A student who has been absent from school without a valid excuse for more than three school days in a school year is a truant. A truant and the parent of a truant are subject to the administrative procedures and Court proceedings set out in Subchapter II of this Chapter.

Section 4. Further Amend § 2702, Chapter 27, Title 14 of the Delaware Code by striking the section designation (c)(1) as it appears in subsection (d) and inserting in lieu thereof the designation "(d)(1)".

Section 5. Further amend § 2702, Chapter 27, Title 14 of the Delaware Code by re-designating subsections (b), (c), (d), and (e) as subsections (c), (d), (e) and (f).

Section 6. Amend § 2706, Chapter 27, Title 14 of the Delaware Code by re-designating said section as new § 2722, Subchapter II, of Chapter 27, by striking subsection (b) in its entirety, and by re-designating subsection (c) as subsection (b).

Section 7. Amend § 2707, Chapter 27, Title 14 of the Delaware Code by re-designating said section as § 2706, Subchapter I, of Chapter 27.

Chapter 346
Vol.72

Section 8. Amend § 2708, Chapter 27, Title 14 of the Delaware Code by re-designating said section as § 2727, Subchapter II, of Chapter 27.

Section 9. Amend § 2709, Chapter 27, Title 14 of the Delaware Code by striking it in its entirety.

Section 10. Amend § 2710, Chapter 27, Title 14 of the Delaware Code by re-designating such section as new § 2734, Subchapter II, of said Chapter 27, and by amending it to delete the words "§ 2709" and replace it with "§ 2729".

Section 11. Amend §§ 2711-2712, Chapter 27, Title 14 of the Delaware Code by re-designating such sections as new §§ 2735 and 2736, Subchapter II, of said Chapter.

Section 12. Amend § 2713, Chapter 27, Title 14 of the Delaware Code by re-designating said section as new § 2723, Subchapter II, of said Chapter 27.

Section 13. Amend Subchapter II, Chapter 27, Title 14 of the Delaware Code by adding thereto a new section, designated as §2721, which new section shall read as follows:

"§ 2721. Definitions.

In this Chapter:

(a) 'Court' means a Justice of the Peace Court.

(b) 'Parent' means a person who has legal custody, guardianship of the person, or legal control of a student and who has enrolled the student in grades kindergarten through twelve of a public school of this state.

(c) 'Principal' means the highest administrative official of a public school and includes a person or group of persons designated by the principal to deal with school attendance.

(d) 'Record' means written materials and exhibits forwarded to a Court by the school with a referral under this subchapter or admitted into evidence at a Court hearing.

(e) 'School' or 'action by the school' means decisions made or actions taken by the principal which pertain to school attendance.

(f) 'Student' means a person who is enrolled in kindergarten through grade 12 of a public school of this state.

(g) 'Truant' means a student who has been absent from school without valid excuse for more than three school days during a school year.

(h) 'Valid excuse' means an excuse which is approved in the regulations of the Department of Education.

Section 14. Amend Subchapter II, Chapter 27, Title 14 of the Delaware Code by adding thereto the following new sections:

" § 2724. Notification to parents and students.

At the beginning of a school year each school district or public school shall notify each student and the parent of each student of the school attendance requirements of this code, including the procedures and penalties applicable to truancy. The school district or school may determine the form of the notification.

§ 2725. Absences without excuse; truancy conferences.

(a) If a student has been absent from school without a valid excuse one or more days, the principal of the school may take such action as the principal considers appropriate.

(b) If a student is truant, the principal may schedule a truancy conference with the student, the student's parent and the principal pursuant to Section 2726 of this subchapter. The conference may be attended by other persons as the principal may include.

(c) Following a truancy conference the school shall decide whether or not to file a charge against the parent for a violation of Section 2702 of this Chapter; provided, however, that the principal shall refer the case for prosecution following the 30th day of unexcused absence by a student during the school year, in compliance with § 2702(d) of this Chapter, and may refer the case before the 30th day of unexcused absence, if the principal determines it is appropriate to do so.

(d) The fact that a student or student's parent may attend or has attended a truancy conference does not bar the principal filing a complaint with a Court. The principal's failure to hold a truancy conference does not bar the filing of a complaint with a Court and adjudication by a Court.

§ 2726. Procedure for truancy conferences.

The provisions of § 4122 of this Title shall apply to truancy conferences. The principal shall determine the date, time and place of the conference and shall give all participants notice at least one week prior to the conference. In conducting a truancy conference, the principal may exclude any person, including a parent or a student, from the conference or part of a conference.

§ 2728. Procedure for Court adjudication.

(a) When the school charges a parent or a student with a violation of § 2702 of this Chapter, the school shall file a written complaint in the Court. The complaint shall be on such form(s) as the Court may require. The school shall be the complainant and the parent or the student shall be the defendant. The Court must determine whether probable cause exists to issue a warrant or summons against the person charged.

(b) The school shall attach to the complaint any record relevant to the allegations of the complaint.

(c) When a complaint is filed, all sanctions imposed by the principal shall remain in effect unless suspended or terminated by the principal or stayed by the Court.

(d) The school may request that the Court postpone adjudication. The Court in its discretion may postpone the proceedings and may impose conditions on the student or parent.

§ 2729. Failure to send; affirmative defense; penalties.

(a) If a charge is filed against a parent for a violation of § 2702 of this Chapter, the Court shall determine whether the evidence establishes beyond a reasonable doubt that the parent has violated the section.

(b) In the prosecution of a parent for a violation of § 2702 of this Chapter, it shall be an affirmative defense that the parent has made substantial and reasonable efforts to comply with the compulsory attendance requirements of § 2702 but is unable to cause the child to attend school. If the Court determines the affirmative defense is valid it shall dismiss the complaint against the parent and the school may file a complaint against the student pursuant to § 2730 of this Chapter.

(c) This section shall not apply to a parent whose child is receiving instruction pursuant to § 2703 of this Chapter, to children exempted from compulsory attendance requirements pursuant to § 2705 of this Chapter, or whose children are in compliance with school attendance requirements.

(d) A parent who is determined to have violated Section 2702 is guilty of an unclassified misdemeanor and shall be sentenced as follows:

(1) for a first offense, a fine of not less than \$25.00 nor more than \$300.00, or imprisonment for not more than 10 days or both;

(2) for a second offense, a fine of not less than \$50.00 nor more than \$500.00, or imprisonment for not more than 20 days or both;

(3) for a third or subsequent offense, a fine of not less than \$230.00 nor more than \$1,150.00 or imprisonment for not more than 30 days or both.

(e) To the extent possible the fine shall be commensurate with the number of days the student was absent from school without valid excuse.

(f) The Court may order the parent to perform unpaid community service in lieu of a fine. The Court may require that all or part of the service may be performed for a public school district.

(g) The Court may also order as conditions of release prior to judgment or as conditions of sentence upon conviction, such conditions as the Court considers necessary to obtain compliance with school attendance requirements. These conditions include but are not limited to the following:

(1) verifying the child's attendance with the school; (2) meeting with school officials; (3) taking the child to school; (4) taking the child to the bus stop; (5) attending school with the child; (6) undergoing medical, psychological, or psychiatric evaluations and

following the evaluator's recommendations; (7) undergoing an evaluation for drug, alcohol, or other substance abuse and following the evaluator's recommendations; (8) taking the child for medical, psychological, or psychiatric evaluation or for drug, alcohol, or other substance abuse evaluation and following the evaluator's recommendations.

(h) Upon conviction, the name and address of the parent and a summary of the disposition of any offenses for which the parent was convicted shall be reported by the Court to the Division of Family Services of the Department of Services for Children, Youth and Their Families and to the Division of Social Services of the Department of Health and Social Services.

§ 2730. Failure to Attend; Penalties.

(a) In the event the Court determines that a parent who is charged with violating § 2702 of this Chapter has a valid affirmative defense under § 2729(b) of this Chapter, the school may file in the Court a civil charge of truancy against the student.

(b) The Court shall determine whether a preponderance of the evidence establishes that the student has violated § 2702 of this Chapter.

(c) If the Court determines the student has violated § 2702 of this Chapter, it shall adjudicate the student a truant and may order the following remedial dispositions:

(1) community service; (2) counseling; (3) substance abuse evaluation and treatment; (4) mental health evaluation and treatment; (5) a curfew with hours set by the Court; (6) suspension or revocation of any permit held by the student, including a work permit or a driver's permit; (7) suspension or revocation of any license held by the student, including a driver's license or a hunting license; (8) prohibition of the student's participation in or attendance at any extra-curricular activity or social event which is an official school event or is sponsored by the school or held on school property; (9) recommend that the student enroll the school in alternative educational and related services in accordance with Chapter 16 of this title; and (10) such other action as is permitted by statute or by Court rule. The Court shall not suspend or revoke a student's permit or license if the student demonstrates to the Court that suspension or revocation would impose an economic hardship on the parent or on the student's family.

(d) Where the Court has ordered the suspension or revocation of a student's permit or license, the student is prohibited from applying for a new permit or license without permission of the Court as long as the student is under the jurisdiction of the Court.

§ 2731. Enforcement of Court Order.

(a) The Court shall retain jurisdiction of the matter until all terms of the court's order have been complied with regardless of any change in the student's age or marital status.

(b) If the Court determines a student has not complied with the terms of the Court's order, it may transfer the case to the Family Court for prosecution of the student for criminal contempt pursuant to § 1271 of Title 11 of this Code.

§ 2732. Appeals.

(a) A parent convicted of a violation of § 2702 of this chapter may appeal to the Court of Common Pleas in the county in which the judgment was given. The appeal shall be filed within 15 days from the date of conviction. On appeal the Court shall make a de novo determination.

(b) No stay shall be granted pending an appeal pursuant to subsection (a) unless the person appealing shall, at the time the appeal is taken, gives bond in any amount with surety to be fixed by the Court.

(c) A student who has been adjudicated truant pursuant to § 2730 of this Chapter may appeal to the Family Court in the county in which the adjudication occurred. The appeal shall be filed within 15 days of the date of the adjudication. On appeal the Court shall make a de novo determination based on the record below.

(d) No appeal of the adjudication of truancy pursuant to subsection (c) shall stay execution of the remedial disposition unless a judge of the Family Court orders a stay.

§ 2733. Jurisdiction; Venue.

(a) The Justice of the Peace Court shall have exclusive original jurisdiction of complaints filed pursuant to this Chapter.

(b) All complaints under this Chapter shall be filed in a Justice of the Peace Court in the county where the school the child is required to attend is located or in the county in which the office of the school district which contains the child's school is located.

Section 15. Amend Chapter 93, Part VII, Title 10 of the Delaware Code by adding thereto the following new sections:

"§ 9306. Truancy matters.

The Justice of the Peace Court shall have jurisdiction throughout the state to hear, try and finally adjudicate any truancy matter referred to such Court in accordance with Chapter 27 of Title 14. In any truancy case, except as otherwise set forth in Chapter 27 of Title 14, the Justice of the Peace Court shall have original and exclusive jurisdiction over both the parties and the subject matter."

Section 16. Amend § 921, Chapter 9, Title 10 of the Delaware Code by adding, at the end of subsection (3) the following:

"Provided however, that the Justice of the Peace Court shall have original and exclusive jurisdiction over truancy matters as set forth in Chapter 27 of Title 14, and the Family Court shall assume exclusive jurisdiction over those matters transferred or appealed from the Justice of the Peace Court in accordance with §§ 2731 and 2732 of Title 14."

Section 17. Amend § 1103 of Title 11, Delaware Code, by striking subsection (d) in its entirety & inserting in lieu thereof the following:

"(d) 'Truancy' or 'truant' shall refer to a pupil enrolled in grades kindergarten through twelve of a public school who has been absent from school without a valid excuse, as defined in the regulations of the State Board of Education, for more than three school days during a school year."

Approved June 28, 2000

CHAPTER 347

FORMERLY

HOUSE BILL NO. 109

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

AN ACT TO AMEND CHAPTER 34, TITLE 14 OF THE DELAWARE CODE TO ESTABLISH THE CHARLES L. "CHUCK" HEBNER MEMORIAL SCHOLARSHIP FUND AND ADMINISTRATION THEREFOR.

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

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

Section 1. Amend Chapter 34, Title 14, Delaware Code by adding a new Subchapter XII to read as follows:

"SUBCHAPTER XII. CHARLES L. 'CHUCK' HEBNER SCHOLARSHIP FUND.

Section 3496. Purpose.

It is the intent and purpose of the General Assembly through this subchapter to provide scholarships to deserving Delawareans in memory of Charles L. 'Chuck' Hebner, an elected member of the

State House of Representatives and former Speaker of the House who died March 14, 1999, and to this end establish the Charles L. 'Chuck' Hebner Memorial Scholarship Fund.

Section 3497. Administration.

(a) This subchapter shall be administered by the Higher Education Commission, hereinafter referred to as the 'Commission'.

(b) The Commission shall adopt such rules and regulations as it deems necessary and proper to the administration of this subchapter.

(c) The Commission shall annually report to the General Assembly of the State the names of the scholarship recipients and the total amount of expenditures made under this subchapter.

Section 3498. Charles L. 'Chuck' Hebner Memorial Scholarship.

(a) The Commission is hereby authorized to award educational scholarships as follows:

(1) One scholarship shall be awarded for the academic year commencing September 1999 to one person who enters the University of Delaware or Delaware State University;

(2) Two scholarships shall be awarded for the academic year commencing September 2000 and for each subsequent academic year to one person who enters the University of Delaware and to one person who enters Delaware State University;

(3) Three scholarships shall be awarded for the academic year commencing September 2001;

(4) Four scholarships shall be awarded for each academic year commencing thereafter.

(b) Each initial scholarship award shall be provided to a resident of the State of Delaware who will enter the University of Delaware or Delaware State University as provided in this section as a first year, full-time student majoring in humanities or social sciences.

(c) Scholarships shall be awarded in an amount sufficient to meet the costs of tuition, required fees and room and board at the University of Delaware or Delaware State University as provided in this section.

(d) Selection of scholarship recipients shall be based on criteria established by the Commission such that the qualities of academic achievement, community service, participation in extra-curricular activities and promise of academic success in college are considered.

(e) Where several students are judged to be equally qualified for the scholarships, financial need shall be considered in establishing priority position for scholarship awards.

(f) The Commission shall award scholarships only to students who have accepted an admissions offer from the University of Delaware or Delaware State University as provided in this section by a deadline date established by agreement between the University of Delaware or Delaware state University as provided in this section and the Commission.

(g) A scholarship awarded to an entering student is renewable within the limits of appropriations for the program, to a maximum of four awards, provided the student meets the academic progress standards which shall be set by the Commission and communicated in writing to the recipient at the time the initial award is granted.

(h) A student who is awarded a scholarship under this section shall by accepting the scholarship become ineligible to receive any other scholarship or grant funded by the State of Delaware from its General Fund.

(i) Scholarship payments shall be made to the University of Delaware or Delaware State University as provided in this section on behalf of the student each semester that the student is enrolled, provided the student meets all requirements of this section.

(j) No student shall be eligible for the scholarship award who is not a resident of the State for at least one year prior to the date of the award. The place of residence of a student who is either under 18 years of age or dependent on parental financial support shall be the legal residence of the student's parent or guardian who must have qualified to register to vote in Delaware and who is subject to payment of Delaware income tax. A student over 18 years of age, who is not dependent on parental financial support, must meet the federal government's financial self-supporting student definition, and must be qualified to register to vote in Delaware and must be subject to the payment of Delaware income tax, to satisfy the requirements of this section."

Approved June 28, 2000

CHAPTER 348

FORMERLY

SENATE BILL NO. 286

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO THE HOLDERS OF A LICENSE TO SELL ALCOHOLIC BEVERAGES IN A TAPROOM OR TAVERN.

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 §904(d), Title 4, Delaware Code by deleting the figure "\$25" and inserting in lieu thereof the figure "\$100".

Approved June 28, 2000

CHAPTER 349

FORMERLY

SENATE BILL NO. 288

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO CRIMINAL OFFENSES AND PENALTIES INVOLVING ALCOHOLIC LIQUORS.

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 §904(a)(1), Title 4, Delaware Code by deleting the words "be fined not more than \$250" and inserting in lieu thereof the words "be fined not less than \$250 nor more than \$500".

Approved June 28, 2000

CHAPTER 350

FORMERLY

SENATE BILL NO. 293
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO INDIVIDUALS UNDER AGE 21 WHO ENTER OR REMAIN IN A TAPROOM, TAVERN OR PACKAGE STORE.

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

Section 1. Amend §904(e), Title 4, Delaware Code by deleting the words "shall be fined not more than \$25" and inserting in lieu thereof the words "shall be fined \$50."

Approved June 28, 2000

CHAPTER 351

FORMERLY

SENATE BILL NO. 294

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO THE AUTHORITY OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO IMPOSE FINES.

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

Section 1. Amend §914, Title 4, Delaware Code by striking the period "." that appears after the words "immediately preceding the date of the finding of guilt" and inserting the following:

" provided that such amount exceeds \$250. In no case shall the fine imposed by the Commission upon a finding of guilt be less than \$250. Each licensee shall maintain financial records that clearly demonstrate the licensee's estimated average gross monthly sale of alcoholic liquor for the operations of the business within the 12 months immediately preceding the date of the licensee's hearing before the Commission and, upon a finding of guilt, shall submit such documentation to the Commission."

Approved June 28, 2000

CHAPTER 352
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 306

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO APPOINTING A POET LAUREATE.

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

Section 1. Amend §4401, Title 29, Delaware Code by deleting it in its entirety and by inserting in lieu of the following:

"§4401. Poet Laureate

The Governor may appoint a Poet Laureate for Delaware to serve at the pleasure of the Governor. The Poet Laureate shall perform such duties as may be requested by the Governor or the Secretary of State or their designees."

Approved June 28, 2000

CHAPTER 353
FORMERLY
SENATE BILL NO. 356
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 326, VOLUME 67 OF THE LAWS OF DELAWARE AND TITLE 7 OF THE DELAWARE CODE RELATING TO THE HAZARDOUS SUBSTANCE CLEANUP ACT.

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

Section 1. Amend §9114(a), Title 7 of the Delaware Code by deleting the date "January 1, 2001" and substituting in lieu thereof the date "January 1, 2012".

Section 2. Amend Section 6, Chapter 326, Volume 67 of the Laws of Delaware by deleting the first sentence thereof in its entirety and substituting in lieu thereof the following:

"Section 1 of this Act shall be effective upon enactment into law and until December 31, 2011."

Section 3. Amend Section 6, Chapter 326, Volume 67 of the Laws of Delaware by deleting the date "January 1, 2001" in the last sentence and substituting in lieu thereof the date "January 1, 2012".

Approved June 28, 2000

CHAPTER 354
FORMERLY
SENATE BILL NO. 375

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SOUTH BETHANY, CHAPTER 268, VOLUME 69, LAWS OF DELAWARE, AS AMENDED, TO CLARIFY THAT THE TREASURER MAY BE ABSENT FROM A COUNCIL MEETING SO LONG AS A PERSON IS DELEGATED TO ATTEND IN THE TREASURER'S STEAD.

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

Section 1. Amend Subsection 7.5 of Section 7, Chapter 268, Volume 69, Laws of Delaware, as amended, by adding after the first sentence thereof the following:

"It is the responsibility of the Mayor to name a designee to serve in the absence of the Treasurer."

Approved June 28, 2000

CHAPTER 355
FORMERLY
SENATE BILL NO. 377

AN ACT TO AMEND CHAPTER 197, VOLUME 54, LAWS OF DELAWARE, THE CHARTER OF THE CITY OF REHOBOTH BEACH, AS AMENDED, WITH REGARD TO WHEN THE COMMISSIONERS OF REHOBOTH BEACH HOLD THEIR MONTHLY MEETINGS.

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 9, Chapter 197, Volume 54, Laws of Delaware, as heretofore amended, by deleting the whole section in its entirety and by substituting in lieu thereof the following new Section 9 to read as follows:

"MEETINGS

Section 9. (a) The Commissioners of the City of Rehoboth Beach shall hold meetings at the call of the Mayor (or majority of Commissioners).

(b) The Commissioners of the City of Rehoboth Beach shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at such meeting, called as aforesaid. There shall be not less than one meeting held per month.

(c) All meetings shall be subject to the provisions of Title 29, Chapter 100, Delaware Code."

Approved June 28, 2000

CHAPTER 356

FORMERLY

HOUSE BILL NO. 126

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE V, SECTION 2, OF THE CONSTITUTION OF THE STATE OF DELAWARE, RELATING TO QUALIFICATIONS FOR VOTING AND FORFEITURE OF RIGHT.

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, an amendment to the Constitution of the State of Delaware was proposed in the 139th General Assembly, being Chapter 344 of Volume 71, Laws of Delaware, as follows:

"AN ACT PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 2, OF THE CONSTITUTION OF THE STATE OF DELAWARE RELATING TO QUALIFICATIONS FOR VOTING AND FORFEITURE OF RIGHT.

Section 1. Amend § 2, Article V, of the Constitution of the State of Delaware by adding the following language to the end of said Section:

'Any person who is disqualified as a voter because of a conviction of a crime deemed by law a felony shall have such disqualification removed upon being pardoned, or five years after the expiration of the sentence, whichever may first occur. The term 'sentence' as used in this Section shall include all periods of modification of a sentence, such as, but not limited to, probation, parole and suspension. The provision of this paragraph shall not apply to (1) those persons who were convicted of any felony of murder or manslaughter, (except vehicular homicide); or (2) those persons who were convicted of any felony constituting an offense against public administration involving bribery or improper influence or abuse of office, or any like offense under the laws of any state or local jurisdiction, or of the United States, or of the District of Columbia; or (3) those persons who were convicted of any felony constituting a sexual offense, or any like offense under the laws of any state or local jurisdiction or of the United States or of the District of Columbia.'"; and

WHEREAS, the proposed amendment was adopted by two-thirds of all members elected to each House of the 139th General Assembly

NOW, THEREFORE:

BE IT ENACTED by the 140th General Assembly of the State of Delaware (two-thirds of all members elected to each House thereof concurring therein):

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

Approved June 28, 2000

CHAPTER 357
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 368
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT PROPOSING AN AMENDMENT TO §§ 22 AND 23, ARTICLE III, AND ARTICLE IV OF THE DELAWARE CONSTITUTION OF 1897, AS AMENDED, RELATING TO THE APPOINTMENT BY THE COURT OF CHANCERY OF A REGISTER IN CHANCERY AND THE POWERS AND DUTIES OF THE REGISTER IN CHANCERY.

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 § 22, Article III, of the Delaware Constitution of 1897, as amended, by deleting the words "Registers in Chancery" as the same appear therein.

Section 2. Amend § 23, Article III, of the Delaware Constitution of 1897, as amended, by deleting the words "Registers in Chancery" as the same appear therein.

Section 3. Amend Article IV of the Delaware Constitution of 1897, as amended, by adding a new Section to be designated as "Section 25" thereto to read as follows:

"§ 25. Chief Register in Chancery: Appointment; Powers and Duties.

The Court of Chancery shall appoint a Chief Register in Chancery to hold office at the pleasure of that Court. The Chief Register in Chancery shall be the Clerk of the Court of Chancery and shall appoint, with the concurrence of the Court, a Register in Chancery in each county who shall also serve at the pleasure of Court. The Chief Register in Chancery may also appoint other deputies, issue process, and enter judgment and do such other things as are according to law and the practice of the court."

Section 4. Any person elected and commissioned as a Register in Chancery as of the effective date of this legislation shall continue to hold the respective office for the full term for which such person was elected; provided, however, that a vacancy in the office after the effective date of this legislation by reason of ineligibility, death, resignation, or otherwise shall be filled by appointment of the Court of Chancery or left vacant if the Court so determines.

Approved June 22, 2000

CHAPTER 358

FORMERLY

HOUSE BILL NO. 298
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 22 OF TITLE 23 OF THE DELAWARE CODE RELATING TO BOATING SAFETY.

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

Section 1. Amend § 2212(i), Title 23, Delaware Code, by striking the word "section" and substituting in lieu thereof the word "subsection".

Section 2. Amend § 2212(j), Title 23, Delaware Code, by striking the phrase "non-motorized vehicles" and substituting in lieu thereof the phrase "nonmotorized vessels".

Section 3. Amend § 2212(m), Title 23, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(m) No person shall operate a personal watercraft to tow a water skier, aquaboard or other similar device unless there is in such vessel a competent observer, in addition to the operator, and the personal watercraft is designed by the manufacturer to carry the operator, the observer and the person(s) being towed. The observer shall be considered competent if he or she is facing toward the person(s) being towed."

Section 4. Amend § 2213(c), Title 23, Delaware Code, by adding to the end of said subsection the following:

"A printed map or chart of the area where the person is permitted to operate shall be provided by the person from whom the personal watercraft is rented."

Section 5. Amend § 2213(e), Title 23, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(e) The Department of Natural Resources and Environmental Control shall prepare educational material setting forth excerpts from or a summary of the pertinent provisions of this subchapter and subchapter III of this chapter and information pertinent to personal watercraft safety. Any person who is in the business of renting personal watercraft shall be furnished this material without charge.

(f) No person who is in the business of renting personal watercraft shall rent a personal watercraft to any person without obtaining from such person a written acknowledgment that the educational material prepared by the Department of Natural Resources and Environmental Control pursuant to subsection (e) of this section has been read and understood."

Approved June 30, 2000

CHAPTER 359

FORMERLY

HOUSE BILL NO. 141
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE MERIT SYSTEM.

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

Section 1. Amend §5921, Title 29 of the Delaware Code by deleting the second sentence thereof and substituting in lieu thereof the following:

"The rules shall not require an employing agency with less than 200 full time employees to interview more than 1 person on such list. If the employing agency has 200 or more full time employees, the rules shall require the employing agency to interview at least 5 persons on such list."

Approved June 30, 2000

CHAPTER 360

FORMERLY

HOUSE BILL NO. 181
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 97, TITLE 16 OF THE DELAWARE CODE RELATING TO RECOGNITION AND IMPLEMENTATION OF ADVANCED HEALTH-CARE DIRECTIVES BY EMERGENCY MEDICAL SERVICES PROVIDERS.

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

Section 1. Amend § 9706, Title 16 of the Delaware Code, by adding a new subsection thereto, to read as follows:

"(h) The Director of Public Health shall have the authority to promulgate rules for EMS provider recognition and compliance with an advanced health-care directive that has become effective pursuant to § 2503(c) of Title 16, and shall seek input and review from The Board of Medical Practice and The Delaware EMS Advisory Council and the Delaware State Fire Prevention Commission. For purposes of this subsection, "EMS provider" shall mean providers certified by the Delaware State Fire Commission or the Office of Emergency Medical Services within the Division of Public Health, Department of Health and Social Services. EMS providers acting in accordance with the regulations promulgated hereunder shall be immune from criminal or civil liability pursuant to 16 Del.C. § 2510.

- (1) The regulation shall define pre-hospital advanced care directive procedures to be used for terminally ill patients only.
- (2) All sections of the regulation will insure that processes are in compliance with Delaware Code Title 16, Chapter 25, 'Delaware Death with Dignity Act'. The regulations shall include, but not be limited to, the following:
 - (i) the allowable content of prehospital advanced care directives, to include:

(1) Option A (Advanced Life Support) - Maximal (Restorative) Care Before Arrest, then pre-hospital advanced care directive

(2) Option B (Basic Life Support) - Limited (Palliative) Care Only Before Arrest, then pre-hospital advanced care directive

(ii) methods of identification, describing the methods that can be used by persons electing to enact a prehospital advanced care directive. The properly enacted Delaware Prehospital Advanced Care Directive Form must be present, however voluntary use of a Medic Alert prehospital advanced care directive bracelet or necklace may be worn to indicate the presence of the form;

(iii) methods of revocation of prehospital advanced care directive describing how a prehospital advanced care directive can be revoked per Del Code Title 16, Chapter 25; and

(iv) reciprocity to allow Delaware EMS providers to recognize prehospital advanced care directives from neighboring states for persons in Delaware."

Approved June 30, 2000

CHAPTER 361

FORMERLY

HOUSE BILL NO. 252

AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

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 § 3315(1), Title 19 of the Delaware Code, by striking the "." as it appears after the word "availability" in the second sentence therein, and inserting in lieu thereof the following:

"or if an individual has left work due to circumstances directly resulting from the individual's experience of domestic violence, as that term is defined in § 703A(a) of Title 13 of the Delaware Code, no disqualification shall prevail. An individual's leaving work shall be treated as due to circumstances directly resulting from the individual's experience of domestic violence if the leaving work resulted from: (i) the individual's reasonable fear of future domestic violence at or en route to or from the individual's place of employment; (ii) the individual's wish to relocate to another geographic area in order to avoid future domestic violence against the individual or the individual's family; or (iii) any other circumstance in which domestic violence causes the individual to reasonably believe that leaving work is necessary for the future safety of the individual or the individual's family. When determining whether an individual has experienced domestic violence for compensation purposes, the Division shall require the individual to provide documentation to the Division of the domestic violence involved, such as a police or court record, or documentation of the domestic violence from a shelter worker, attorney, member of the clergy, or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects. All evidence of domestic violence experienced by an individual, including the individual's statement and any corroborating evidence shall not be disclosed by the Division of Unemployment Insurance unless consent for disclosure is given by the individual."

Approved June 30, 2000

CHAPTER 362

FORMERLY

HOUSE BILL NO. 268
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9 OF TITLE 7 OF THE DELAWARE CODE RELATING TO HEADBOATS
AND CHARTER BOATS.

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

Section 1. Amend § 906, Title 7, Delaware Code, by adding thereto two new paragraphs to read as follows:

“(69) ‘Charter boat’ shall mean any vessel-for-hire engaged in recreational fishing that is
hired on a per trip basis.

(70) ‘Headboat’ shall mean any vessel-for-hire engaged in recreational fishing
that is hired on a per person basis.”

Section 2. Amend Chapter 9, Title 7, Delaware Code, by adding thereto a new section to read as follows:

“941. Headboat/charter boat fishing permits; reporting requirements.

(a) If a fishery management plan approved by the Secretary of the U.S.
Department of Commerce or Atlantic States Marine Fisheries Commission requires the landings of a finfish
species by headboats and charter boats to be monitored, said finfish species, if caught on a headboat or
charter boat, shall not be landed in this State unless the owner or operator of said boat has been issued a
headboat/charter boat fishing permit. The Department shall not charge a fee for the headboat/charter boat
fishing permit.

(b) All headboat/charter boat fishing permit holders shall maintain a logbook,
supplied by the Department, for those finfish species that have management plans which require landings to
be monitored. Headboat/charter boat fishing permit holders shall forward copies of their logbook entries to
the Department as prescribed by the Department. The logbooks shall contain, but not be limited to:

(1) The headboat/charter boat fishing permit number; and

(2) The number and/or weight, by species, of finfish landed on each date.

(c) The Department may adopt, amend, modify or repeal rules and regulations to
effectuate the policy and purpose of this section.”

Section 3. This Act shall become effective upon signing by the Governor.

Approved June 30, 2000

CHAPTER 363

FORMERLY

HOUSE BILL NO. 305

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO FINFISHING IN TIDAL WATERS.

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

Section 1. Amend § 917(i), Title 7 of the Delaware Code, by striking the phrase "area immediately adjacent to the termination of state-maintained Road 16 in Broadkill Beach" as it appears therein and substituting in lieu thereof the phrase "northern boundary of the Beach Plum Island Nature Preserve, where it intersects with the shoreline of the Delaware Bay,".

Section 2. Amend § 917(j), Title 7 of the Delaware Code, by striking the phrase "area immediately adjacent to the termination of state-maintained Road 16 in Broadkill Beach" as it appears therein and substituting in lieu thereof the phrase "northern boundary of the Beach Plum Island Nature Preserve, where it intersects with the shoreline of the Delaware Bay,".

Approved June 30, 2000

CHAPTER 364

FORMERLY

HOUSE BILL NO. 442
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO FLASHING LAMPS ON SCHOOL BUSES.

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

Section 1. Amend §4364, Title 21 of the Delaware Code by designating the text as it appears therein as subsection (a) and by adding to §4364 a new subsection (b) to read:

"(b) In addition to the amber and red lamps required under subsection (a) of this section, every school bus manufactured after January 1, 2001 must be equipped with a flashing white light permanently affixed to the outside roof of the bus. The flashing white light, when actuated, must have sufficient intensity to be visible at 500 feet in normal sunlight.

The Department of Education shall adopt rules or regulations that determine the specifications for the light unit, its operation, and its placement on the outside roof of a school bus."

Approved June 30, 2000

CHAPTER 365

FORMERLY

HOUSE BILL NO. 473
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE EXAMINATION OF
DRIVERS.

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

Section 1. Amend § 2714, Title 21, Delaware Code by adding thereto a new subsection (c) to read as follows:

"(c) The Department may examine any person whose mental or physical conditions may interfere with safe operation of a motor vehicle when reported, in writing, to the Department by a physician, member of the immediate family, the court or other person acceptable to the Secretary of Public Safety. This examination is to determine the person's physical and mental qualifications to operate a motor vehicle in such manner so as not to jeopardize the safety of person or property and as to whether any facts exist which would bar the continued issuance of a license under this chapter. Such examination shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to operate a motor vehicle safely or other facts declared to be prerequisite to the continued issuance of a license under this chapter. Evaluation requested per § 2714(b) and (c) are confidential records used to determine a driver's ability to safely operate a motor vehicle and shall not be released except by court order."

Approved June 30, 2000

CHAPTER 366

FORMERLY

HOUSE BILL NO. 478

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO REPORTING OF
MANDATORY DRUG TESTING RESULTS.

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

AMEND Chapter 11, Title 16 of the Delaware Code by making the following change in the reporting of drug test results to Section 1142(f) "Mandatory Drug Testing:": Delete the phrase "within 10 business days of receipt of the results" at the end of Section 1142(f) and replace with the phrase, "pursuant to regulation".

Approved June 30, 2000

CHAPTER 367

FORMERLY

HOUSE BILL NO. 512

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO ARREST AND COMMITMENT, THE DELAWARE POLICE TRAINING PROGRAM, AND THE LAW ENFORCEMENT OFFICERS BILL OF RIGHTS.

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

Section 1. Amend § 1942 (1) and (3) of Title 11 of the Delaware Code by inserting after the phrase "University of Delaware" the following: "and/or Delaware State University".

Section 2. Amend § 8401(5)(a) of Title 11 of the Delaware Code by inserting "Delaware State University Police Department" after the phrase "University of Delaware Police Division".

Section 3. Amend § 8405(a) of Title 11 of the Delaware Code by inserting "or Delaware State University" after "University of Delaware" as it appears therein.

Section 4. Amend § 8409 of Title 11 of the Delaware Code by inserting the phrase "or Delaware State University" after the phrase "University of Delaware" wherever it appears therein.

Section 5. Amend § 8410(a) of Title 11 of the Delaware Code by inserting the phrase "or Delaware State University" after the phrase "University of Delaware" as it appears therein.

Section 6. Amend § 9200(b) of Title 11 of the Delaware Code by inserting after "University of Delaware Police Division" the phrase "the Delaware State University Police Department" as it appears therein.

Approved June 30, 2000

CHAPTER 368

FORMERLY

HOUSE BILL NO. 526

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14, DELAWARE CODE, TO REQUIRE SCHOOLS TO NOTIFY STUDENTS AND THEIR PARENTS OF THE PENALTIES FOR CERTAIN SCHOOL RELATED OFFENSES AND OF THE REPORTING OF SCHOOL CRIMES.

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

Section 1. Amend Chapter 41 of Title 14, Delaware Code, by adding thereto a new Section 4131 to read as follows:

"Section 4131. At the commencement of each school year, the school board of each school district shall ensure that each student enrolled in the district and the parent of each student shall receive notice of the following:

a. The provisions of Sections 621, Title 11, Delaware Code which prohibit making a false statement which causes evacuation of a school or other place of assembly and the penalties for such an offense;

b. The provisions of Section 4110 of this Title, which prohibit disturbing schools or destroying school property and the penalties for such offenses;

Chapter 368
Vol.72

c. The provisions of Section 4112 of this Title which require the reporting of school crimes.

As used in this section, "parent" means natural parent, adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age."

Section 2. This Act shall take effect beginning with the 2000-2001 school year.

Approved June 30, 2000

CHAPTER 369

FORMERLY

HOUSE BILL NO. 533

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 § 1303 of Title 9 of the Delaware Code by deleting subsections (c) and (d) in their entirety and by redesignating subsection (e) as subsection (c)

Approved June 30, 2000

CHAPTER 370

FORMERLY

HOUSE BILL NO. 543

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO FRAUDULENT CLAIMS.

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

Section 1. Amend Subtitle II, Title 6 of the Delaware Code, by adding the following new chapter:

"Chapter 12. Delaware False Claims and Reporting Act.

§ 1201 Liability for certain acts.

(a) Any person who:

- (1) knowingly presents, or causes to be presented, directly or indirectly, to an officer or employee of the Government a false or fraudulent claim for payment or approval;
- (2) knowingly makes, uses, or causes to be made or used, directly or indirectly, a false record or statement to get a false or fraudulent claim paid or approved;
- (3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;
- (4) has possession, custody, or control of property or money used, or to be used, by the Government and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;
- (5) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(6) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government who the person knows may not lawfully sell or pledge the property; or

(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, increase or decrease an obligation to pay or transmit money or property to or from the Government, shall be liable to the Government for a civil penalty of not less than \$5,500 and not more than \$11,000 for each act constituting a violation of this section, plus three times the amount of actual damages which the Government sustains because of the act of that person.

(b) Notwithstanding the foregoing, the court may assess not less than two times the amount of damages which the Government sustains because of the act of the person, if:

- (i) the person committing the violation of this subsection furnished officials of the Government responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;
- (ii) such person fully cooperated with any Government investigation of such violations; and
- (iii) at the time such person furnished the Government with the information about the violation, no criminal prosecution, civil action, investigation or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violations.

A person violating this subsection shall also be liable for the costs of a civil action brought to recover any such penalty or damages, including payment of reasonable attorneys fees and costs.

(c) The Superior Court shall have jurisdiction of all offenses under this chapter.

§ 1202 Definitions.

As used in this chapter:

- (1) 'Knowing' and 'knowingly' mean that a person, with respect to information
- a. has actual knowledge of the information;
 - b. acts in deliberate ignorance of the truth or falsity of the information; or
 - c. acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

(2) 'Claim' includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient where the Government provides, directly or indirectly, any portion of the money or property which is requested or demanded, or where the Government will, directly or indirectly, reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

(3) 'Government' includes all departments, boards or commissions of the executive branch of the State of Delaware, all political subdivisions of the State, the Delaware Department of Transportation and all State and municipal authorities, all organizations created by or pursuant to a statute which declares in substance that such organization performs or has for its purpose the performance of an essential governmental function, and all organizations, entities or persons receiving funds of the State where the act complained of pursuant to this act relates to the use of such funds of the State.

(4) 'Affected person, entity or organization' includes an employee or former employee of a person who is liable under § 1201 of this chapter, or a 'labor organization' as defined by § 1107A(d), Title 19 of this Code.

§ 1203. Civil Actions for False Claims.

(a) Responsibilities of the Attorney General. - The Attorney General shall diligently investigate suspected violations under this chapter. If the Attorney General finds that a person has violated or is violating the provisions of this chapter, the Attorney General may bring a civil action under this section against the person.

(b) Private Actions. - (1) A private civil action may be brought by any affected person, entity or organization (hereinafter 'private party' or 'party') for a violation of this chapter on behalf of the party bringing suit and for the Government. The action shall be brought in the name of the Government. Unless dismissed pursuant to

Chapter 370

Vol.72

paragraph (2), the action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the private party possesses shall be served on the Attorney General pursuant to Rules 4 and 5 of the Superior Court Civil Rules. The complaint shall be filed in camera, shall remain under seal for at least 60 days. The complaint shall not be served on the defendant until the expiration of sixty (60) days or any extension approved under paragraph (3) hereof. Within 60 days after receiving a copy of the complaint, the Attorney General shall conduct an investigation of the factual allegations and legal contentions made in the complaint, shall make a written determination of whether there is substantial evidence that a violation of this chapter has occurred, and shall provide the affected person, entity or organization, and the Government, with a copy of the determination. The Government may elect to intervene and proceed with the action within 60 days after it receives the complaint, the material evidence and information, and the written determination of the Attorney General. If the Attorney General determines that there is not substantial evidence that a violation of this chapter occurred, then the complaint shall be dismissed.

(3) The Government or the Attorney General may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motion may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Superior Court Civil Rules. The complaint shall be deemed unsealed at the expiration of the sixty (60) day period in the absence of a court approved extension of the time frame.

(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall -

(A) proceed with the action, in which case the action shall be conducted by the Government; or

(B) notify the court that it declines to take over the action, in which case the private party bringing the action shall have the right to conduct the action if, pursuant to subparagraph (2) of this subsection, the Attorney General determined that there is substantial evidence that a violation of this chapter has occurred.

(5) When a party brings an action under this subsection, no party other than Government may intervene or bring a related action based on the facts underlying the pending action.

§ 1204. Rights of the parties to Qui Tam actions.

- (a) If the Government proceeds with the action, it shall have the exclusive responsibility for prosecuting the action, and shall not be bound by an act of the party bringing the action. Such party shall have the right to continue as a nominal party to the action, but, except as provided in subsections (b) and (c) of this section, such party shall not have the right to participate in the litigation except as a witness.
- (b) The Government may dismiss the action notwithstanding the objections of the party initiating the action if the party has been notified by the Government of the filing of the motion and the court has provided the party with an opportunity for a hearing on the motion.
- (c) The Government may settle the action with the defendant notwithstanding the objections of the party initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.
- (d) If the Government elects not to proceed with the action, the party who initiated the action shall have the right to conduct the action. If the Government so requests, it shall be served with copies of the pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a party proceeds with the action, the court, without limiting the status and rights of the party initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.
- (e) Whether or not the Government proceeds with the action, upon a showing by the Government that certain actions of discovery by the party initiating the action would interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay

such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60 day period upon a further showing in camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

§ 1205. Award to Qui Tam plaintiff.

- (a) If the Government proceeds with an action brought by a party under § 1203(b), such party shall, subject to the second sentence of this subsection, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the party substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the party bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the party bringing the action in advancing the case to litigation. Any payment to a party under the first or second sentence of this paragraph shall be made from the proceeds. Any such party shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. In determining the amount of reasonable attorneys' fees and costs, the court shall consider, without limitation, whether such fees and costs were necessary to the prosecution of the action, were incurred for activities which were duplicative of the activities of the Government in prosecuting the case, or were repetitious, irrelevant, or for purposes of harassment, or caused the defendant undue burden or unnecessary expense. All such expenses, fees and costs shall be awarded against the defendant.
- (b) If the Government does not proceed with an action under this chapter, the party bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such party shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. In determining the amount of reasonable attorneys' fees and costs, the court shall consider, without limitation, whether such fees and costs were necessary to the prosecution of the action, were incurred for activities which were repetitious, irrelevant or for purposes of harassment, or caused the defendant undue burden or unnecessary expense. All such expenses, fees, and costs shall be awarded against the defendant.
- (c) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a party who planned and initiated the violation upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the party would otherwise receive under subsection (a) or (b) hereof, taking into account the role of that party in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the party bringing the action is convicted of criminal conduct arising from his or her or its role in the violation of this chapter, that party shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the State of Delaware to continue the action, represented by the Attorney General's Office.
- (d) If the Government does not proceed with the action and the party bringing the action conducts the action, the court may award to the defendant its reasonable attorneys fees and expenses if the defendant prevails in the action and the court finds that the claim of the party bringing the action was (1) filed for any improper purpose, such as to harass or to vex, (2) not warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law, or (3) was based on allegations or factual contentions not supported by the evidence of record.

§ 1206. Certain actions barred.

- (a) No court shall have jurisdiction of an action brought pursuant to this chapter against a State Government official if the action is substantially based on evidence or information known to the Government when the action was brought.

Chapter 370
Vol.72

- (b) In no event may a party bring an action under this chapter which is substantially based upon allegations or transactions which are the subject of a civil suit or an administrative proceeding in which the Government is already a party.
- (c) No court shall have jurisdiction over an action under this chapter substantially based upon the public disclosure of allegations or actions in a criminal civil or administrative hearing, or from the news media, unless the action is brought by the Attorney General or the party bringing the action is an original source of this information.

For purposes of this subsection, 'original source' means the party bringing suit who has independent knowledge, including knowledge based on its own investigation of the defendant's conduct, of the information on which the allegations are based and has voluntarily provided or verified the information on which the allegations are based or has voluntarily provided the information to the Government before filing an action under this section which is based on the information.

§ 1207. Government not liable for certain expenses.

No Government shall be liable for expenses which a party incurs in bringing an action under this chapter.

§ 1208. Employee Protection.

Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this chapter, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this chapter, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate court of the State of Delaware for the relief provided in this subsection.

§ 1209. False Claims and Reporting Procedure.

- (a) A civil action under this Act may not be brought -

- (1) more than 6 years after the date on which the violation is committed, or

- (2) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the Government charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

- (b) In any action brought under this chapter, the Government or the private party shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

- (c) Notwithstanding any other provision of law, the Delaware Rules of Criminal Procedure, or the Delaware Rules of Civil Procedure, a final judgment rendered in favor of the Government in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under this chapter."

Approved June 30, 2000

CHAPTER 371

FORMERLY

HOUSE BILL NO. 546
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO LAW-ENFORCEMENT OFFICERS.

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

Section 1. Amend Subsection (13), Section 222, Chapter 2 of Title 11 of the Delaware Code by adding, immediately after the words "correctional officers" the following:

" , state fire marshals, municipal fire marshals that are graduates of a Delaware Police Academy which is accredited/authorized by the Council on Police Training, environmental protection officers, enforcement agents of the Department of Natural Resources and Environmental Control,"

Section 2. Amend §8401(5)(a) of Title 11 of the Delaware Code by inserting after the words "Environmental Control" the following " , state fire marshals, municipal fire marshals that are graduates of a Delaware Police Academy which is accredited/authorized by the Council on Police Training, environmental protection officers, enforcement agents of the Department of Natural Resources and Environmental Control,".

Section 3. AMEND §8503 of Title 11 of the Delaware Code by inserting after "deputies" and before "sheriffs" the following":

" , state fire marshals, municipal fire marshals that are graduates of a Delaware Police Academy which is accredited/authorized by the Council on Police Training, environmental protection officers, enforcement agents of the Department of Natural Resources and Environmental Control, environmental protection officers, enforcement agents of the Department of Natural Resources and Environmental Control".

Approved June 30, 2000

CHAPTER 372

FORMERLY

HOUSE BILL NO. 551

AN ACT TO AMEND TITLE 30 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 paragraph to read:

"w. Any conveyance between siblings, half-siblings, or step-siblings."

Approved June 30, 2000

CHAPTER 373
FORMERLY
HOUSE BILL NO. 578

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

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

Section 1. Amend paragraph 13, Section 15, Chapter 189, Volume 43 of the Laws of Delaware, as
amended, by striking the figure "\$250,000" as it appears therein and by substituting in lieu thereof the figure
"\$400,000".

Section 2. Amend Section 38, Chapter 189, Volume 43 of the Laws of Delaware, as amended, by striking
the phrase "Five Thousand Dollars (\$5,000.00)" as it appears therein and by substituting in lieu thereof the phrase
"Fifty Thousand Dollars (\$50,000.00)".

Section 3. If any provision of this Act or the application thereof to any person or circumstance is held
invalid or unenforceable for any reason whatsoever, such invalidity or unenforceability shall not affect other
provisions or applications of this act which can be given effect without the invalid or unenforceable provision or
application, and to this end, the provisions of this act are hereby declared to be severable.

Section 4. This Act shall become effective upon its enactment into law.

Approved June 30, 2000

CHAPTER 374
FORMERLY
SENATE BILL NO. 75

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO REFUNDS OF TAX PAID BY
IMPORTERS OR WHOLESALERS.

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

Section 1. Amend § 582(a), Title 4, of the Delaware Code by striking the phrase, "beer that is sold" as it
appears therein and by inserting in lieu thereof the phrase, "alcoholic liquors that are sold".

Approved June 30, 2000

CHAPTER 375

FORMERLY

SENATE BILL NO. 187
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO PLANT PESTS.

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

Section 1. Amend Chapter 11, Title 3, Delaware Code, by redesignating §§1102 to 1109 as §§1103 to 1110.

Section 2. Amend Chapter 11, Title 3, Delaware Code by adding as a new "§1102" to read as follows:

"§1102. Regulations and Fees.

(a) The Department of Agriculture may adopt reasonable regulations to implement and carry out the purposes of this Chapter to eradicate, repress and prevent the spread of plant pests (i) within the State, (ii) from within the state to points outside the state, and (iii) from outside the state to points within the state. The Department of Agriculture shall adopt regulations for eradicating such plant pests as it may deem capable of being economically eradicated, for repressing such as cannot be economically eradicated, and for preventing their spread within the State. Reasonable regulations for preventing the introduction of dangerously injurious plant pests from outside the State may also be adopted.

(b) The Secretary of the Delaware Department of Agriculture may set a fee, up to the amount of \$200.00, for each U.S. Department of Agriculture phytosanitary certificate."

Approved June 30, 2000

CHAPTER 376

FORMERLY

SENATE BILL NO. 190
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE COVERAGE.

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

Section 1. Amend Chapter 35 of Title 18 of the Delaware Code by adding thereto a new section 3359 to read:

"§3359 (a) Every individual or group hospital service corporation contract, individual or group medical service corporation contract, individual or group health service corporation contract, individual health insurance policy, group health insurance policy, and contract for health care services that provides hospital, outpatient services, or medical expense benefits and provides coverage for prescription drugs and that is delivered, issued, executed, or renewed in this State pursuant to Title 18 of the Delaware Code or is approved for issuance or renewal in this State by the Insurance Commissioner shall provide benefits to any subscriber or other person covered thereunder for expenses incurred for the following equipment and supplies for the treatment of diabetes, if recommended in writing or prescribed by a physician: insulin pumps, blood glucose meters and strips, urine testing strips, insulin, syringes, and pharmacological agents for controlling blood sugar strips, insulin, syringes, and pharmacological agents for controlling blood sugar.

Chapter 376

Vol. 72

- (b) The benefits required by this section shall be provided to the same extent as for any other sickness under the contract.
- (c) This section shall apply to all hospital service corporation contracts in which the hospital service corporation has reserved the right to change the premium.
- (d) The Insurance Commissioner may promulgate and periodically update a list of additional diabetes equipment and related supplies that are medically necessary for the treatment of diabetes and for which benefits shall be provided according to the provisions of this section.
- (e) This section shall apply to all contracts and policies issued, renewed, modified, altered, amended, or reissued 90 days and thereafter from the date of enactment.
- (f) Nothing in this section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement long-term care, disability income, or other limited benefit health insurance policies."

Section 2. Amend Chapter 33 of Title 18 of the Delaware Code by adding thereto a new section 3344 to read:

"§3344 (a) Every individual or group hospital service corporation contract, individual or group medical service corporation contract, individual or group health service corporation contract, individual health insurance policy, group health insurance policy, and contract for health care services that provides hospital, including outpatient services, or medical expense benefits and provides coverage for prescription drugs and that is delivered, issued, executed, or renewed in this State pursuant to Title 18 of the Delaware Code or is approved for issuance or renewal in this State by the Insurance Commissioner shall provide benefits to any subscriber or other person covered thereunder for expenses incurred for the following equipment and supplies for the treatment of diabetes, if recommended in writing or prescribed by a physician: insulin pumps, blood glucose meters and strips, urine testing strips, insulin, syringes, and pharmacological agents for controlling blood sugar.

- (b) The benefits required by this section shall be provided to the same extent as for any other sickness under the contract.
- (c) This section shall apply to all hospital service corporation contracts in which the hospital service corporation has reserved the right to change the premium.
- (d) The Insurance Commissioner may promulgate and periodically update a list of additional diabetes equipment and related supplies that are medically necessary for the treatment of diabetes and for which benefits shall be provided according to the provisions of this section.
- (e) This section shall apply to all contracts and policies issued, renewed, modified, altered, amended, or reissued 90 days and thereafter from the date of enactment.
- (f) Nothing in this section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement long-term care, disability income, or other limited benefit health insurance policies."

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 June 30, 2000

CHAPTER 377

FORMERLY

SENATE BILL NO. 268

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO WEIGHTS AND MEASURES.

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

Section 1. Amend Chapter 51, Title 6 of the Delaware Code by adding a new section thereto to read as follows:

"§5142. Administrative Penalties.

- (a) In addition to proceeding under any other remedy available at law or in equity for a violation of this chapter or a rule or regulation adopted thereunder, or any order issued pursuant to this chapter, the Secretary, in his discretion, may assess an administrative penalty not less than \$500 nor more than \$10,000 for each offense.
- (b) 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 hearing. Any hearing, if requested, right of appeal and judicial appeal shall be conducted in accordance with Chapter 101 of Title 29. The Secretary shall render an opinion within 30 days of said hearing.
- (c) In determining the amount of the penalty, the Secretary shall consider the appropriateness of such penalty to the size of the person's ability to continue in business and the gravity of the violation. Whenever the Secretary finds the violation occurred despite the exercise of due care, the Secretary may issue a warning in lieu of assessing a penalty."

Approved June 30, 2000

CHAPTER 378

FORMERLY

SENATE BILL NO. 287

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO THE ALCOHOLIC BEVERAGE CONTROL VOLUNTARY FINE ASSESSMENT PLAN.

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

Section 1. Amend §915, Title 4, Delaware Code by deleting the figure "\$500" and inserting in lieu thereof the figure "\$5,000".

Approved June 30, 2000

CHAPTER 379

FORMERLY

SENATE BILL NO. 290
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE STATE CRIMINAL CODE
AND AGENTS OF THE STATE DIVISION OF ALCOHOLIC BEVERAGE CONTROL.

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

Section 1. Amend §222(13), Title 11, Delaware Code, by inserting the words "Agents of the State Division of Alcoholic Beverage Control" after the words "sheriffs and their regular deputies".

Section 2. Amend §1911(a), Title 11, Delaware Code, by inserting the following subsection:

"(8) An agent of the State Division of Alcoholic Beverage Control."

Section 3. Amend §8401(5)a., Title 11, Delaware Code, by inserting the words "Agents of the State Division of Alcoholic Beverage Control" after the words "Department of Natural Resources and Environmental Control."

Section 4. Amend §8502(3)(b), Title 11, Delaware Code, by inserting the following:

"9. The Division of Alcoholic Beverage Control."

Section 5. Amend §8502(7), Title 11, Delaware Code, by inserting the words "Agents of the State Division of Alcoholic Beverage Control" after the words "sheriffs and their regular deputies".

Approved June 30, 2000

CHAPTER 380

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 312
AS AMENDED BY SENATE AMENDMENT NOS. 1, 2 AND 3

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO PROOF OF INSURANCE.

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

Section 1. Amend Section 2118(b) of Title 21 of the Delaware Code by adding the following at the end of the section:

"The Justice of the Peace Court may permit an operator charged under this subsection to provide proof of insurance to the Court by mail or facsimile transmission in lieu of a personal appearance. Proof of insurance shall be as prescribed by the Court and shall be sent to the Court directly from the operator's insurer or the insurer's agent or broker. It shall be the responsibility of the operator to ensure that proof of insurance is received and accepted by the Court. When proof of insurance is sent by mail or fax, the Court may also accept a guilty plea by mail or fax for any accompanying charge for which a voluntary assessment is permitted under 21 Del.C. §709(e). A guilty plea so accepted shall have the same force and effect as if the operator had made the plea in open court. The Justice of the Peace Court shall enact Court rules to implement the handling of such cases by mail or facsimile transmission.

Where proof of insurance is provided by facsimile, the operator's insurer, or the insurer's agent or broker must confirm the information by mail and the Justice of the Peace Court must confirm by telephone that the facsimile was sent by the operator's insurer, or the insurer's agent or broker."

Section 2. Amend §2118(p) of Title 21 of the Delaware Code by adding the following before the last sentence:

"The Justice of the Peace Court may permit an operator charged under this subsection to provide proof of insurance to the Court by mail or facsimile transmission in lieu of a personal appearance. Proof of insurance shall be as prescribed by the Court and shall be sent to the Court directly from the operator's insurer or the insurer's agent or broker. It shall be the responsibility of the operator to ensure that proof of insurance is received and accepted by the Court. When proof of insurance is sent by mail or fax, the Court may also accept a guilty plea by mail or fax for any accompanying charge for which a voluntary assessment is permitted under 21 Del. C. §709(e). A guilty plea so accepted shall have the same force and effect as if the operator had made the plea in open court. The Justice of the Peace Court shall enact Court rules to implement the handling of such cases by mail or facsimile transmission. Where proof of insurance is provided by facsimile, the operator's insurer, or the insurer's agent or broker must confirm the information by mail and the Justice of the Peace Court must confirm by telephone that the facsimile was sent by the operator's insurer, or the insurer's agent or broker."

Section 3. This Act shall become effective within six months from the date of its enactment or upon the enactment of implementing Court rules, whichever is sooner.

Approved June 30, 2000

CHAPTER 381

FORMERLY

SENATE BILL NO. 337

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

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

Section 1. Amend §4701, Title 7 of the Delaware Code by adding the following at the end thereof:

"(e) The Department of Natural Resources and Environmental Control shall establish an advance reservation system to allow disabled persons to reserve accessible campsites for the disabled at state parks."

Section 2. The Department of Natural Resources and Environmental Control shall implement the advance reservation system for the disabled within 60 days after this Act becomes law.

Approved June 30, 2000

CHAPTER 382

FORMERLY

SENATE BILL NO. 344

AN ACT TO AMEND TITLE 9 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 §9605(c), Title 9, Delaware Code by inserting the words "and Records Administrator" following the words "Delaware State Archivist".

Section 2. Amend §515(c), Title 29, Delaware Code by deleting the subsection in its entirety.

Chapter 382
Vol.72

Section 3. Amend §841, Title 29, Delaware Code by deleting the words "State Archivist" in the last sentence and inserting in lieu thereof the words "State Archivist and Records Administrator".

Section 4. Amend §902, Title 29, Delaware Code by deleting the words "Director of the Division of Historical and Cultural Affairs" and inserting in lieu thereof the words "State Archivist and Records Administrator".

Section 5. Amend 905(h), Title 29, Delaware Code by deleting the words "Director of Historical and Cultural Affairs" and inserting in lieu thereof the words "State Archivist and Records Administrator".

Approved June 30, 2000

CHAPTER 383

FORMERLY

SENATE BILL NO. 348

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE, RELATING TO HEALTH INSURANCE.

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

Section 1. Amend Chapter 72, §7207(c) Title 18, Delaware Code by striking therefrom subparagraphs (c)(1)a. and b. in their entirety.

Section 2. Amend Chapter 72, §7207(c)(1) Title 18, Delaware Code by striking the colon (:) at the end thereof and by substituting the following:

"a condition (whether physical or mental), regardless of the cause of the condition for which medical advice, diagnosis, care, or treatment was recommended or received within six months immediately preceding the effective date of coverage."

Section 3. Amend Chapter 36, §3607(b)(2), Title 18, Delaware Code by adding thereto a new paragraph to read as follows:

"c. Pre-existing condition limitations shall not be applied to federally eligible individuals for coverage provided pursuant to this section."

Section 4. Amend Chapter 35, §3560(5)f., Title 18, Delaware Code by striking same in its entirety and by substituting in lieu thereof the following:

"f. Genetic information, as defined in §2317 of this Title;"

Section 5. Amend Chapter 72, §7202(19)f, Title 18, Delaware Code by striking same in its entirety and by substituting in lieu thereof the following:

"(f) Genetic information, as defined in §2317 of this Title;"

Section 6. Amend Chapter 36, §3602(12)f, Title 18, Delaware Code by striking same in its entirety and by substituting in lieu thereof the following:

"(f) Genetic information, as defined in §2317 of this Title;"

Approved June 30, 2000

Where proof of insurance is provided by facsimile, the operator's insurer, or the insurer's agent or broker must confirm the information by mail and the Justice of the Peace Court must confirm by telephone that the facsimile was sent by the operator's insurer, or the insurer's agent or broker."

Section 2. Amend §2118(p) of Title 21 of the Delaware Code by adding the following before the last sentence:

"The Justice of the Peace Court may permit an operator charged under this subsection to provide proof of insurance to the Court by mail or facsimile transmission in lieu of a personal appearance. Proof of insurance shall be as prescribed by the Court and shall be sent to the Court directly from the operator's insurer or the insurer's agent or broker. It shall be the responsibility of the operator to ensure that proof of insurance is received and accepted by the Court. When proof of insurance is sent by mail or fax, the Court may also accept a guilty plea by mail or fax for any accompanying charge for which a voluntary assessment is permitted under 21 Del. C. §709(e). A guilty plea so accepted shall have the same force and effect as if the operator had made the plea in open court. The Justice of the Peace Court shall enact Court rules to implement the handling of such cases by mail or facsimile transmission. Where proof of insurance is provided by facsimile, the operator's insurer, or the insurer's agent or broker must confirm the information by mail and the Justice of the Peace Court must confirm by telephone that the facsimile was sent by the operator's insurer, or the insurer's agent or broker."

Section 3. This Act shall become effective within six months from the date of its enactment or upon the enactment of implementing Court rules, whichever is sooner.

Approved June 30, 2000

CHAPTER 381

FORMERLY

SENATE BILL NO. 337

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

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

Section 1. Amend §4701, Title 7 of the Delaware Code by adding the following at the end thereof:

"(c) The Department of Natural Resources and Environmental Control shall establish an advance reservation system to allow disabled persons to reserve accessible campsites for the disabled at state parks."

Section 2. The Department of Natural Resources and Environmental Control shall implement the advance reservation system for the disabled within 60 days after this Act becomes law.

Approved June 30, 2000

CHAPTER 382

FORMERLY

SENATE BILL NO. 344

AN ACT TO AMEND TITLE 9 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 §9605(c), Title 9, Delaware Code by inserting the words "and Records Administrator" following the words "Delaware State Archivist".

Section 2. Amend §515(c), Title 29, Delaware Code by deleting the subsection in its entirety.

Chapter 382

Vol. 72

Section 3. Amend §841, Title 29, Delaware Code by deleting the words "State Archivist" in the last sentence and inserting in lieu thereof the words "State Archivist and Records Administrator".

Section 4. Amend §902, Title 29, Delaware Code by deleting the words "Director of the Division of Historical and Cultural Affairs" and inserting in lieu thereof the words "State Archivist and Records Administrator".

Section 5. Amend 905(h), Title 29, Delaware Code by deleting the words "Director of Historical and Cultural Affairs" and inserting in lieu thereof the words "State Archivist and Records Administrator".

Approved June 30, 2000

CHAPTER 383

FORMERLY

SENATE BILL NO. 348

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE, RELATING TO HEALTH INSURANCE.

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

Section 1. Amend Chapter 72, §7207(c) Title 18, Delaware Code by striking therefrom subparagraphs (c)(1)a. and b. in their entirety.

Section 2. Amend Chapter 72, §7207(c)(1) Title 18, Delaware Code by striking the colon (:) at the end thereof and by substituting the following:

"a condition (whether physical or mental), regardless of the cause of the condition for which medical advice, diagnosis, care, or treatment was recommended or received within six months immediately preceding the effective date of coverage."

Section 3. Amend Chapter 36, §3607(b)(2), Title 18, Delaware Code by adding thereto a new paragraph to read as follows:

"c. Pre-existing condition limitations shall not be applied to federally eligible individuals for coverage provided pursuant to this section."

Section 4. Amend Chapter 35, §3560(5)f., Title 18, Delaware Code by striking same in its entirety and by substituting in lieu thereof the following:

"f. Genetic information, as defined in §2317 of this Title;"

Section 5. Amend Chapter 72, §7202(19)f, Title 18, Delaware Code by striking same in its entirety and by substituting in lieu thereof the following:

"(f) Genetic information, as defined in §2317 of this Title;"

Section 6. Amend Chapter 36, §3602(12)f, Title 18, Delaware Code by striking same in its entirety and by substituting in lieu thereof the following:

"(f) Genetic information, as defined in §2317 of this Title;"

Approved June 30, 2000

CHAPTER 384

FORMERLY

SENATE BILL NO. 358

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

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

Section 1. Amend §8323(a) of Title 11, Delaware Code, by deleting the phrase "when that increase reflects a change in excess of 2%", and substituting in lieu thereof the following phrase:

"plus the aggregated cumulative percentage change in the national consumer price index average of the previous consecutive years in which an increase was not granted".

Section 2. Amend §8323(a) of Title 11, Delaware Code by deleting the phrase "; however, before any increases shall become effective in subsequent years, the national consumer price index average must rise at least 2% in excess of its level at the time of the previous increase in benefits".

Section 3. Amend §8324 of Title 11, Delaware Code by deleting the phrase "when that increase reflects a change in excess of 2%", and by substituting in lieu thereof the following phrase:

"plus the aggregated cumulative percentage change in the national consumer price index average of the previous consecutive years in which an increase was not granted".

Section 4. Amend §8324 of Title 11, Delaware Code, by deleting the phrase "; however, before any increases shall become effective in subsequent years, the national consumer price index average must rise at least 2% in excess of its level at the time of the previous increase in benefits".

Section 5. Amend §8325 of Title 11, Delaware Code, by deleting the phrase "when that increase reflects a change in excess of 2%", and substituting in lieu thereof the following phrase:

"plus the aggregated cumulative percentage change in the national consumer price index average of the previous consecutive years in which an increase was not granted".

Section 6. Amend §8325 of Title 11, Delaware Code, by deleting the phrase "; however, before any increases shall become effective in subsequent years, the national consumer price index average must rise at least 2% in excess of its level at the time of the previous increase in benefits".

Section 7. Amend §8326 of Title 11, Delaware Code, by deleting the phrase "when that increase reflects a change in excess of 2%", and substituting in lieu thereof the following phrase:

"plus the aggregated cumulative percentage change in the national consumer price index average of the previous consecutive years in which an increase was not granted".

Section 8. Amend §8326 of Title 11, Delaware Code, by deleting the phrase "; however, before any increases shall become effective in subsequent years, the national consumer price index average must rise at least 2% in excess of its level at the time of the previous increase in benefits".

Approved June 30, 2000

CHAPTER 385

FORMERLY

SENATE BILL NO. 359

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 Chapter 5, Title 25, by adding a new subsection (f) to section 503:

"(f) For purposes of this section, real property does not include any intangible personal property such as an interest in a corporation, limited liability company, partnership, business trust or other entity, regardless of whether such entity is the owner of real property or any interest therein."

Section 2. This Act shall take effect on the date of enactment.

Approved June 30, 2000

CHAPTER 386

FORMERLY

SENATE BILL NO. 364

AN ACT TO AMEND CHAPTER 17, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC LIMITED PARTNERSHIPS AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED PARTNERSHIPS.

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

Section 1. Amend § 17-102(3), Chapter 17, Title 6 of the Delaware Code by deleting the word "registered" in all three places where it appears before the words "limited liability partnership".

Section 2. Amend § 17-109(d), Chapter 17, Title 6 of the Delaware Code by adding the following sentence to the end of subsection (d) thereof: "Except by agreeing to arbitrate any arbitrable matter in a specified jurisdiction or in the State of Delaware, a limited partner may not waive its right to maintain a legal action or proceeding in the courts of the State of Delaware with respect to matters relating to the organization or internal affairs of a limited partnership."

Section 3. Amend § 17-203, Chapter 17, Title 6 of the Delaware Code by deleting the words ", or upon the conversion of a domestic limited partnership approved in accordance with § 17-219 of this title" from the first sentence thereof.

Section 4. Amend § 17-203, Chapter 17, Title 6 of the Delaware Code by deleting the words "or upon the conversion of a domestic limited partnership approved in accordance with § 17-219 of this title" from the second sentence thereof.

Section 5. Amend § 17-203, Chapter 17, Title 6 of the Delaware Code by deleting subsection (5) of the second sentence thereof, by adding the word "and" after the ";" at the end of subsection (4) of the second sentence thereof and by renumbering existing subsection (6) as subsection (5) of the second sentence thereof.

Section 6. Amend § 17-211(a), Chapter 17, Title 6 of the Delaware Code by deleting the word "registered" in both places where it appears before the words "limited liability".

Section 7. Amend § 17-215(a), Chapter 17, Title 6 of the Delaware Code by deleting the word "registered" in both places where it appears before the words "limited liability".

Section 8. Amend § 17-215, Chapter 17, Title 6 of the Delaware Code by deleting subsection (h) in its entirety and by substituting in lieu thereof the following new subsection (h):

"(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 remain vested in the domestic limited partnership to which such non-United States entity has been domesticated and shall be the property of such domestic limited partnership, 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 remain attached to the domestic limited partnership to which such non-United States entity has been domesticated, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic limited partnership. The rights, privileges, powers and interests in property of the non-United States entity, as well as the debts, liabilities and duties of the non-United States entity, shall not be deemed, as a consequence of the domestication, to have been transferred to the domestic limited partnership to which such non-United States entity has domesticated for any purpose of the laws of the State of Delaware."

Section 9. Amend § 17-216, Chapter 17, Title 6 of the Delaware Code by adding at the end of subsection (d) thereof a new sentence reading as follows:

"Unless otherwise agreed, the transfer or domestication of a limited partnership out of the State of Delaware in accordance with this section shall not require such limited partnership to wind up its affairs under § 17-803 of this title or pay its liabilities and distribute its assets under § 17-804 of this title."

Section 10. Amend § 17-217(a), Chapter 17, Title 6 of the Delaware Code by deleting the word "registered" in both places where it appears before the words "limited liability".

Section 11. Amend § 17-217, Chapter 17, Title 6 of the Delaware Code by deleting subsection (f) in its entirety and by substituting in lieu thereof the following new subsection (f):

"(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 remain vested in the domestic limited partnership to which such other entity has converted and shall be the property of such domestic limited partnership, 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 remain attached to the domestic limited partnership to which such other entity has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic limited partnership. The rights, privileges, powers and interests in property of the other entity, as well as the debts, liabilities and duties of the other entity, shall not be deemed, as a consequence of the conversion, to have been transferred to the domestic limited partnership to which such other entity has converted for any purpose of the laws of the State of Delaware."

Section 12. Amend § 17-217, Chapter 17, Title 6 of the Delaware Code by redesignating existing subsection (i) thereof as a new subsection (j) and adding the following as a substitute subsection (i):

"(i) In connection with a conversion hereunder, rights or securities of, or interests in, the other entity which is to be converted to a domestic limited partnership may be exchanged for or converted into cash, property, rights or securities of, or interests in, such domestic limited partnership or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another domestic limited partnership or other entity."

Section 13. Amend §17-218(b), Chapter 17, Title 6 of the Delaware Code by inserting the words "(directly or indirectly, including through a nominee or otherwise)" immediately after the word "held".

Section 14. Amend § 17-218(i), Chapter 17, Title 6 of the Delaware Code by deleting the words ": provided that a" immediately after the words "subsection (b) of this section" and by inserting in lieu thereof the words ". A", and by inserting immediately prior to the third to last sentence thereof the following new sentence: "For purposes of the immediately preceding sentence, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program."

Section 15. Amend §17-218(j), Chapter 17, Title 6 of the Delaware Code by inserting in subsection (3) thereof the words "affirmative vote or" immediately prior to the words "written consent of".

Section 16. Amend §17-218(j), Chapter 17, Title 6 of the Delaware Code by deleting subsection (5) in its entirety, by inserting the word "or" after the ";" at the end of subsection (4), and by renumbering subsection (6) as subsection (5).

Section 17. Amend § 17-218(k), Chapter 17, Title 6 of the Delaware Code by deleting the third sentence thereof in its entirety and by substituting in lieu thereof the following new sentence: "The persons winding up the affairs of a series shall provide for the claims and obligations of the series and distribute the assets of the series as provided in § 17-804 of this title, which section shall apply to the winding up and distribution of assets of a series."

Section 18. Amend § 17-219, Chapter 17, Title 6 of the Delaware Code by deleting the word "registered" where it appears before the words "limited liability partnership" in the first sentence thereof.

Section 19. Amend § 17-219, Chapter 17, Title 6 of the Delaware Code by adding at the end thereof two new sentences reading as follows:

"Unless otherwise agreed, the conversion of a domestic limited partnership to another business form pursuant to this section shall not require such limited partnership to wind up its affairs under § 17-803 of this title or pay its liabilities and distribute its assets under § 17-804 of this title. In connection with a conversion of a domestic limited partnership to another business form pursuant to this section, rights or securities of, or interests in, the domestic limited partnership which is to be converted may be exchanged for or converted into cash, property, rights or securities of, or interests in, the business form into which the domestic limited partnership is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another business form."

Section 20. Amend §17-302(e), Chapter 17, Title 6 of the Delaware Code by deleting the phrase "interests in the limited partnership" in the first sentence thereof and substituting the phrase "limited partners" in lieu thereof.

Section 21. Amend §17-405(d), Chapter 17, Title 6 of the Delaware Code by adding the words "at which all general partners entitled to vote thereon were present and voted" at the end of the first sentence.

Section 22. Amend § 17-607, Chapter 17, Title 6 of the Delaware Code by adding to the end of subsection (a) thereof a new sentence reading as follows: "For purposes of this subsection (a), the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program."

Section 23. Amend § 17-703, Chapter 17, Title 6 of the Delaware Code by deleting said section together with its heading in its entirety and substituting in lieu thereof the following:

"17-703 Partner's partnership interest subject to charging order.

(a) On application by a judgment creditor of a partner or of a partner's assignee, a court having jurisdiction may charge the partnership 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 limited partnership which receiver shall have only the rights of an assignee, 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 partnership interest. The court may order a foreclosure of the partnership interest subject to the charging order at any time. The purchaser at the foreclosure sale has only the rights of an assignee.

(c) Unless otherwise provided in a partnership agreement, at any time before foreclosure, a partnership 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 limited 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 partnership interest.

(e) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's assignee may satisfy a judgment out of the judgment debtor's partnership interest.

(f) No creditor of a partner shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the limited partnership."

Section 24. Amend §17-801, Chapter 17, Title 6 of the Delaware Code by deleting subsection (1) in its entirety and by substituting in lieu thereof the following new subsection (1):

"(1) At the time specified in a partnership agreement, but if no such time is set forth in the partnership agreement, then the limited partnership shall have a perpetual existence;"

Section 25. Amend § 17-801, Chapter 17, Title 6 of the Delaware Code by renumbering existing subsection (5) as subsection (6) and by adding the following new subsection (5):

"(5) Upon the happening of events specified in a partnership agreement; or".

Section 26. Amend § 17-804, Chapter 17, Title 6 of the Delaware Code by inserting the following new sentence immediately after the first sentence of subsection (c) thereof: "For purposes of the immediately preceding sentence, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program."

Section 27. Amend § 17-1101(d), Chapter 17, Title 6 of the Delaware Code by adding the words "or to an other person that is a party to or is otherwise bound by a partnership agreement" after the words "another partner", by deleting the word "a" after the word "under" in subsection (1) thereof and by substituting in lieu thereof the word "the", by adding the words "or to any such other person" after the words "other partner" in subsection (1) thereof, by deleting the word "such" after the words "the provisions of" in subsection (1) thereof and by substituting in lieu thereof the word "the" and by deleting the word "a" after the words "by provisions in" in subsection (2) thereof and by substituting in lieu thereof the word "the".

Section 28. This Act shall become effective August 1, 2000.

Approved June 30, 2000

CHAPTER 387

FORMERLY

SENATE BILL NO. 365

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

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

Section 1. Amend Subsection 3801(e), Title 12 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection as follows:

"'Other business entity' means a corporation, a partnership (whether general or limited), a limited liability company, a common-law trust, a foreign business trust or any other unincorporated business, excluding a business trust."

Section 2. Amend Subsection 3801(f), Title 12 of the Delaware Code by striking the first sentence of said subsection in its entirety and substituting in lieu thereof a new sentence as follows:

"'Governing instrument' means any instrument which creates a business trust or provides for the governance of the affairs of the business trust and the conduct of its business."

Section 3. Amend Section 3801, Title 12 of the Delaware Code by inserting a new subsection (h) thereto as follows:

"(h) 'Independent Trustee' means, solely with respect to a business trust that is registered as an investment company under the Investment Company Act of 1940, as amended (15 U.S.C. §80a-1 et seq.), or any successor statute thereto (the "1940 Act"), any trustee who is not an "interested person" (as such term is defined below) of the business trust; provided that the receipt of compensation for service as an independent trustee of the business trust and also for service as an independent trustee of one or more other investment companies managed by a single investment adviser (or an "affiliated person" (as such term is defined below) of such investment adviser) shall not affect the status of a trustee as an independent trustee under this Chapter. An independent trustee as defined hereunder shall be deemed to be independent and disinterested for all purposes. For purposes of this definition, the terms "affiliated person" and "interested person" have the meanings set forth in the 1940 Act or any rule adopted thereunder."

Section 4. Amend Section 3805, Title 12 of the Delaware Code by inserting new subsections (f) and (g) thereto as follows:

"(f) Except to the extent otherwise provided in the governing instrument of the business trust, legal title to the property of the business trust, or any part thereof, may be held in the name of any trustee of the business trust, in its capacity as such, with the same effect as if such property were held in the name of the business trust.

(g) No creditor of the trustee shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the business trust with respect to any claim against, or obligation of, such trustee in its individual capacity and not related to the business trust."

Section 5. Amend Section 3806, Title 12 of the Delaware Code by inserting new subsections (e) and (f) thereto as follows:

"(e) Unless otherwise provided in the governing instrument of a business trust, on any matter that is to be voted on by the beneficial owners, (i) the beneficial owners may take such action without a meeting, without a prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the beneficial owners having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all interests in the business trust entitled to vote thereon were present and voted and (ii) the beneficial owners may vote in person or by proxy.

(f) Unless otherwise provided in the governing instrument of a business trust, on any matter that is to be voted on by the trustees, (i) the trustees may take such action without a meeting, without a prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the trustees having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at

which all trustees entitled to vote thereon were present and voted and (ii) the trustee may vote in person or by proxy."

Section 6. Amend Section 3807, Title 12 of the Delaware Code by inserting new subsection (e) thereto as follows:

"(e) A trustee or registered agent of a business trust whose address, as set forth in a certificate of trust pursuant to § 3810(a)(1)b. of this title, has changed may change such address in the certificates of trust for all business trusts for which such trustee or registered agent is appointed, to another address in the State of Delaware by paying a fee as set forth in § 3813(a)(5) of this chapter and filing with the Secretary of State a certificate, executed by such trustee or registered agent, setting forth the names of all business trusts for which such trustee or registered agent is appointed, and the address of such trustee or registered agent before it was changed, and further certifying as to the new address of such trustee or registered agent for each of the business trusts recited in the certificate. Upon the filing of such certificate, the Secretary of State shall furnish to the trustee or 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 address of such trustee or registered agent in the State of Delaware of each of the business trusts recited in the certificate shall be located at the new address of the trustee or registered agent thereof as given in the certificate. A trustee or registered agent of a business trust whose name, as set forth in a certificate of trust pursuant to § 3810(a)(1)b. of this title, has changed may change such name in the certificates of trust for all business trusts for which such trustee or registered agent is appointed, to its new name by paying a fee as set forth in § 3813(a)(5) of this chapter and filing with the Secretary of State a certificate, executed by such trustee or registered agent, setting forth the names of all business trusts for which such trustee or registered agent is appointed, the name of such trustee or registered agent before it was changed, and further certifying as to the new name of such trustee or registered agent for each of the business trusts recited in the certificate. Upon the filing of such certificate and payment of such fee, the Secretary of State shall furnish to the trustee or registered agent a certified copy of the certificate under his hand and seal of office. Filing a certificate under this section shall be deemed to be an amendment of the certificate of trust of each business trust affected thereby and no further action with respect thereto to amend its certificate of trust under § 3810 of this chapter shall be required. Any trustee or registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each business trust affected thereby."

Section 7. Amend Section 3813, Title 12 of the Delaware Code by inserting new subsection (a)(5) thereto as follows:

"(5) Upon the receipt for filing of a certificate under § 3807(e) of this chapter, a fee in the amount of \$50."

Section 8. Amend Section 3820, Title 12 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new section as follows:

"§3820. Conversion of other business entities to a business trust.

(a) Any other business entity formed or organized or existing under the laws of the State of Delaware or any other state or the United States or any foreign country or other foreign jurisdiction may convert to a business trust by complying with subsection (f) of this section and filing in the Office of the Secretary of State in accordance with § 3812 of this chapter:

(1) A certificate of conversion to business trust that has been executed by the trustees in accordance with § 3811 of this chapter; and

(2) A certificate of trust that complies with § 3810 of this chapter and has been executed by the trustees in accordance with § 3811 of this chapter.

(b) The certificate of conversion to business trust shall state:

(1) The date on which and jurisdiction where the other business entity was first formed or organized or otherwise came into being and, if it has changed, its jurisdiction immediately prior to its conversion to a business trust;

(2) The name of the other business entity immediately prior to the filing of the certificate of conversion to business trust;

(3) The name of the business trust as set forth in its certificate of trust filed in accordance with subsection (a) of this section; and

(4) The future effective date or time (which shall be a date or time certain) of the conversion to a business trust if it is not to be effective upon the filing of the certificate of conversion to business trust and the certificate of trust.

(c) Upon the filing in the Office of the Secretary of State of the certificate of conversion to business trust and the certificate of trust or upon the future effective date or time of the certificate of conversion to business trust and the certificate of trust, the other business entity shall be converted into a business trust and the business trust shall thereafter be subject to all of the provisions of this chapter, except that notwithstanding § 3810(a)(2) of this chapter, the existence of the business trust shall be deemed to have commenced on the date the other business entity commenced its existence in the jurisdiction in which the other business entity was first formed or organized or otherwise came into being.

(d) The conversion of any other business entity into a business trust shall not be deemed to affect any obligations or liabilities of the other business entity incurred prior to its conversion to a business trust, or the personal liability of any person incurred prior to such conversion.

(e) 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 business entity that has converted, and all property, real, personal and mixed, and all debts due to such other business entity, as well as all other things and causes of action belonging to such other business entity, shall remain vested in the business trust to which such other business entity has converted and shall be the property of such business trust, and the title to any real property vested by deed or otherwise in such other business 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 business entity shall be preserved unimpaired, and all debts, liabilities and duties of the other business entity that has converted shall remain attached to the business trust to which such other business entity has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it in its capacity as a business trust. The rights, privileges, powers and interests in property of the other business entity, as well as the debts, liabilities and duties of the other business entity, shall not be deemed, as a consequence of the conversion, to have been transferred to the business trust to which such other business entity has converted for any purpose of the laws of the State of Delaware.

(f) Unless otherwise agreed, or as required under applicable non-Delaware law, the converting other business 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 business entity and shall constitute a continuation of the existence of the converting other business entity in the form of a business trust. When the other business entity has been converted to a business trust pursuant to this section, the business trust shall, for all purposes of the laws of the State of Delaware, be deemed to be the same entity as the converting other business entity.

(g) Prior to filing a certificate of conversion to business trust 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 business entity and the conduct of its business or by applicable law, as appropriate, and a governing instrument shall be approved by the same authorization required to approve the conversion.

(h) 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 business entity to the State of Delaware by any other means provided for in an agreement governing the internal affairs of the other business entity or as otherwise permitted by law, including by the amendment of an agreement governing the internal affairs of the other business entity.

(i) In connection with a conversion hereunder, rights or securities of, or interests in, the other business entity which is to be converted to a business trust may be exchanged for or converted into cash, property, rights or securities of, or interests in, such business trust or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another business trust or other business entity."

Section 9. Amend Section 3821, Title 12 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

"§ 3821. Approval of conversion of a business trust.

A business trust may convert to an other business entity formed or organized under the laws of the State of Delaware, upon the authorization of such conversion in accordance with this section. If the governing instrument specifies the manner of authorizing a conversion of the business trust, the conversion shall be authorized as specified

in the governing instrument. If the governing instrument does not specify the manner of authorizing a conversion of the business trust and does not prohibit a conversion of the business trust, the conversion shall be authorized in the same manner as is specified in the governing instrument for authorizing a merger or consolidation that involves the business trust as a constituent party to the merger or consolidation. If the governing instrument does not specify the manner of authorizing a conversion of the business trust or a merger or consolidation that involves the business trust as a constituent party and does not prohibit a conversion of the business trust, the conversion shall be authorized by the approval by all of the beneficial owners and all of the trustees. When the conversion of a business trust shall have become effective, the business trust shall file a certificate of cancellation in the Office of the Secretary of State in accordance with § 3810(d) of this chapter. Unless otherwise agreed, the conversion of a business trust to an other business entity pursuant to this section shall not require such business trust to wind up its affairs under § 3808 of this chapter or pay its liabilities and distribute its assets under § 3808 of this chapter. In connection with a conversion of a business trust to an other business entity pursuant to this section, rights or securities of, or interests in, the business trust which is to be converted may be exchanged for or converted into cash, property, rights or securities of, or interests in, the other business entity into which the business trust is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, any other business entity."

Approved June 30, 2000

CHAPTER 388

FORMERLY

SENATE BILL NO. 366

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

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

Section 1. Amend Title 12, Delaware Code, by adding a new section 3545 to read as follows:

"Section 3545. Limitations on Oral Trusts; Execution Requirements for Written Trusts.

Except as otherwise required by this Code, the creation, modification or revocation of a trust whereby a person other than the trustor acquires or is divested of an interest in the trust, the possession or enjoyment of which is contingent upon surviving the trustor, shall be void unless such creation, modification or revocation be (a) in a writing executed by the trustor and witnessed by at least one disinterested person or two credible persons, or (b) in a writing executed by a trustee who is a disinterested person. For purposes of this section, a disinterested person is one who has no beneficial interest in the trust that would be materially increased or decreased as a result of the creation, modification or revocation of the trust."

Section 2. Amend Title 12, Delaware Code, by adding a new section 3546 to read as follows:

"Section 3546. Limitation on Action Contesting Validity of Revocable Trusts

(a) Upon the death of the trustor of a trust that was revocable at the time of the trustor's death, a judicial proceeding to contest the validity of the trust may not be initiated later than the first to occur of:

(1) Ninety days after the date the trustee notified the person of the trust's existence, of the trustee's name and address, of whether the person is a beneficiary, and of the time allowed for initiating a judicial proceeding to contest the trust;

(2) Two years following the trustor's death;

(3) If the trust was specifically referred to in the trustor's last will, the time in which a petition for review of the will could be filed; or

(4) The date the person's right to contest was precluded by adjudication, consent or limitation.

(b) Upon the death of the trustor of a trust that was revocable at the time of the trustor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. This distribution may be made

Chapter 388

Vol. 72

without liability unless the trustee has actual knowledge of a pending judicial proceeding to contest the validity of the trust, or is notified by a potential contestant of a possible contest, followed by its initiation within 30 days of such notice.

(c) Until a contest is barred under subsection (a), a beneficiary of what later turns out to have been an invalid trust is liable to return any distribution received."

Section 3. Amend Title 12, Delaware Code, by adding new Section 3547 to read as follows:

"Section 3547. Representation by Person Having Substantially Identical Interest.

Unless otherwise represented, a minor, incapacitated, or unborn person, or a person whose identity or location is unknown and not reasonably ascertainable, may for all purposes be represented by and bound by another who has a substantially identical interest with respect to the particular question or dispute, but only to the extent that there is no material conflict of interest between the representative and the person represented with respect to the particular question or dispute."

Section 4. Amend Title 12, Delaware Code, by adding new Section 3404 to read as follows:

"Section 3404. General Powers of Trustee

(a) A trustee, without authorization by the court, may exercise:

(1) powers conferred by the terms of the trust; and

(2) except as limited by the terms of the trust, any other powers conferred by this Chapter.

(b) Except as modified by the terms of a trust, the exercise of a power is subject to the fiduciary duties otherwise prescribed by law."

Section 5. Amend Title 12, Delaware Code, by adding new Section 3405 to read as follows:

"Section 3405. Specific Powers of Trustee.

Without limiting the authority conferred by Section 3404, a trustee may:

(1) collect trust property and accept or decline additions to the trust property from a trustor or any other person;

(2) acquire or sell property, for cash or on credit, at public or private sale;

(3) exchange, partition, or otherwise change the character of trust property;

(4) deposit trust funds in an account in a regulated financial-services institution, including an institution operated by or affiliated with the trustee;

(5) borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;

(6) advance money for the protection of the trust, and the trustee has a lien on the trust property as against a beneficiary for reimbursement of those advances, with reasonable interest;

(7) with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving or otherwise changing the form of business organization or contributing additional capital;

(8) with respect to stocks or other securities, to exercise the rights of an absolute owner, including the right to:

(A) vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;

(B) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;

(C) pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and

- (D) deposit the securities with a securities depository or other regulated financial-services institution;
- (9) with respect to an interest in real property, construct, make ordinary or extraordinary repairs, alterations, or improvements in buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;
- (10) enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within the duration of the trust;
- (11) grant an option involving a sale, lease, or other disposition of trust property or take an option for the acquisition of property, excluding an option exercisable beyond the duration of the trust, and exercise an option so acquired;
- (12) insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;
- (13) abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;
- (14) with respect to possible liability for environmental conditions:
- (A) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an entity in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;
 - (B) take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the initiation of a claim or governmental enforcement action;
 - (C) decline to accept property into trust or to disclaim any power with respect to property that has or may have environmental liability attached;
 - (D) compromise claims against the trust which may be asserted for an alleged violation of environmental law; and
 - (E) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;
- (15) pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;
- (16) pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;
- (17) exercise elections with respect to federal, state, and local taxes;
- (18) select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, and take appropriate action to collect the proceeds, including exercise of the right to indemnification against expenses and liabilities;
- (19) make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and, subject to the provisions of Section 3536 of this Title, the trustee has a lien on future distributions for repayment of those loans;
- (20) appoint a trustee to act in another State or country as to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;
- (21) pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:
- (A) paying it to the beneficiary's guardian;

- (B) paying it to the beneficiary's custodian under the Uniform Transfers to Minors Act, and, for such purpose, to create a custodianship;
 - (C) if there is no custodian paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf;
 - (D) depositing it in a regulated financial services institution in an interest bearing account or certificate in the sole name of the beneficiary and by giving notice of the deposit to the beneficiary; or
 - (E) the trustee managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution.
- (22) on distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;
- (23) decide, in accordance with rules of law, how and in what proportions any receipts or disbursements are credited, charged, or apportioned as between principal and income, including the ability to create reserves out of income for depreciation, depletion, amortization, or obsolescence;
- (24) if all interested beneficiaries also consent, consent to the resolution of a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;
- (25) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;
- (26) sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers;
- (27) on termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it; and
- (28) to sever any trust on a fractional basis into two or more separate and identical trusts for any reason or to segregate by allocation to a separate account or trust a specific amount from, a portion of, or specific assets included in, the trust property of any trust, unless expressly provided to the contrary in the trust instrument. Income earned on a segregated amount, portion, or specific asset after the segregation is effective passes with the amount, portion, or asset segregated. Each separate trust must be held and administered upon the identical terms and conditions of the trust from which it was severed. Subject to the terms of the trust instrument, the trustee may take into consideration differences in federal tax attributes and other pertinent factors in administering the trust property of any separate account or trust, in making applicable tax elections, and in making distributions. A separate trust created by severance must be treated as a separate trust for all purposes from the date on which the severance is effective. The effective date of the severance may be retroactive to a date before the date on which the trustee exercises such power."

Section 6. Amend Title 12, Delaware Code, by adding new sections 3406 and 3407 to read as follows:

"Section 3406. Resignation of Trustee

- (a) A trustee may resign:
 - (1) If the trust instrument expressly permits the trustee to resign, in accordance with the terms of the trust instrument;
 - (2) If the trust instrument neither expressly permits nor prohibits the trustee's resignation, but establishes a procedure for the appointment of a successor trustee who shall be willing and able to serve as such, upon 30 days written notice to the beneficiaries and any co-trustees; or
 - (3) In all other cases, with the approval of the Court of Chancery.
- (b) A beneficiary or co-trustee may waive the notice otherwise required by this section.
- (c) In approving a resignation, the Court of Chancery may impose orders and conditions reasonably necessary for the protection of the trust property, including the appointment of a special fiduciary.

(d) Any liability of a resigning trustee or of any sureties on the trustee's bond, if any, for acts or omissions of a resigning trustee is not discharged or affected by the trustee's resignation.

Section 3407. Removal of Trustee

A trustee may be removed by the Court of Chancery on its own initiative or on petition of a trustor, co-trustee, or beneficiary if:

- (a) the trustee has committed a breach of trust; or
- (b) a lack of cooperation among co-trustees substantially impairs the administration of the trust; or
- (c) the court, having due regard for the expressed intention of the trustor and the best interests of the beneficiaries, determines that notwithstanding the absence of a breach of trust, there exists (1) a substantial change in circumstances, (2) unfitness, unwillingness or inability of the trustee to administer the trust properly, or (3) hostility between the trustee and beneficiaries that threatens the efficient administration of the trust."

Section 7. Amend Title 12, Delaware Code, by adding a new subchapter VII to read as follows:

"Subchapter VII. Liability of Trustees and Rights of Persons Dealing with Trustee

Section 3580. Definition. In this Subchapter, "good faith" means honesty in fact and the observance of reasonable standards of fair dealing.

Section 3581. Breach of Trust: Equitable Remedies.

- (a) A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.
- (b) To remedy a breach of trust that has occurred or may occur, the court may order any equitable remedy, including:
 - (1) compelling the trustee to perform the trustee's duties;
 - (2) enjoining the trustee from committing a breach of trust;
 - (3) compelling the trustee to redress a breach of trust by paying money, restoring property, or other means;
 - (4) ordering a trustee to account;
 - (5) appointing a special fiduciary to take possession of the trust property and administer the trust;
 - (6) suspending or removing the trustee;
 - (7) reducing or denying compensation to the trustee;
 - (8) subject to Section 3590, voiding an act of the trustee, imposing a lien or a constructive trust on trust property, or tracing trust property wrongfully disposed of and recover the property or its proceeds; or
 - (9) granting any other appropriate relief.

Section 3582. Damages Against Trustee for Breach of Trust.

A beneficiary may charge a trustee who commits a breach of trust with:

- (a) the amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or
- (b) the profit that the trustee made by reason of the breach; or
- (c) such other relief as may be fashioned by the Court.

Section 3583. Liability of Trustee in Absence of Breach.

(a) A trustee is accountable to a beneficiary for any profit made by the trustee arising from the administration of the trust, even absent a breach of trust.

Chapter 388
Vol. 72

(b) Absent a breach of trust, a trustee is not liable to a beneficiary for a loss or depreciation in the value of trust property or for the failure to make a profit.

Section 3584. Attorney's Fees and Costs.

In a judicial proceeding involving a trust, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney's fees, to any party, to be paid by another party or from the trust that is the subject of the controversy.

Section 3585. Limitation of Action Against Trustee Following Trustee's Report.

(a) A beneficiary may initiate a proceeding against a trustee for breach of trust until the first to occur of:

(1) two years after the date the beneficiary was sent a report that adequately disclosed the facts constituting a claim; or

(2) the date the proceeding was otherwise precluded by adjudication, release, consent, or limitation.

(b) A report adequately discloses the facts constituting a claim if it provides sufficient information so that the beneficiary knows of the claim or reasonably should have inquired into its existence.

(c) For the purpose of subsection (a), a beneficiary is deemed to have been sent a report if:

(1) in the case of a beneficiary having capacity, it is sent to the beneficiary; or

(2) in the case of a beneficiary who under Section 3547 of this Title may be represented and bound by another person, it is sent to the other person.

(d) This section does not preclude an action to recover for fraud or misrepresentation related to the report.

Section 3586. Reliance on Trust Instrument.

A trustee who acted in good faith reliance on the terms of a written trust instrument is not liable to a beneficiary for a breach of trust to the extent the breach resulted from the reliance.

Section 3587. Events Affecting Administration or Distribution.

Whenever the happening of an event, including marriage, divorce, performance of education requirements, or death, affects the administration or distribution of a trust, a trustee who has exercised reasonable care to ascertain the happening of the event is not liable for a loss resulting from the trustee's lack of knowledge.

Section 3588. Beneficiary's Consent, Release, or Ratification.

A beneficiary may not hold a trustee liable for a breach of trust if the beneficiary, while having capacity, consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

(a) the consent, release, or ratification of the beneficiary was induced by improper conduct of the trustee; or

(b) at the time of the consent, release, or ratification, the beneficiary did not know of:

(1) the beneficiary's rights; or

(2) material facts the trustee knew or should have known with the exercise of reasonable inquiry.

Section 3589. Limitation on Personal Liability of Trustee.

(a) Except as otherwise provided in the contract, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administration of the trust if the trustee in the contract discloses the fiduciary capacity.

(b) Except as otherwise provided in the contract, a trustee who holds a general partnership interest is not personally liable for contracts entered into by the partnership if the ownership interest and fiduciary capacity is disclosed either in the contract or in a statement filed pursuant to the applicable partnership act.

(c) A trustee is personally liable for torts committed in the course of administering a trust, or for obligations arising from ownership or control of trust property, including liability for violation of environmental law, only if the trustee is personally at fault.

(d) A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust, may be asserted in a judicial proceeding against the trustee in the trustee's fiduciary capacity, whether or not the trustee is personally liable on the claim.

Section 3590. Protection of Person Dealing with Trustee.

(a) A person other than a beneficiary who in good faith assists a trustee or who in good faith and for value deals with a trustee without knowledge that the trustee is exceeding or improperly exercising the trustee's powers is protected from liability as if the trustee properly exercised the power.

(b) A person other than a beneficiary who in good faith deals with another person knowing that the other person is a trustee is not required to inquire into the extent of the trustee's powers or the propriety of their exercise.

(c) A person who in good faith delivers assets to a trustee need not ensure their proper application.

(d) A person other than a beneficiary who in good faith assists a former trustee or who for value and in good faith deals with a former trustee without knowledge that the trusteeship has terminated is protected from liability as if the former trustee were still a trustee.

(e) The protection provided by this section to persons assisting or dealing with a trustee is superseded by comparable protective provisions of other laws relating to commercial transactions or to the transfer of securities by fiduciaries.

Section 3591. Certification of Trust.

(a) Instead of providing a person other than a beneficiary with a copy of the trust instrument, a trustee may provide the person with a certification of trust containing statements concerning, but not limited to, the following matters:

- (1) the existence of the trust and the date of execution of the trust instrument;
- (2) the identity of the trustor or trustors and of the currently acting trustee or trustees of the trust;
- (3) the powers of the trustee;
- (4) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;
- (5) the authority of co-trustees to sign and whether all or less than all are required to sign in order to exercise powers of the trustee;
- (6) the trust's taxpayer identification number; and
- (7) the manner in which title to trust property may be taken.

(b) A certification of trust must be in the form of an acknowledged writing and may be signed by any trustee.

(c) A certification of trust must contain a statement that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(d) A certification of trust need not contain the dispositive terms of a trust.

(e) A recipient of a certification of trust may require the trustee to provide copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.

(f) A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be

Chapter 388

Vol. 72

inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.

(g) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(h) A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for damages, including attorney's fees, if the court determines that the person did not act in good faith in requesting the trust instrument.

(i) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust."

Section 8. Amend Title 12, Delaware Code, by deleting Section 3541 in its entirety and substituting a new Section 3541 to read as follows:

"Section 3541. Administration of Charitable Trusts; Cy Pres.

(a) Subject to the provisions of Subsection (b), if a particular charitable purpose becomes unlawful, impracticable, impossible to achieve, or wasteful:

(1) the trust does not fail in whole or in part;

(2) the trust property does not revert to the trustor or the trustor's successors in interest;

and

(3) the Court of Chancery shall modify or terminate the trust and direct that the trust property be applied or distributed, in whole or in part, in a manner consistent with the trustor's charitable purposes, whether or not such purposes be specific or general.

(b) The power of the Court of Chancery to modify or terminate a charitable trust, as provided in Subsection (a), is in all cases subject to a contrary provision in the terms of the trust instrument, whether such contrary provision directs that the trust property be distributed to a charitable or noncharitable beneficiary."

Section 9. Amend Title 12, Section 3303 by deleting such section in its entirety and substituting a new Section 3303 to read as follows:

"Section 3303. Effect of Provisions of Instrument

Notwithstanding any other provision of this Code or other law, the terms of a governing instrument may expand, restrict, eliminate, or otherwise vary the rights and interests of beneficiaries and the fiduciary's powers, duties, standard of care, rights of indemnification, and liability to persons whose interests arise from that instrument; provided, however, that nothing contained in this section shall be construed to permit the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct. The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this section. It is the policy of this section to give maximum effect to the principle of freedom of disposition and to the enforceability of governing instruments."

Section 10. Section 1 of this Act shall be effective with respect to the creation, modification or revocation of trusts executed on or after January 1, 2001. Sections 2 and 7 shall be effective as of the date of enactment with respect to trusts created after such date and shall be effective two years after the date of enactment with respect to trusts created on or before the date of enactment. Sections 3, 4, 5, 6, 8 and 9 shall be effective as of the date of enactment.

Approved June 30, 2000

CHAPTER 389

FORMERLY

SENATE BILL NO. 367

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

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

Section 1. Amend § 18-102(3), Chapter 18, Title 6 of the Delaware Code by deleting the word "registered" in all three places where it appears before the words "limited liability partnership".

Section 2. Amend § 18-109(a), Chapter 18, Title 6 of the Delaware Code by deleting from the last sentence thereof the words "subsections (b) and (c)" and by substituting in lieu thereof the words "subsections (b), (c) and (d)" and by deleting from the last sentence thereof the words "to a person who is a member of a limited liability company and who" and by substituting in lieu thereof "to a person, whether or not a member of a limited liability company, who".

Section 3. Amend § 18-109(d), Chapter 18, Title 6 of the Delaware Code by adding the following sentence to the end of subsection (d) thereof: "Except by agreeing to arbitrate any arbitrable matter in a specified jurisdiction or in the State of Delaware, a member who is not a manager may not waive its right to maintain a legal action or proceeding in the courts of the State of Delaware with respect to matters relating to the organization or internal affairs of a limited liability company."

Section 4. Amend § 18-203, Chapter 18, Title 6 of the Delaware Code by deleting the words ", or upon the conversion of a domestic limited liability company approved in accordance with § 18-216 of this title" from the first sentence thereof.

Section 5. Amend § 18-203, Chapter 18, Title 6 of the Delaware Code by deleting the words "or upon the conversion of a domestic limited liability company approved in accordance with § 18-216 of this title" from the second sentence thereof.

Section 6. Amend § 18-203, Chapter 18, Title 6 of the Delaware Code by deleting subsection (5) of the second sentence thereof, by adding the word "and" after the ";," at the end of subsection (4) of the second sentence thereof and by renumbering existing subsection (6) as subsection (5) of the second sentence thereof.

Section 7. Amend § 18-209(a), Chapter 18, Title 6 of the Delaware Code by deleting the word "registered" in both places where it appears before the words "limited liability".

Section 8. Amend § 18-212(a), Chapter 18, Title 6 of the Delaware Code by deleting the word "registered" in both places where it appears before the words "limited liability".

Section 9. Amend § 18-212, Chapter 18, Title 6 of the Delaware Code by deleting subsection (h) in its entirety and by substituting in lieu thereof the following new subsection (h):

"(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 remain vested in the domestic limited liability company to which such non-United States entity has been domesticated and shall be the property of such domestic limited liability company, 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 remain attached to the domestic limited liability company to which such non-

United States entity has been domesticated, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic limited liability company. The rights, privileges, powers and interests in property of the non-United States entity, as well as the debts, liabilities and duties of the non-United States entity, shall not be deemed, as a consequence of the domestication, to have been transferred to the domestic limited liability company to which such non-United States entity has domesticated for any purpose of the laws of the State of Delaware."

Section 10. Amend § 18-213, Chapter 18, Title 6 of the Delaware Code by adding at the end of subsection (d) thereof a new sentence reading as follows:

"Unless otherwise agreed, the transfer or domestication of a limited liability company out of the State of Delaware in accordance with this section shall not require such limited liability company to wind up its affairs under § 18-803 of this title or pay its liabilities and distribute its assets under § 18-804 of this title."

Section 11. Amend § 18-214(a), Chapter 18, Title 6 of the Delaware Code by deleting the word "registered" in both places where it appears before the words "limited liability".

Section 12. Amend § 18-214, Chapter 18, Title 6 of the Delaware Code by deleting subsection (f) in its entirety and by substituting in lieu thereof the following new subsection (f):

"(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 remain vested in the domestic limited liability company to which such other entity has converted and shall be the property of such domestic limited liability company, 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 remain attached to the domestic limited liability company to which such other entity has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic limited liability company. The rights, privileges, powers and interests in property of the other entity, as well as the debts, liabilities and duties of the other entity, shall not be deemed, as a consequence of the conversion, to have been transferred to the domestic limited liability company to which such other entity has converted for any purpose of the laws of the State of Delaware."

Section 13. Amend § 18-214, Chapter 18, Title 6 of the Delaware Code by redesignating existing subsection (i) thereof as a new subsection (j) and adding the following as a substitute subsection (i):

"(i) In connection with a conversion hereunder, rights or securities of, or interests in, the other entity which is to be converted to a domestic limited liability company may be exchanged for or converted into cash, property, rights or securities of, or interests in, such domestic limited liability company or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another domestic limited liability company or other entity."

Section 14. Amend § 18-215(b), Chapter 18, Title 6 of the Delaware Code by inserting the words "(directly or indirectly, including through a nominee or otherwise)" immediately after the word "held".

Section 15. Amend § 18-215(h), Chapter 18, Title 6 of the Delaware Code by deleting the words "; provided that a" immediately after the words "subsection (b) of this section" and by inserting in lieu thereof the words "A", and by inserting immediately prior to the third to last sentence thereof the following new sentence: "For purposes of the immediately preceding sentence, the term 'distribution' shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program."

Section 16. Amend § 18-215(j), Chapter 18, Title 6 of the Delaware Code by inserting in subsection (3) thereof the words "affirmative vote or" immediately prior to the words "written consent of".

Section 17. Amend § 18-215(j), Chapter 18, Title 6 of the Delaware Code by deleting subsection (4) in its entirety, by inserting the word "or" after the ";" at the end of subsection (3), and by renumbering subsection (5) as subsection (4).

Section 18. Amend § 18-215(k), Chapter 18, Title 6 of the Delaware Code by deleting the third sentence thereof in its entirety and by substituting in lieu thereof the following new sentence: "The persons winding up the affairs of a series shall provide for the claims and obligations of the series and distribute the assets of the series as provided in § 18-804 of this title, which section shall apply to the winding up and distribution of assets of a series."

Section 19. Amend § 18-216, Chapter 18, Title 6 of the Delaware Code by deleting the word "registered" in both places where it appears before the words "limited liability" in the first sentence thereof.

Section 20. Amend § 18-216, Chapter 18, Title 6 of the Delaware Code by adding at the end thereof two new sentences reading as follows:

"Unless otherwise agreed, the conversion of a domestic limited liability company to another business form pursuant to this section shall not require such limited liability company to wind up its affairs under § 18-803 of this title or pay its liabilities and distribute its assets under § 18-804 of this title. In connection with a conversion of a domestic limited liability company to another business form pursuant to this section, rights or securities of, or interests in, the domestic limited liability company which is to be converted may be exchanged for or converted into cash, property, rights or securities of, or interests in, the business form into which the domestic limited liability company is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another business form."

Section 21. Amend § 18-302(d), Chapter 18, Title 6 of the Delaware Code by deleting the phrase "interests in the liability company" in the first sentence thereof and substituting the word "members" in lieu thereof.

Section 22. Amend § 18-404(d), Chapter 18, Title 6 of the Delaware Code by adding the words "at which all managers entitled to vote thereon were present and voted" at the end of the first sentence.

Section 23. Amend § 18-607, Chapter 18, Title 6 of the Delaware Code by adding to the end of subsection (a) thereof a new sentence reading as follows: "For purposes of this subsection (a), the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program."

Section 24. Amend § 18-703, Chapter 18, Title 6 of the Delaware Code by deleting said section together with its heading in its entirety and substituting in lieu thereof the following:

"18-703 Member's limited liability company interest subject to charging order.

(a) On application by a judgment creditor of a member or of a member's assignee, a court having jurisdiction may charge the limited liability company 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 limited liability company which receiver shall have only the rights of an assignee, 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 limited liability company interest. The court may order a foreclosure of the limited liability company interest subject to the charging order at any time. The purchaser at the foreclosure sale has only the rights of an assignee.

(c) Unless otherwise provided in a limited liability company agreement, at any time before foreclosure, a limited liability company interest charged may be redeemed:

(1) by the judgment debtor;

- (2) with property other than limited liability company property, by one or more of the other members; or
- (3) by the limited liability company with the consent of all of the members whose interests are not so charged.
- (d) This chapter does not deprive a member of a right under exemption laws with respect to the member's limited liability company interest.
- (e) This section provides the exclusive remedy by which a judgment creditor of a member or member's assignee may satisfy a judgment out of the judgment debtor's limited liability company interest.
- (f) No creditor of a member shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the limited liability company."

Section 25. Amend § 18-804, Chapter 18, Title 6 of the Delaware Code by inserting the following new sentence immediately after the first sentence of subsection (c) thereof: "For purposes of the immediately preceding sentence, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program."

Section 26. Amend § 18-1101(c), Chapter 18, Title 6 of the Delaware Code by adding the words "or to an other person that is a party to or is otherwise bound by a limited liability company agreement" after the words "another member or manager", by deleting the word "a" after the word "under" in subsection (1) thereof and by substituting in lieu thereof the word "the", by adding the words "or to any such other person" after the words "other member or manager" in subsection (1) thereof and by deleting the word "a" after the words "by provisions in" in subsection (2) thereof and by substituting in lieu thereof the word "the".

Section 27. This Act shall become effective August 1, 2000.

Approved June 30, 2000

CHAPTER 390

FORMERLY

SENATE BILL NO. 371

AN ACT TO AMEND THE DELAWARE REVISED UNIFORM PARTNERSHIP ACT, CHAPTER 15, TITLE 6 OF THE DELAWARE CODE, RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC PARTNERSHIPS AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED LIABILITY PARTNERSHIPS.

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

Section 1. Amend § 15-103(b), Chapter 15, Title 6 of the Delaware Code by deleting subsection (8) thereof, by adding the word "or" after the ";" at the end of subsection (6) thereof, and by deleting from the end of subsection (7) thereof "; or", and by substituting in lieu thereof ".".

Section 2. Amend § 15-103, Chapter 15, Title 6 of the Delaware Code by relettering existing subsections (c) and (d) thereof as new subsections (d) and (e), respectively, and by adding a new subsection (c) as follows:

"(c) Notwithstanding anything to the contrary contained in this section, Sections 15-201, 15-203 and 15-501 may be modified only to the extent provided in a statement of partnership existence and in a partnership agreement."

Section 3. Amend § 15-103(d), Chapter 15, Title 6 of the Delaware Code by adding the words "that is a party to or is otherwise bound by a partnership agreement" immediately prior to the words "for the partner's".

Section 4. Amend § 15-104(b), Chapter 15, Title 6 of the Delaware Code by adding the word "a" after the words "No obligation of" in the first sentence thereof.

Section 5. Amend § 15-105(d), Chapter 15, Title 6 of the Delaware Code by deleting the words ", or upon the conversion of a domestic partnership approved in accordance with Section 15-903 of this chapter" from the fifth sentence thereof.

Section 6. Amend § 15-105(d), Chapter 15, Title 6 of the Delaware Code by deleting the words "or upon the conversion of a domestic partnership approved in accordance with Section 15-903 of this chapter" from the sixth sentence thereof.

Section 7. Amend § 15-105(d), Chapter 15, Title 6 of the Delaware Code by deleting subsection (4) of the sixth sentence thereof, by adding the word "and" after the ";" at the end of subsection (3) of the sixth sentence thereof and by renumbering existing subsection (5) as subsection (4) of the sixth sentence thereof.

Section 8. Amend § 15-106, Chapter 15, Title 6 of the Delaware Code by adding a new subsection (c) as follows:

"(c) If (i) a partnership agreement provides for the application of the laws of the State of Delaware, and (ii) the partnership files with the Secretary of State a statement of partnership existence, then the partnership agreement shall be governed by and construed under the laws of the State of Delaware."

Section 9. Amend § 15-109(b), Chapter 15, Title 6 of the Delaware Code by adding the word "the" after the words "taken by" in the last sentence thereof.

Section 10. Amend § 15-114(d), Chapter 15, Title 6 of the Delaware Code by deleting the word "proscribed" and by substituting in lieu thereof the word "prescribed".

Section 11. Amend § 15-201(a), Chapter 15, Title 6 of the Delaware Code by deleting the words "or to the extent".

Section 12. Amend § 15-202, Chapter 15, Title 6 of the Delaware Code by deleting subsection (b) thereof in its entirety and by inserting in lieu thereof the following new subsection (b):

"(b) Subject to Section 15-1206, an association formed under a statute other than (i) this chapter, (ii) a predecessor statute or (iii) a comparable statute of another jurisdiction, is not a partnership under this chapter."

Section 13. Amend § 15-203, Chapter 15, Title 6 of the Delaware Code by deleting the word "Property" at the beginning of the sentence and by substituting in lieu thereof the words "Unless otherwise provided in a statement of partnership existence and in a partnership agreement, property".

Section 14. Amend § 15-205, Chapter 15, Title 6 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following new section:

"Each person to be admitted as a partner to a partnership formed under either Section 15-202(a)(i) or Section 15-202(a)(ii) of this Chapter may be admitted as a partner and may receive a partnership interest in the partnership without making a contribution or being obligated to make a contribution to the partnership. Each person to be admitted as a partner to a partnership formed under either Section 15-202(a)(i) or Section 15-202(a)(ii) of this Chapter may be admitted as a partner without acquiring an economic interest in the partnership. Nothing contained in this section shall affect a partner's liability under Section 15-306."

Section 15. Amend § 15-309(a), Chapter 15, Title 6 of the Delaware Code by deleting the words "partnership interests" and by substituting in lieu thereof the words "economic interests", by inserting the words "limited liability" immediately prior to the word "partnership" in all five remaining places where the word "partnership" appears in said subsection, and by adding at the end of subsection (a) the following new sentence: "For purposes of this subsection (a), the term 'distribution' shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program."

Section 16. Amend § 15-407(d), Chapter 15, Title 6 of the Delaware Code by adding the words "at which all partners entitled to vote thereon were present and voted" at the end of the first sentence.

Chapter 390

Vol.72

Section 17. Amend § 15-408, Chapter 15, Title 6 of the Delaware Code by deleting the "." after the word "partner" in subsection (i) thereof.

Section 18. Amend § 15-501, Chapter 15, Title 6 of the Delaware Code by deleting the word "A" at the beginning of the sentence and by substituting in lieu thereof the words "Unless otherwise provided in a statement of partnership existence and in a partnership agreement, a".

Section 19. Amend § 15-504, Chapter 15, Title 6 of the Delaware Code by adding at the end thereof a new subsection (f) reading as follows:

"(f) No creditor of a partner shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the partnership."

Section 20. Amend § 15-601, Chapter 15, Title 6 of the Delaware Code by deleting subsection (6) thereof in its entirety and by inserting in lieu thereof the following new subsection (6):

"(6) the partner's:

- (i) making an assignment for the benefit of creditors;
- (ii) filing a voluntary petition in bankruptcy;
- (iii) being adjudged a bankrupt or insolvent, or having entered against that partner an order for relief in any bankruptcy or insolvency proceeding;
- (iv) filing a petition or answer seeking for that partner any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation;
- (v) filing an answer or other pleading admitting or failing to contest the material allegations of a petition filed against that partner in any proceeding of this nature;
- (vi) seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator of that partner or of all or any substantial part of that partner's properties; or
- (vii) failing, within 120 days after its commencement, to have dismissed any proceeding against that partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, or failing, within 90 days after the appointment without that partner's consent or acquiescence, to have vacated or stayed the appointment of a trustee, receiver or liquidator of that partner or of all or any substantial part of that partner's properties, or failing, within 90 days after the expiration of any such stay, to have the appointment vacated;"

Section 21. Amend § 15-701(b), Chapter 15, Title 6 of the Delaware Code by deleting the first sentence thereof in its entirety and by substituting in lieu thereof the following:

"The buyout price of a dissociated partner's partnership interest is an amount equal to the fair value of such partner's economic interest as of the date of dissociation based upon such partner's right to share in distributions from the partnership."

Section 22. Amend § 15-801, Chapter 15, Title 6 of the Delaware Code by deleting subsection (5) thereof in its entirety and by inserting in lieu thereof the following new subsection (5):

"(5) on application by or for a partner to the Court of Chancery, the entry of a decree of dissolution of a partnership by the Court of Chancery upon a determination by the Court of Chancery that it is not reasonably practicable to carry on the partnership business, purpose or activity in conformity with the partnership agreement; or".

Section 23. Amend § 15-807(i), Chapter 15, Title 6 of the Delaware Code by inserting the following sentence immediately after the first sentence of subsection (i): "For purposes of the immediately preceding sentence, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program."

Section 24. Amend § 15-807, Chapter 15, Title 6 of the Delaware Code by deleting subsection (k) thereof in its entirety and by inserting in lieu thereof the following new subsection (k): "(k) Section 15-309 of this chapter shall not apply to a distribution to which this section applies."

Section 25. Amend § 15-901, Chapter 15, Title 6 of the Delaware Code by deleting subsection (f) in its entirety and by substituting in lieu thereof the following new subsection (f):

"(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 remain vested in the domestic partnership to which such other entity has converted and shall be the property of such domestic partnership, 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 remain attached to the domestic partnership to which such other entity has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic partnership. The rights, privileges, powers and interests in property of the other entity, as well as the debts, liabilities and duties of the other entity, shall not be deemed, as a consequence of the conversion, to have been transferred to the domestic partnership to which such other entity has converted for any purpose of the laws of the State of Delaware."

Section 26. Amend § 15-901, Chapter 15, 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 domestic partnership pursuant to this section, the domestic 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 27. Amend § 15-901, Chapter 15, Title 6 of the Delaware Code by redesignating existing subsection (i) thereof as a new subsection (j) and adding the following as a substitute subsection (i):

"(i) In connection with a conversion hereunder, rights or securities of, or interests in, the other entity which is to be converted to a domestic partnership may be exchanged for or converted into, cash, property, rights or securities of, or interests in, such domestic partnership or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another domestic partnership or other entity."

Section 28. Amend § 15-902, Chapter 15, Title 6 of the Delaware Code by deleting subsection (e) thereof and by relettering existing subsection (f) as subsection (e), existing subsection (g) as subsection (f), existing subsection (h) as subsection (g), existing subsection (i) as subsection (h), existing subsection (j) as subsection (i) and existing subsection (k) as subsection (j).

Section 29. Amend § 15-903, Chapter 15, Title 6 of the Delaware Code by adding at the end thereof a new sentence reading as follows:

"Unless otherwise agreed, the conversion of a domestic partnership to another business form pursuant to this section shall not require such partnership to wind up its affairs under Subchapter VIII or pay its liabilities and distribute its assets under Subchapter VIII. In connection with a conversion of a domestic partnership to another business form pursuant to this section, rights or securities of, or interests in, the domestic partnership which is to be converted may be

exchanged for or converted into cash, property, rights or securities of, or interests in, the business form into which the domestic partnership is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another business form."

Section 30. Amend § 15-904, Chapter 15, Title 6 of the Delaware Code by deleting subsection (h) in its entirety and by substituting in lieu thereof the following new subsection (h):

"(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 remain vested in the domestic partnership to which such non-United States entity has been domesticated and shall be the property of such domestic partnership, 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 remain attached to the domestic partnership to which such non-United States entity has been domesticated, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic partnership. The rights, privileges, powers and interests in property of the non-United States entity, as well as the debts, liabilities and duties of the non-United States entity, shall not be deemed, as a consequence of the domestication, to have been transferred to the domestic partnership to which such non-United States entity has domesticated for any purpose of the laws of the State of Delaware."

Section 31. Amend § 15-904, Chapter 15, 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 domestic partnership pursuant to this section, the domestic 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 partnership. If, following domestication, a non-United States entity that has become domesticated as a domestic partnership continues its existence in the foreign country or other foreign jurisdiction in which it was existing immediately prior to domestication, the domestic 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 32. Amend § 15-905, Chapter 15, Title 6 of the Delaware Code by adding at the end of subsection (d) thereof a new sentence reading as follows:

"Unless otherwise agreed, the transfer or domestication of a partnership out of the State of Delaware in accordance with this section shall not require such partnership to wind up its affairs under Subchapter VIII or pay its liabilities and distribute its assets under Subchapter VIII."

Section 33. Amend § 15-905, Chapter 15, 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 partnership continues to exist as a partnership of the State of Delaware following the filing of a certificate of transfer and continuance, the continuing domestic partnership and the entity formed, incorporated, created or that otherwise came into being as a consequence of the transfer of the 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 34. This Act shall become effective August 1, 2000.

Approved June 30, 2000

CHAPTER 391

FORMERLY

SENATE BILL NO. 374 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE UNLAWFUL TRADE OF DOG OR CAT BYPRODUCTS.

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

Section 1. Amend Chapter 5, Title 11 of the Delaware Code, by adding thereto, between existing § 1325 and § 1326 thereof, a new section as follows:

"§ 1325A. The unlawful trade in dog or cat byproducts; class B misdemeanor; class A misdemeanor. penalties.

(a)(1) A person is guilty of the unlawful trade in dog or cat byproducts in the second degree if the person knowingly or recklessly sells, barter, or offers for sale or barter, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat.

(2) This subsection shall not apply to the sale or barter, or offering for sale or barter, of the fur or hair of a domestic dog or cat which has been cut at a commercial grooming establishment, or at a veterinary office or clinic, or for scientific research purposes.

(3) The unlawful trade in dog or cat byproducts in the second degree is a Class B Misdemeanor.

(b)(1) A person is guilty of the unlawful trade in dog or cat byproducts in the first degree if the person knowingly or recklessly sells, barter, or offers for sale or barter, the flesh of a domestic dog or cat or any product made in whole or in part from the flesh of a domestic dog or cat.

(2) The unlawful trade in dog or cat byproducts in the first degree is a Class A Misdemeanor.

(c) In addition to any other penalty provided by law, any person convicted of a violation of this section shall be:

(1) prohibited from owning or possessing any domestic dog or cat for 15 years after said conviction, except for those grown, raised or produced within the State for resale, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale;

(2) subject to a fine in the amount of \$2,500 in any court of competent jurisdiction; and

Chapter 391
Vol. 72

(3) required to forfeit any domestic dog or cat illegally owned in accordance with the provisions of Chapter 79 of Title 3.

(d) For the purposes of this section, the term 'domestic dog or cat' means a dog (*Canis familiaris*) or cat (*Felis catus* or *Felis domesticus*) that is generally recognized in the United States as being a household pet and shall not include coyote, fox, lynx, bobcat, or any other wild or commercially raised canine or feline species the fur or hair of which is recognized for use in warm clothing and outer wear by the United States Department of Agriculture and which species is not recognized as an endangered or threatened species by the United States Fish and Wild Life Service or the Delaware Department of Natural Resources and Environmental Control."

Section 2. Amend § 2702, Title 11 of the Delaware Code, by redesignating subsections (43) through (53) thereof as subsections (44) through (54) respectively and by inserting therein a new subsection (43) as follows:

"(43) Section 1325A of this title (the unlawful trade in dog or cat byproducts; class B misdemeanor; class A misdemeanor);"

Approved June 30, 2000

CHAPTER 392

FORMERLY

SENATE BILL NO. 376

AN ACT TO AMEND CHAPTER 15, TITLE 31 AND CHAPTER 85, TITLE 29 OF THE DELAWARE CODE RELATING TO THE WELFARE EMPLOYMENT COMMITTEE AND THE WORKFORCE DEVELOPMENT COUNCIL.

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

Section 1. Amend Section 1509(a), Chapter 15, Title 31, Delaware Code by deleting the words "Workforce Development Council (the "Council")" where they appear and inserting in lieu thereof the words "Workforce Investment Board (the "Board")".

Section 2. Amend Section 1509(b), Chapter 15, Title 31, Delaware Code by deleting the words "current members of the Council" and inserting in lieu thereof the words "at large".

Section 3. Amend Section 1509, Chapter 15, Title 31, Delaware Code by deleting the word "Council" where it appears and inserting in lieu thereof the word "Board".

Section 4. Amend Section 8516(7), Chapter 85, Title 29, Delaware Code by deleting the words "Workforce Development Council" and inserting in lieu thereof the words "Workforce Investment Board".

Approved June 30, 2000

CHAPTER 393

FORMERLY

SENATE BILL NO. 385

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO OCCUPATIONAL-VOCATIONAL UNIT FUNDING.

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

Section 1. Amend §1706, Title 14 of the Delaware Code by adding the following to the end of the second paragraph:

"At least ninety percent (90%) of the occupational-vocational unit Division II funds, with the exception of Division II -- Energy funds, shall be allocated to each school that generates these funds and expended to support the

State approved occupational-vocational courses and programs at that school. Each school district shall establish line item accounts for occupational-vocational Division II funds. These funds are in addition to the regularly generated units and all other financial resources normally allocated to each school. Random audits shall be scheduled and conducted by the State Auditor. The Secretary of Education shall request an annual report from the State Auditor evidencing an audit schedule of 10% of the affected schools.

The second paragraph of this section notwithstanding, local school districts may request a waiver of the 90% requirement subject to the approval of the Executive Director of the Delaware Advisory Council on Career and Vocational Education, the Secretary of Education and the Controller General."

Approved June 30, 2000

CHAPTER 394

FORMERLY

SENATE BILL NO. 400

AN ACT TO AMEND CHAPTER 40, TITLE 31 OF THE DELAWARE CODE RELATING TO THE DELAWARE STATE HOUSING AUTHORITY.

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

Section 1. Amend Chapter 40, Title 31 of the Delaware Code by adding a new §4028 as follows:

"§4028.

a) Whenever a Low Income Housing Tax Credit Program application is submitted to the Delaware State Housing Authority, the Housing Director shall notify by certified and regular mail any state senators and representatives in whose districts any development project will be located. In addition, the Housing Director shall so notify the chief executive officer of any local government in whose jurisdiction any development project will be located.

b) Whenever a preliminary ranking of Low Income Housing Tax Credit Program applications is made by the Delaware State Housing Authority, the Housing Director shall notify by certified and regular mail any state senators and representatives in whose districts any development project will be located. In addition, the Housing Director shall so notify the chief executive officer of any local government in whose jurisdiction any development project will be located."

Section 2. Amend §4030, Chapter 40, Title 31 of the Delaware Code by adding the following at the end thereof:

"(e) When any loan or grant application is submitted to the Housing Development Fund, the Housing Director of the Delaware State Housing Authority shall notify by certified and regular mail any state senators and representatives in whose districts any development project funded by said loan or grant will be located. In addition, the Housing Director shall so notify the chief executive officer of any local government in whose jurisdiction any development project will be located.

(f) When any loan or grant is awarded by the Housing Development Fund, the Housing Director of the Delaware State Housing Authority shall notify by certified and regular mail any state senators and representatives in whose districts any development project funded by said loan or grant will be located. In addition, the Housing Director shall so notify the chief executive officer of any local government in whose jurisdiction any development project will be located."

Approved June 30, 2000

CHAPTER 395

FORMERLY

SENATE BILL NO. 420

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 2001; 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, 2001, 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 2001, 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:

INDEX - Section 1

	<u>PAGE</u>
LEGISLATIVE.....	2
JUDICIAL.....	4
EXECUTIVE.....	7
OTHER ELECTIVE OFFICES	12
LEGAL.....	14
DEPARTMENT OF STATE	15
DEPARTMENT OF FINANCE	18
DEPARTMENT OF ADMINISTRATIVE SERVICES.....	20
DEPARTMENT OF HEALTH AND SOCIAL SERVICES.....	22
DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES	28
DEPARTMENT OF CORRECTION.....	30
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL	32
DEPARTMENT OF PUBLIC SAFETY	36
DEPARTMENT OF TRANSPORTATION.....	39
DEPARTMENT OF LABOR	42
DEPARTMENT OF AGRICULTURE	44
DEPARTMENT OF ELECTIONS	45
FIRE PREVENTION COMMISSION	46
DELAWARE NATIONAL GUARD	47
ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS	48
HIGHER EDUCATION.....	49
UNIVERSITY OF DELAWARE.....	49
DELAWARE GEOLOGICAL SURVEY	49
DELAWARE STATE UNIVERSITY	49
DELAWARE TECHNICAL AND COMMUNITY COLLEGE	50
DELAWARE INSTITUTE OF VETERINARY MEDICAL EDUCATION	51
DEPARTMENT OF EDUCATION.....	52

INDEX - Epilogue

	PAGE
GENERAL.....	(Sections 2 - 45)..... 57
TOBACCO - MASTER SETTLEMENT AGREEMENT.....	(Section 46)..... 109
LEGISLATIVE.....	(Sections 47 - 51)..... 111
JUDICIAL.....	(Sections 52 - 58)..... 112
EXECUTIVE.....	(Sections 59 - 104)..... 114
OTHER ELECTIVE OFFICES	(Sections 105 - 114)..... 137
LEGAL.....	(Sections 115 - 124)..... 139
DEPARTMENT OF STATE	(Sections 125 - 137)..... 146
DEPARTMENT OF FINANCE	(Sections 138 - 144)..... 150
DEPARTMENT OF ADMINISTRATIVE SERVICES.....	(Sections 145 - 157)..... 153
DEPARTMENT OF HEALTH AND SOCIAL SERVICES.....	(Sections 158 - 211)..... 157
DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES.....	(Sections 212 - 233)..... 178
DEPARTMENT OF CORRECTION.....	(Sections 234 - 253)..... 185
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL....	(Sections 254 - 282)..... 192
DEPARTMENT OF PUBLIC SAFETY	(Sections 283 - 293)..... 199
DEPARTMENT OF TRANSPORTATION.....	(Sections 294 - 310)..... 202
DEPARTMENT OF LABOR	(Sections 311 - 312)..... 212
DEPARTMENT OF AGRICULTURE.....	(Sections 313 - 320)..... 214
DEPARTMENT OF ELECTIONS.....	(Sections 321 - 326)..... 217
FIRE PREVENTION COMMISSION	(Sections 327 - 332)..... 219
DELAWARE NATIONAL GUARD.....	(Section 333)..... 221
HIGHER EDUCATION.....	(Sections 334 - 346)..... 222
DEPARTMENT OF EDUCATION.....	(Sections 347 - 447)..... 230

DEPARTMENTS

Year ending June 30, 2001

(01-00-00) LEGISLATIVE

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
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37
38
39
40
41
42
43
44

Personnel		
NSF	ASF	GF
		27.0
		27.0

(01-01-01) General Assembly - House
 Personnel Costs
 Travel
 Mileage - Legislators
 Other - Travel
 Contractual Services
 Supplies and Materials
 Capital Outlay
 Expenses - House Members
 House Committee Expenses
TOTAL -- General Assembly - House

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
			3,428.2
			73.2
			37.6
			441.0
			45.0
			50.0
			298.0
			60.0
			4,433.0

		17.0
		17.0

(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

	2,250.2
	52.3
	35.2
	175.0
	35.0
	45.0
	50.0
	175.1
	75.0
	2,892.8

(01-05-01) Commission on Interstate Cooperation
 Travel
 Legislative Travel
 Contractual Services
 Supplies and Materials
 Council of State Governments
 Delaware River Basin Commission
 Southern Governors Conference
 Interstate Agriculture Committee
 National Conference of State Legislatures
 Eastern Trade Council
 Legislation for Gaming States
TOTAL -- Commission on Interstate Cooperation

	18.0
	100.0
	40.0
	0.5
	62.6
	392.0
	4.7
	25.0
	80.4
	3.0
	3.0
	729.2

Year ending June 30, 2001

(01-00-00) LEGISLATIVE

Personnel

\$ Program

\$ Line Item

NSF	ASF	GF
		19.0
		19.0

ASF	GF	ASF	GF
			1,046.7
			18.3
			150.7
			119.7
			36.0
			4.5
			100.0
			35.0
			38.5
			1,549.4

(01-08-00) Legislative Council

(01-08-01) Division of Research

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

1,046.7

18.3

150.7

119.7

36.0

4.5

100.0

35.0

38.5

1,549.4

(01-08-02) Office of the Controller General

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 Clean Air Policy Comm.

Legal - Neighborhood Schools

Legislative Council

TOTAL -- Office of the Controller General

1,097.6

14.4

365.9

70.0

2.0

8.3

15.0

10.0

25.0

10.0

20.0

50.0

25.0

1,713.2

(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

15.4

16.5

0.2

32.1

TOTAL -- Legislative Council

3,517.1

TOTAL -- LEGISLATIVE

11,572.1

(02-00-00) JUDICIAL

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(02-01-00) Supreme Court				
2				Personnel Costs			9.5	2,007.0
3				Travel			6.8	18.4
4				Contractual Services			121.4	101.1
5				Supplies and Materials			5.0	42.2
6	11.3		27.0	Capital Outlay			6.7	
7				Other Items:				
8				Court on the Judiciary				5.0
9				TOTAL -- Supreme Court			149.4	2,173.7
10	11.3		27.0					
11				(-10) Supreme Court	149.4	2,173.7		
12	11.3		27.0	(-40) Reg-Arms of the Court				
13	11.3		27.0	TOTAL -- Internal Program Units	149.4	2,173.7		
14								
15				(02-02-00) Court of Chancery				
16				Personnel Costs				1,912.3
17				Travel				18.0
18				Contractual Services				80.6
19				Supplies and Materials				34.5
20				Capital Outlay				7.5
21			26.0	TOTAL -- Court of Chancery				2,052.9
22								
23				(-10) Court of Chancery		2,052.9		
24			26.0	TOTAL -- Internal Program Unit		2,052.9		
25			26.0					
26								
27				(02-03-00) Superior Court				
28	4.0		286.0	Personnel Costs				14,122.6
29				Travel				67.4
30				Contractual Services				1,437.8
31				Supplies and Materials				257.7
32				Capital Outlay				56.0
33	4.0		286.0	TOTAL -- Superior Court				15,941.5
34								
35				(-10) Superior Court		15,941.5		
36	4.0		286.0	TOTAL -- Internal Program Unit		15,941.5		
37								
38				(02-06-00) Court of Common Pleas				
39	1.0	3.0	126.0	Personnel Costs			110.8	5,968.0
40				Travel				16.0
41				Contractual Services				236.1
42				Supplies and Materials				94.2
43				Capital Outlay			4.0	15.5
44	1.0	3.0	126.0	TOTAL -- Court of Common Pleas			114.8	6,329.8
45								
46				(-10) Court of Common Pleas	114.8	6,329.8		
47	1.0	3.0	126.0	TOTAL -- Internal Program Unit	114.8	6,329.8		
48								
49								
50								
51								
52								
53								

Year ending June 30, 2001

(02-00-00) JUDICIAL

Personnel

NSF	ASF	GF
9.9	63.0	259.0
9.9	63.0	259.0
9.9	63.0	259.0
9.9	63.0	259.0

(02-08-00) Family Court

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
NCC Admin. Office Space

TOTAL -- Family Court

(-10) Family Court

TOTAL -- Internal Program Unit

S Program

ASF	GF
2,856.5	13,432.4
2,856.5	13,432.4
2,856.5	13,432.4

S Line Item

ASF	GF
2,480.5	12,591.7
12.8	30.0
209.0	568.5
64.0	129.6
90.2	112.6
2,856.5	13,432.4

(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

12,695.0
12,695.0

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

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Retired Judges
Continuing Judicial Education
Victim Offender Mediation Program
Conflict Attorneys
CASA Attorneys
Elder Law Program
Family Court Civil Attorney
Debt Service

TOTAL -- Administrative Office of the Courts - Court Services

(-01) Office of the State

Court Administrator

(-03) Office of State Court

Collections Enforcement

(-04) Judicial Information Center

(-05) Law Libraries

TOTAL -- Internal Program Units

3,652.6
431.8
2,506.7
483.8
7,074.9

Year ending June 30, 2001

1 (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

	8.0	7.5
		7.5
		1.0
		4.0
	8.0	20.0

26.2	74.0	1,046.5
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**TOTAL – Administrative Office of the
Courts - Non-Judicial Services**

(-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

TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF

387.9	1,026.2
26.0	25.4
77.1	122.1
7.7	20.8
6.0	1.6
	8.0
1,700.0	40.0
1.5	
2,206.2	1,244.1

2,206.2	400.0
	423.7
	71.0
	349.4
2,206.2	1,244.1

5,326.9	60,944.3
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TOTAL - JUDICIAL

Year ending June 30, 2001

(10-00-00) EXECUTIVE

Personnel		
NSF	ASF	GF
	1.0	24.0
	1.0	24.0

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		35.9	1,678.4
		0.5	12.6
		114.1	213.3
		0.2	21.7
			45.0
			8.7
		150.7	1,979.7

(10-01-01) Office of the Governor

16		
17		12.8
18		28.0
19		
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21		
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49		
50		
51		
	12.8	28.0

(10-02-00) Office of the Budget		
Personnel Costs	490.2	2,612.9
Travel	8.6	39.3
Contractual Services	707.4	378.2
Supplies and Materials	12.8	41.2
Capital Outlay		10.0
Data Processing - Development Projects		2,000.0
Budget Automation - Operations		50.0
Contingency:		
One-Time Appropriations		8,811.4
Prior Years' Obligations		400.0
Self Insurance		3,000.0
Selective Market/Maintenance Reviews		500.0
Hazardous Duty Pay		300.0
West Nile Virus		200.0
Legal Fees		1,400.0
Motor Fuel Tax - Operations		1,244.8
Family Services Cabinet Council		71.0
Evaluation Project		100.0
KIDS Court		100.0
Salary Contingency	1,500.0	4,387.5
Personnel Costs - Salary Shortage		400.0
Salary Contingency - Overtime		305.8
Compensation Commission		500.0
Transition		350.0
School-to-Work		10.0
Cancer Resource Centers		62.0
Tax Warrant Adjustment		100.0
Generic Check Project		25.0
Delaware High School Football Championship		25.0
Elder Tax Relief and Education Expenses Fund		8,900.0
Tax Relief and Education Expenses Fund		17,500.0
Appropriated Special Funds	23,000.0	
Budget Commission		100.0
Debt Service		1,709.4
TOTAL -- Office of the Budget	25,719.0	55,633.5

53		9.0	28.0
54			
55			
56	3.8		6.0
57	3.8	9.0	34.0

(-01) Office of the Budget Administration	24,219.0	6,469.4
(-04) Contingencies and One-Time Items	1,500.0	48,592.5
(-06) Budget Commission		100.0
(-07) Statistical Analysis Center		471.6
TOTAL -- Internal Program Units	25,719.0	55,633.5

(10-00-00) EXECUTIVE

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

(10-03-00) Delaware Economic Development Office

(10-03-01) Office of the Director

		27.0
		27.0

Personnel Costs		1,511.5
Travel		23.6
Contractual Services		509.5
Supplies and Materials		16.0
Capital Outlay		10.0
Debt Service		112.5
Blue Collar	700.0	
TOTAL--Office of the Director	700.0	2,183.1

(10-03-02) Delaware Tourism Office

		10.0
		10.0

Personnel Costs		492.0
Travel		20.2
Contractual Services	1,072.8	
Supplies and Materials	8.5	
Capital Outlay		10.0
Other Items:		
Main Street	75.0	
Matching Grants and Grants	250.0	
Kalmar Nyckel	250.0	
National H.S. Wrestling Tournament	27.0	
Historical Marker Book	50.0	
Juneteenth	5.0	
Junior Miss		0.5
Mother of the Year		0.8
Young Mother of the Year		0.8
Senior Miss Pageant		0.8
Flags and Pins	45.0	
TOTAL -- Delaware Tourism Office	1,783.3	525.1

(10-03-03) Delaware Economic Development Authority

	4.0	15.0
	4.0	15.0

Personnel Costs	233.0	1,092.9
Travel	20.0	39.4
Contractual Services	313.1	320.9
Supplies and Materials	10.0	14.9
Energy	1.5	
Capital Outlay	30.0	10.0
Other Items:		
International Trade Council		225.0
World Trade Center		75.0
Other Items		65.0
Debt Service		2,572.5
TOTAL -- Delaware Economic Development Authority	607.6	4,415.6

TOTAL - Delaware Economic Development Office

	4.0	52.0
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3,090.9	7,123.8
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(10-00-00) EXECUTIVE

Personnel

NSF	ASF	GF
-----	-----	----

\$ Program

ASF	GF
-----	----

\$ Line Item

ASF	GF
-----	----

(10-04-00) Office of State Personnel

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
First Quality Fund
Flexible Benefits Administration
Generic Aides/Handicapped Employees
Employee Recognition
Blue Collar
Workers' Compensation
Health Insurance-Retirees in Closed State
Police Plan
Blood Bank Membership Dues
Pensions - Paraplegic Veterans
Pensions - IMS
Retiree Conference
Other Items
Debt Service

3,819.2	2,268.7
42.1	19.4
1,392.2	967.5
103.5	69.4
64.5	22.3
	150.0
113.5	
	337.7
	13.6
140.0	
13,811.4	
	2,125.3
	88.0
	33.0
500.0	
5.0	
560.0	82.0
	156.3

TOTAL - Office of State Personnel

20,551.4	6,333.2
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(-02) Operations
(-04) Staff Development and Training
(-05) Insurance Coverage Office
(-06) Pensions

1,239.7	2,852.2
574.8	538.7
13,811.4	784.0
4,925.5	2,158.3

TOTAL -- Internal Program Units

20,551.4	6,333.2
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(10-05-00) Delaware Health Care Commission

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Tobacco Fund:
Personnel Costs
Other Items:
Educational Programs
Program Evaluation
Pilot Projects
DIMER Operations
DIDER Operations

	213.2
	26.6
	129.4
	15.5
	14.0
56.5	
	23.2
	15.1
1500.0	
	1,832.5
	148.0

TOTAL - Delaware Health Care Commission

1,556.5	2,417.5
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(-01) Delaware Health Care Commission
(-02) Delaware Institute of Medical
Education and Research
(-03) Delaware Institute of Dental
Education and Research

1,556.5	437.0
	1,832.5
	148.0

TOTAL -- Internal Program Units

1,556.5	2,417.5
---------	---------

(10-00-00) EXECUTIVE

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

(10-07-00) Criminal Justice

(10-07-01) Criminal Justice Council

12.2		12.8
12.2		12.8

Personnel Costs		682.2
Travel		7.8
Contractual Services		34.9
Supplies and Materials		3.8
Capital Outlay		2.1
Other Items:		
SENTAC		12.5
SENTAC Study	50.0	
Video Phone Fund	134.6	
Domestic Violence Coordinating Council		33.8
Pretrial Substance Abuse		39.5
Other Grants		117.2
TOTAL -- Criminal Justice Council	184.6	933.8

TOTAL -- Criminal Justice Council

(10-07-02) Delaware Justice Information System

1.0		8.0
1.0		8.0

Personnel Costs	505.8
Travel	5.8
Contractual Services	458.2
Supplies and Materials	16.7
TOTAL -- Delaware Justice Information System	986.5

TOTAL -- Delaware Justice Information System

TOTAL – Criminal Justice

13.2		20.8
------	--	------

184.6	1,920.3
-------	---------

(10-08-00) Delaware State Housing Authority

(10-08-01) Delaware State Housing Authority

7.0	54.0
7.0	54.0

Personnel Costs	2,561.4	
Travel	92.1	
Contractual Services	1,029.5	
Energy	53.7	
Supplies and Materials	137.9	
Capital Outlay	170.0	
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	307.5	
Home Improvement Insurance	1,500.0	
Debt Service		412.8
TOTAL - Delaware State Housing Authority	35,727.1	4,412.8

TOTAL -- Delaware State Housing Authority

Year ending June 30, 2001

(10-00-00) EXECUTIVE

Personnel

NSF	ASF	GF
-----	-----	----

	13.0	175.1
	13.0	175.1

(10-09-00) Office of Information Services

Personnel Costs
Travel
Contractual Services
Rental
Energy
Supplies and Materials
Capital Outlay

TOTAL -- Office of Information Services

	1.0	12.0
	4.0	44.0
	2.5	26.5
	1.0	14.0
	4.5	46.6
		2.0
		2.0
		1.0
		17.0
		10.0
	13.0	175.1

(-01) Administration
(-10) Application Technology
(-20) Base Technology
(-30) Telecommunication Technology
(-40) Operations
(-50) Organizational Effectiveness
(-60) Architect
(-70) Customer Assurance
(-80) Customer Services
(-90) Consultancy
TOTAL -- Internal Program Units

\$ Program

ASF	GF
-----	----

342.1	1,862.6
2,927.1	5,173.4
369.6	1,721.1
1,096.2	1,564.5
2,588.9	10,909.6
15.5	163.3
145.4	172.8
6.1	86.4
133.1	937.5
	956.1
7,624.0	23,547.3

\$ Line Item

ASF	GF
-----	----

731.3	10,811.2
103.7	81.9
4,561.8	4,640.2
2,051.5	7,451.1
	193.3
80.7	356.8
95.0	12.8
7,624.0	23,547.3

31.4	170.3	358.2
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TOTAL -- EXECUTIVE

94,604.2	103,368.1
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(12-00-00) OTHER ELECTIVE OFFICES1
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47
48**Personnel**

NSF	ASF	GF
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		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

	306.9
	7.3
	25.8
	2.8
	7.7
	350.5

(12-02-01) Auditor of Accounts

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay

TOTAL -- Auditor of Accounts

	12.0	39.0
	12.0	39.0

424.1	2,116.7
2.7	20.4
791.5	267.8
5.9	12.9
3.4	54.3
1,227.6	2,472.1

(12-03-00) Insurance Commissioner**(12-03-01) Regulatory Activities**

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Malpractice Review

TOTAL -- Regulatory Activities

	10.0	15.0
	10.0	15.0

531.2	750.5
30.0	3.6
140.9	139.7
3.1	2.5
20.0	
	10.0
725.2	906.3

(12-03-02) Bureau of Examination, Rehabilitation and Guaranty

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Arbitration Program
Contract Examiners

TOTAL -- Bureau of Examination, Rehabilitation and Guaranty

2.0	52.0	
2.0	52.0	

2,351.2	
104.4	
776.8	
27.1	
382.4	
30.0	
11,330.0	
15,001.9	

2.0	62.0	15.0
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TOTAL -- Insurance Commissioner

15,727.1	906.3
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Year ending June 30, 2001

(12-00-00) OTHER ELECTIVE OFFICES

Personnel

NSF	ASF	GF
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	8.0	14.0
	8.0	14.0

(12-05-00) State Treasurer

(12-05-01) Administration

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Deferred Compensation Program
Banking Services
Data Processing
Electronic Data Interchange

TOTAL -- Administration

(12-05-03) Debt Management

Expense of Issuing Bonds
Debt Service - Old
Debt Service - New
Debt Service - Local Schools
Debt Service - Solid Waste Authority
Debt Service - Refunding
Financial Advisor

TOTAL -- Debt Management

TOTAL -- State Treasurer

TOTAL -- OTHER ELECTIVE OFFICES

\$ Program

ASF	GF
-----	----

\$ Line Item

ASF	GF
-----	----

424.6	773.4
20.2	6.6
51.1	143.6
9.4	38.5
63.7	
	504.0
1,215.0	
50.0	
70.0	
1,904.0	1,466.1

	370.0
	13.2
	0.0
	16,061.3
	92.6
	2,845.9
	85.0
	19,468.0

1,904.0	20,934.1
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18,858.7	24,663.0
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(12-00-00) OTHER ELECTIVE OFFICES

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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	
ASF	GF

S Line Item	
ASF	GF

	306.9
	7.3
	25.8
	2.8
	7.7
	350.5

	12.0	39.0
	12.0	39.0

(12-02-01) Auditor of Accounts

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
TOTAL -- Auditor of Accounts

424.1	2,116.7
2.7	20.4
791.5	267.8
5.9	12.9
3.4	54.3
1,227.6	2,472.1

(12-03-00) Insurance Commissioner

(12-03-01) Regulatory Activities

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Malpractice Review
TOTAL -- Regulatory Activities

	10.0	15.0
	10.0	15.0

531.2	750.5
30.0	3.6
140.9	139.7
3.1	2.5
20.0	
	10.0
725.2	906.3

(12-03-02) Bureau of Examination,
Rehabilitation and Guaranty

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
Arbitration Program
Contract Examiners
**TOTAL -- Bureau of Examination, Rehabilitation
and Guaranty**

2.0	52.0	
2.0	52.0	

2,351.2	
104.4	
776.8	
27.1	
382.4	
30.0	
11,330.0	
15,001.9	

2.0	62.0	15.0
-----	------	------

TOTAL -- Insurance Commissioner

15,727.1	906.3
----------	-------

(12-00-00) OTHER ELECTIVE OFFICES

Personnel		
NSF	ASF	GF

	8.0	14.0
	8.0	14.0

	8.0	14.0
--	-----	------

2.0	82.0	74.0
-----	------	------

(12-05-00) State Treasurer

(12-05-01) Administration

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
 Deferred Compensation Program
 Banking Services
 Data Processing
 Electronic Data Interchange
TOTAL -- Administration

(12-05-03) Debt Management

Expense of Issuing Bonds
Debt Service - Old
Debt Service - New
Debt Service - Local Schools
Debt Service - Solid Waste Authority
Debt Service - Refunding
Financial Advisor
TOTAL -- Debt Management

TOTAL - State Treasurer**TOTAL -- OTHER ELECTIVE OFFICES**

S Program	
ASF	GF

S Line Item	
ASF	GF

424.6	773.4
20.2	6.6
51.1	143.6
9.4	38.5
63.7	
	504.0
1,215.0	
50.0	
70.0	
1,904.0	1,466.1

	370.0
	13.2
	0.0
	16,061.3
	92.6
	2,845.9
	85.0
	19,468.0

1,904.0	20,934.1
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18,858.7	24,663.0
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(15-00-00) LEGAL

Personnel		
NSF	ASF	GF

36.0	41.9	258.7
	2.0	
36.0	43.9	258.7

(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
Tobacco:
 Personnel Costs
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

627.1	14,904.6
0.1	14.7
0.1	1,926.9
	41.6
0.3	63.4
5.1	22.0
110.0	
	40.0
75.0	283.8
30.6	
564.5	
15.0	
852.3	
1,004.0	
3,284.1	17,297.0

(15-02-01) Public Defender

9.0		119.0
9.0		119.0

TOTAL - Public Defender

	7,214.4
	1.7
	671.9
	6.4
	78.3
	28.8
	8,001.5

(15-03-01) Board of Parole

		7.0
		7.0

TOTAL - Board of Parole

	332.7
	12.2
	22.7
	3.3
	370.9

TOTAL - LEGAL

45.0	43.9	384.7
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3,284.1	25,669.4
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Year ending June 30, 2001

(20-00-00) DEPARTMENT OF STATE

[illegible]

(20-00-00) DEPARTMENT OF STATE

Personnel

NSF	ASF	GF
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	90.0	
	90.0	

	90.0	
	90.0	

5.9	1.5	42.6
5.9	1.5	42.6

5.4	1.0	9.0
0.5	0.5	30.0
5.9	1.5	42.6

(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

(-01) Corporations

TOTAL -- Internal Program Unit

\$ Program

ASF	GF
-----	----

9,519.5	
9,519.5	

\$ Line Item

ASF	GF
-----	----

3,800.3	
30.1	
1,290.7	
134.1	
1,699.3	
165.0	
2,400.0	
9,519.5	

(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 Collection Acquisition
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

(-01) Office of Administration

(-03) Delaware State Historic Preservation Office

(-04) Delaware State Museums

TOTAL -- Internal Program Units

181.6	581.6
	209.1
136.5	2,410.5
318.1	3,201.2

77.2	1,951.5
	9.3
	255.7
	161.9
	71.4
	16.9
	69.0
20.1	15.0
	15.0
	50.0
	100.0
68.7	
4.0	
13.0	
99.5	
9.5	
3.0	
10.0	
9.5	
3.6	
	485.5
318.1	3,201.2

(20-00-00) DEPARTMENT OF STATE

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(20-07-00) Arts						
3.0		6.0				328.3
						4.0
						71.9
						4.4
						1,255.6
						10.0
3.0		6.0				1,674.2
TOTAL -- Arts						
3.0		6.0		1,674.2		
3.0		6.0		1,674.2		
(-01) Office of the Director						
TOTAL -- Internal Program Unit						
(20-08-00) Libraries						
9.0		13.0				583.2
						4.0
						150.7
						7.4
						21.1
						7.0
						2,121.6
						250.0
						75.0
				2.0		
						724.0
9.0		13.0			2.0	3,944.0
TOTAL -- Libraries						
9.0		13.0	2.0	3,944.0		
9.0		13.0	2.0	3,944.0		
(-01) Libraries						
TOTAL -- Internal Program Unit						
(20-15-00) State Banking Commission						
	36.0				2,108.5	
					71.0	
					340.6	
					25.6	
					66.2	
					0.1	
	36.0				2,612.0	
TOTAL -- State Banking Commission						
	36.0		2,612.0			
	36.0		2,612.0			
(-01) State Banking Commission						
TOTAL -- Internal Program Unit						
19.9	142.5	130.6	TOTAL -- DEPARTMENT OF STATE			
				14,181.3	14,335.8	

(25-00-00) DEPARTMENT OF FINANCE

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Personnel		
NSF	ASF	GF

		16.0
		16.0

		16.0
		16.0

		40.0
		40.0

		40.0
		40.0

		211.0
		211.0

		211.0
		211.0

(25-01-00) Office of the Secretary

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items
I. S. Development and Maintenance
TOTAL -- Office of the Secretary

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

(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

(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

S Program		S Line Item	
ASF	GF	ASF	GF

			1,172.9
			16.9
			184.0
			16.7
			1.5
		2,400.0	
		2,400.0	1,392.0

2,400.0	1,392.0
2,400.0	1,392.0

	2,363.0
	26.6
	367.4
	58.4
	89.6
	33.0
	2,938.0

	2,938.0
	2,938.0

	9,589.7
	57.4
	1,665.9
	2.8
	139.9
	80.5
195.0	
945.5	
	159.3
1,140.5	11,695.5

1,140.5	11,695.5
1,140.5	11,695.5

Year ending June 30, 2001

(25-00-00) DEPARTMENT OF FINANCE

1

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(25-00-00) DEPARTMENT OF FINANCE

Personnel

NSF

ASF

GF

(25-07-00) State Lottery Office

Personnel Costs

Travel

Contractual Services

Supplies and Materials

Capital Outlay

TOTAL -- State Lottery Office

(-01) State Lottery Office

TOTAL -- Internal Program Unit

TOTAL -- DEPARTMENT OF FINANCE

S Program

ASF

GF

S Line Item

ASF

GF

1,364.6

50.0

41,454.7

47.9

217.0

43,134.2

43,134.2

43,134.2

43,134.2

46,674.7

16,025.5

(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(30-01-00) Administration				
2				Personnel Costs			99.5	1,643.0
3				Travel			2.6	21.4
4				Contractual Services			12.5	199.0
5				Supplies and Materials			6.0	25.7
6	3.0	2.0	30.0	Capital Outlay			21.2	3.8
7				Other Items:				
8				Payment in Lieu of Taxes				65.0
9				Debt Service				1.5
10	3.0	2.0	30.0	TOTAL -- Administration			141.8	1,959.4
11								
12				(-10) Administration	141.8	1,263.4		
13	3.0	2.0	22.0	(-20) Office of Disability Affairs		91.4		
14			1.0	(-30) Public Integrity Commission		162.5		
15			2.0	(-40) Public Employment Relations Board		315.2		
16			4.0	(-50) Merit Employee Relations Board		126.9		
17	3.0	2.0	30.0	TOTAL -- Internal Program Units	141.8	1,959.4		
18								
19				(30-03-00) Regulation and Licensing				
20		56.0		Personnel Costs			3,130.7	
21				Travel			105.9	
22				Contractual Services			2,271.5	
23				Supplies and Materials			71.3	
24				Capital Outlay			167.5	
25				Other Items:				
26				Real Estate Guaranty Fund			10.0	
27				Examination Costs			75.0	
28				Motor Vehicle Franchise Fund			15.0	
29		56.0		TOTAL -- Regulation and Licensing			5,846.9	
30								
31		23.0		(-20) Professional Regulation	2,055.3			
32		29.0		(-30) Public Service Commission	3,251.0			
33		4.0		(-50) Public Advocate	540.6			
34		56.0		TOTAL -- Internal Program Units	5,846.9			
35								

Year ending June 30, 2001

(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
			(30-04-00) Support Operations			
	49.0	17.5			1,984.9	688.7
					27.4	
					12,727.7	296.1
					0.3	
					1,226.5	16.5
					4,511.8	
					493.0	
49.0	17.5		TOTAL -- Support Operations		20,971.6	1,001.3
	9.0				1,649.3	388.4
	3.0				9,307.7	156.6
	18.0				2,226.5	
	31.0				7,718.0	
	5.5				70.1	456.3
49.0	17.5		TOTAL -- Internal Program Units		20,971.6	1,001.3
			(30-05-00) Facilities Management			
2.6	4.0	85.4			142.4	3,639.3
					13.7	
					196.2	3,486.0
					2,250.5	
					252.1	502.6
					114.1	
					1,900.0	
						10,820.8
						800.0
						13,996.5
2.6	4.0	85.4	TOTAL -- Facilities Management		2,618.5	35,495.7
2.6	4.0	85.4			2,618.5	35,495.7
2.6	4.0	85.4	(-10) Facilities Management		2,618.5	35,495.7
			(30-06-00) Purchasing			
2.0	9.0	21.0			299.8	952.6
					10.1	11.0
					60.3	61.2
					15.7	19.0
					124.7	15.0
					34.1	10.6
					613.8	
2.0	9.0	21.0	TOTAL -- Purchasing		1,158.5	1,069.4
	17.0				100.0	873.5
	5.0				275.8	
2.0	4.0	4.0			782.7	195.9
2.0	9.0	21.0	TOTAL -- Internal Program Units		1,158.5	1,069.4
			TOTAL -- DEPARTMENT OF ADMINISTRATIVE SERVICES		30,737.3	39,525.8
7.6	120.0	153.9				

Year ending June 30, 2001

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

Personnel		
NSF	ASF	GF

54.7	37.1	153.7
------	------	-------

	1.0	8.0
54.7	36.1	145.7
54.7	37.1	153.7

	1.0	37.0
--	-----	------

	1.0	37.0
	1.0	37.0

(35-01-00) Administration

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Tobacco:
Disabled Client Survey
Other Items:
Revenue Management
Health Statistics
Program Integrity
Nursing Home
Nurse Recruitment
EBT
Debt Service

TOTAL -- Administration

(-10) Office of the Secretary

(-20) Management Services

TOTAL -- Internal Program Units

(35-04-00) Medical Examiner

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
Urinalysis
Debt Service

TOTAL -- Medical Examiner

(-01) Medical Examiner

TOTAL -- Internal Program Unit

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

1,085.8	7,748.8
12.7	11.0
278.9	1,026.5
	122.1
98.5	44.3
215.0	24.4
250.0	
255.0	
200.0	
232.8	
	2,000.0
	20.0
300.0	308.4
	3,136.2
2,928.7	14,441.7

380.5	2,608.9
2,548.2	11,832.8
2,928.7	14,441.7

	2,251.5
	12.1
	231.8
	81.7
	497.1
	38.6
45.7	
	177.9
45.7	3,290.7

45.7	3,290.7
45.7	3,290.7

Year ending June 30, 2001

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

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(35-05-00) Public Health				
2				Personnel Costs			41.8	52,786.6
3				Travel				36.2
4				Contractual Services				8,524.5
5				Energy				1,174.9
6	207.5	42.3	1,363.5	Supplies and Materials				3,926.9
7				Capital Outlay				138.3
8				Tobacco:				
9				Personnel Costs			55.0	
10				Contractual Services			2,410.4	
11				Supplies and Materials			0.5	
12				Capital Outlay			627.5	
13				Other Items:				
14				Long-Term Care Prospective Payment			114.0	
15				Rodent Control				50.0
16				Tuberculosis			65.0	
17				Sexually Transmitted Diseases			105.0	
18				Child Development Watch			550.0	
19				Preschool Diagnosis and Treatment			100.0	98.0
20				Home Visits			150.0	
21				Immunizations				256.5
22				School Based Health Centers				4,516.8
23				Hepatitis B				120.0
24				AIDS				158.2
25				Rabies Control				80.6
26				Office of Narcotics & Dangerous Drugs				40.0
27				Child Health			800.0	
28				Vanity Birth Certificates			14.7	
29				Public Water			60.0	
30				Medicaid Enhancements			205.0	
31				Infant Mortality			150.0	
32				Medicaid AIDS Waiver			800.0	
33				Children with Special Needs			50.0	
34				Family Planning			325.0	
35				Newborn			425.0	
36				Indirect Costs			206.4	
37				Food Inspection			21.0	
38				Food Permits			400.0	
39				Medicaid Contractors/Lab Testing & Analysis			100.0	
40				Water Operator Certification			8.0	
41				IV Therapy			265.3	
42				Debt Service				382.2
43	207.5	42.3	1,363.5	TOTAL -- Public Health			8,049.6	72,289.7
44								
45	1.0	4.0	44.0	(-10) Director's Office/Support Services	119.7	2,730.7		
46	206.5	38.3	324.3	(-20) Community Health	6,797.7	26,003.1		
47			9.0	(-30) Emergency Medical Services	752.9	1,295.6		
48			646.2	(-40) Delaware Hospital for the Chronically Ill	286.9	27,252.0		
49			197.5	(-50) Emily Bissell	92.4	8,917.0		
50			142.5	(-60) Governor Bacon		6,091.3		
51	207.5	42.3	1,363.5	TOTAL -- Internal Program Units	8,049.6	72,289.7		

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

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
			(35-08-00) Visually Impaired			
31.6	3.0	35.4	Personnel Costs		102.9	1,867.9
			Travel			3.1
			Contractual Services		1.5	506.0
			Energy			58.7
			Supplies and Materials			78.2
			Capital Outlay		4.0	39.1
			Other Items:			
			BEP Unassigned Vending		175.0	
			BEP Independence		450.0	
			BEP Cafe		50.0	
			BEP Vending		425.0	
31.6	3.0	35.4	TOTAL -- Visually Impaired		1,208.4	2,553.0
31.6	3.0	35.4	(-01) Visually Impaired Services		1,208.4	2,553.0
31.6	3.0	35.4	TOTAL -- Internal Program Unit		1,208.4	2,553.0
			(35-09-00) Long Term Care Residents Protection			
20.4		48.6	Personnel Costs			2,095.7
			Travel			12.3
			Contractual Services			930.0
			Energy			23.0
			Supplies and Materials			13.8
			Capital Outlay			20.3
20.4		48.6	TOTAL -- Long Term Care Residents Protection			3,095.1
20.4		48.6	(-01) Long Term Care Residents Protection			3,095.1
20.4		48.6	TOTAL -- Internal Program Unit			3,095.1
			(35-10-00) Child Support Enforcement			
125.0	17.3	47.7	Personnel Costs		766.1	1,862.9
			Travel		5.7	4.9
			Contractual Services		518.2	732.9
			Energy			6.5
			Supplies and Materials		23.0	12.8
			Capital Outlay		47.9	2.1
			Other Items:			
			Recoupment		25.0	
125.0	17.3	47.7	TOTAL -- Child Support Enforcement		1,385.9	2,622.1
125.0	17.3	47.7	(-01) Child Support Enforcement		1,385.9	2,622.1
125.0	17.3	47.7	TOTAL -- Internal Program Unit		1,385.9	2,622.1

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

Personnel			S Program		S Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(35-11-00) Mental Retardation						
3.0	1.0	826.8			24.4	31,575.8
						7.6
					1,060.0	5,252.4
						565.6
						1,419.4
						136.6
						30.0
						9.6
						17,384.9
						5,551.0
						394.9
						30.9
3.0	1.0	826.8			1,084.4	62,358.7
TOTAL - Mental Retardation						
3.0	1.0	32.0	24.4	1,753.8		
		641.0		28,722.7		
		153.8	1,060.0	31,882.2		
3.0	1.0	826.8	1,084.4	62,358.7		
TOTAL - Internal Program Units						
(35-12-00) State Service Centers						
39.5	1.0	101.1			40.6	4,371.1
					7.8	9.2
					1,293.7	2,542.8
					54.2	530.9
					70.1	92.3
					39.8	17.3
						301.0
						29.4
						85.5
						1,550.0
						50.0
						339.2
39.5	1.0	101.1			1,506.2	9,918.7
TOTAL - State Service Centers						
22.8		60.4		3,117.7		
	1.0	21.5	1,506.0	2,984.8		
11.0		2.0		2,051.6		
5.7		17.2	0.2	1,764.6		
39.5	1.0	101.1	1,506.2	9,918.7		
TOTAL - Internal Program Units						

Year ending June 30, 2001

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

1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
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13									
14									
15									
16									
17									
18									
19									
20									
21									
22									
23									
24									
25									
26									
27									

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(35-14-00) Services for Aging and Adults with Physical Disabilities						
49.4		55.8				2,645.9
						8.2
						4,939.4
						11.4
						50.0
						0.6
					261.0	497.1
						249.1
						579.6
49.4		55.8			261.0	8,981.3
TOTAL -- Services for Aging and Adults with Physical Disabilities						
(-01) Services for Aging and Adults with Physical Disabilities						
49.4		55.8	261.0	8,981.3		
49.4		55.8	261.0	8,981.3		
TOTAL -- Internal Program Unit						
TOTAL -- DEPARTMENT OF HEALTH AND SOCIAL SERVICES						
864.2	108.7	3,859.1			43,591.8	547,175.4

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

Personnel		
NSF	ASF	GF
28.1	32.5	111.7
28.1	32.5	111.7

(37-01-00) Management Support Services

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
 MIS Development
 Home Visiting
 Agency Operations
 Services Integration
 Maintenance and Restoration
Debt Service

TOTAL -- Management Support Services

S Program		S Line Item	
ASF	GF	ASF	GF
		1,747.6	6,514.8
		19.7	14.1
		721.3	893.2
		64.9	92.5
		7.0	39.6
			362.3
			150.0
		187.0	
		102.1	
		100.0	70.6
			420.2
		2,949.6	8,557.3

4.0	5.0	16.0
	5.0	6.0
8.8	7.5	16.2
2.0	4.0	10.0
		13.0
	6.0	42.5
13.3	5.0	8.0
28.1	32.5	111.7

(-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

336.0	1,434.4
805.2	926.7
383.5	853.9
403.1	541.3
60.0	829.6
431.8	2,941.9
530.0	1,029.5
2,949.6	8,557.3

(37-04-00) Child Mental Health Services

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items
 Pass Throughs
 MIS Maintenance

TOTAL -- Child Mental Health Services

8.0	17.0	190.6
8.0	17.0	190.6

946.4	9,962.1
7.0	22.9
7,970.7	10,854.3
	211.5
74.1	289.8
3.0	25.4
	213.7
31.0	
9,032.2	21,579.7

8.0	14.0	78.1
	3.0	5.2
		39.3
		68.0
8.0	17.0	190.6

(-10) Managed Care Organization
(-20) Early Intervention
(-30) Periodic Treatment
(-40) 24 Hour Treatment

TOTAL -- Internal Program Units

1,017.1	5,049.3
180.2	302.2
2,722.1	6,863.1
5,112.8	9,365.1
9,032.2	21,579.7

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

Personnel

NSF	ASF	GF
-----	-----	----

7.0	15.0	305.1
7.0	15.0	305.1

1.0		10.1
6.0		66.5
	15.0	228.5
7.0	15.0	305.1

102.9	26.5	302.0
102.9	26.5	302.0

22.9	0.5	60.6
70.0	2.0	15.0
1.0	12.0	97.4
9.0	12.0	129.0
102.9	26.5	302.0

(37-05-00) Youth Rehabilitative Services

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

TOTAL -- Youth Rehabilitative Services

(-10) Office of the Director
(-30) Community Services
(-50) Secure Care
TOTAL -- Internal Program Units

\$ Program

ASF	GF
-----	----

1.1	615.6
1,344.2	17,450.0
1,269.1	14,970.1
2,614.4	33,035.7

\$ Line Item

ASF	GF
-----	----

699.0	15,060.5
9.8	34.9
1,824.5	15,579.6
	428.8
81.1	774.1
	24.4
	1,133.4
2,614.4	33,035.7

(37-06-00) Family Services

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Child Welfare/Contractual Services
Pass Throughs
Other Items:
Emergency Material Assistance
DFS Decentralization

TOTAL -- Family Services

(-10) Office of the Director
(-20) Prevention/Early Intervention
(-30) Intake/Investigation
(-40) Intervention/Treatment
TOTAL -- Internal Program Units

742.8	4,120.0
185.8	1,701.6
692.9	4,878.2
2,151.8	15,373.5
3,773.3	26,073.3

1,291.5	14,366.8
24.9	16.2
2,142.9	2,070.3
	9.8
24.7	79.8
6.0	29.3
	9,046.5
	423.6
	31.0
283.3	
3,773.3	26,073.3

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

146.0	91.0	909.4
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18,369.5	89,246.0
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Year ending June 30, 2001

(38-00-00) DEPARTMENT OF CORRECTION

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
				(38-01-00) Administration				
			274.0	Personnel Costs				11,465.2
				Travel				30.7
				Contractual Services			25.0	1,834.9
				Energy				101.0
				Supplies and Materials				6,800.0
				Capital Outlay				117.7
				Other Items:				
				Medical Services				14,993.0
				AIDS Education and Counseling				80.0
				Drug & Alcohol Treatment Services				4,209.4
				Contingency - Shakedown				15.4
				Maintenance/Restoration				2,338.2
				MIS				856.6
				Warehouse				96.0
				Education Enhancement				75.0
				Debt Service				305.7
			274.0	TOTAL -- Administration			25.0	43,318.8
			16.0	(-01) Office of the Commissioner	25.0	1,061.5		
			49.0	(-02) Human Resources/Employee Development Center		2,495.9		
			49.0	(-10) Management Services		3,851.8		
			81.0	(-20) Food Services		9,629.8		
				(-30) Medical/Treatment Services		15,098.0		
				(-31) Drug & Alcohol Treatment Services		4,209.4		
			79.0	(-40) Facilities Maintenance		6,972.4		
			274.0	TOTAL -- Internal Program Units	25.0	43,318.8		

(38-00-00) DEPARTMENT OF CORRECTION

Personnel		
NSF	ASF	GF
	19.0	1,742.4
	19.0	1,742.4

		11.0
		26.0
		736.0
		406.0
	1.0	98.0
	6.0	372.0
		3.0
		47.0
	7.0	16.0
	5.0	6.0
		21.4
	19.0	1,742.4

1.0	578.0
1.0	578.0

		17.0
1.0		321.0
		38.0
		44.0
		32.0
		40.0
		42.0
		44.0
1.0		578.0

1.0	19.0	2,594.4
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(38-04-00) Prisons

Personnel Costs
 Travel
 Contractual Services
 Energy
 Supplies and Materials
 Capital Outlay
 Other Items:
 Gate Money
 Drug Testing
 Prison Arts
 DCC Fence
 Debt Service

TOTAL -- Prisons

- (-01) Bureau Chief - Prisons
- (-02) John L. Webb Correctional Facility
- (-03) Delaware Correctional Center
- (-04) Sussex Correctional Institution
- (-05) Dolores J. Baylor Correctional Institution
- (-06) Multi-Purpose Criminal Justice Facility
- (-07) Morris Correctional Institution
- (-08) Transportation
- (-09) Prison Industries
- (-10) Inmate Construction
- (-11) Education

TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF
		1,013.1	75,026.5
		9.0	24.5
		949.4	5,659.8
		10.2	2,855.2
		1,422.2	3,936.0
		177.0	96.7
			19.0
			100.0
			128.0
			23.0
			16,794.2
		3,580.9	104,662.9

	3,601.9
1.0	1,345.6
1.0	44,283.8
	20,637.7
39.5	6,436.7
241.8	21,605.2
	162.0
	3,723.2
1,641.4	916.7
1,655.2	266.0
1.0	1,684.1
3,580.9	104,662.9

(38-06-00) Community Corrections

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

TOTAL -- Community Corrections

	25,109.5
	51.8
30.0	3,403.4
	339.0
25.0	709.6
	54.4
	1,253.8
55.0	30,921.5

- (-01) Bureau Chief - Community Corrections
- (-02) Probation and Parole
- (-04) House Arrest
- (-06) Plummer Work Release Center
- (-07) Sussex Work Release Center
- (-08) Kent County Work Release Center
- (-09) Sussex Violation of Probation Center
- (-10) Central Violation of Probation Center

TOTAL -- Internal Program Units

	1,421.2
	18,077.9
	2,112.2
1.0	2,362.4
50.0	1,514.5
4.0	1,496.7
	2,039.2
	1,897.4
55.0	30,921.5

TOTAL - DEPARTMENT OF CORRECTION

3,660.9	178,903.2
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(40-00-00) DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Personnel		
NSF	ASF	GF

1.0	20.3	31.7
1.0	20.3	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/Other Items
 Outdoor Delaware
 Wholebasin Management-TMDL
 Wholebasin Management-Admin.
 Debt Service

TOTAL -- Office of the Secretary

1.0	18.3	29.7
	2.0	2.0
1.0	20.3	31.7

(-01) Office of the Secretary

(-02) Business and Permitting Services

TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

988.6	2,054.1
5.9	21.2
141.8	222.0
35.0	253.7
67.8	36.5
7.2	7.0
	367.9
20.0	
25.0	100.0
55.0	
25.0	80.0
	850.2
	11.5
	676.5
1,371.3	4,680.6

1,278.3	4,510.5
93.0	170.1
1,371.3	4,680.6

(40-05-00) Fish and Wildlife

Personnel Costs
 Travel
 Contractual Services
 Energy
 Supplies and Materials
 Capital Outlay
 Other Items:
 Spraying and Insecticides
 Wildlife Damage Control
 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	65.0
28.2	32.8	65.0

1,234.8	3,584.1
17.0	12.3
705.7	1,115.5
1.5	96.1
383.3	202.0
1,763.3	
	364.9
65.0	
50.0	
219.0	255.0
32.4	
180.0	
50.0	
130.0	
310.0	
277.5	
15.0	
	110.6
5,434.5	5,740.5

	1.0	2.5
24.6	29.4	17.5
		18.0
3.6	2.4	27.0
28.2	32.8	65.0

(-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

124.7	262.4
4,167.6	1,557.7
325.0	1,516.2
169.5	716.9
647.7	1,687.3
5,434.5	5,740.5

Year ending June 30, 2001

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

Personnel		
NSF	ASF	GF
1.0	62.5	105.5
1.0	62.5	105.5

(40-06-00) Parks and Recreation

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items:
State Park Partnership
Killens Pond Water Park
Marina Fuel Sales
Other Items
Debt Service

TOTAL -- Parks and Recreation

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		4,242.5	5,014.2
		27.8	5.2
		1,298.3	825.9
			354.0
		758.1	368.4
		369.1	
			92.3
		440.0	
		540.0	
		754.4	
			2,725.7
		8,430.2	9,385.7

	1.0	11.0
	46.5	46.5
	8.0	9.0
1.0	5.0	16.0
	2.0	23.0
1.0	62.5	105.5

(-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

275.4	504.5
6,296.9	4,265.9
1,066.6	505.4
661.1	2,074.5
130.2	2,035.4
8,430.2	9,385.7

(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

88.5	2,583.2
5.0	5.9
1,119.0	839.9
	12.5
44.0	201.6
39.0	
	225.0
3,400.0	
	95.0
	225.0
	852.7
4,695.5	5,040.8

1.5		4.5
		9.0
1.8		26.2
2.0	2.0	7.0
10.0		1.0
15.3	2.0	47.7

(-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	344.5
10.0	1,672.0
4,469.5	1,933.3
110.9	1,042.2
10.0	48.8
4,695.5	5,040.8

*Pursuant to Section 3921, Title 7, Delaware Code

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

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2								
3								
4								
5				(40-08-00) Water Resources				
6				Personnel Costs			2,380.7	4,130.6
7	33.0	62.7	73.3	Travel			38.0	40.2
8				Contractual Services			524.0	1,383.0
9				Energy				5.2
10				Supplies and Materials			215.0	106.9
11				Capital Outlay			191.0	45.0
12				Other Items:				
13				Inland Bays Research				115.8
14				Delaware Estuary				50.0
15				Other Items			15.0	
16				Water Resources Agency				310.0
17				SRF Future Administration			300.0	
18				Vehicles			20.1	
19				Board of Certification			14.0	
20				Certificate of Public Convenience & Necessity			14.0	
21				Debt Service				3,277.4
22	33.0	62.7	73.3	TOTAL -- Water Resources			3,711.8	9,464.1
23								
24								
25	14.5	7.0	12.5	(-01) Management and Support -	777.9	4,664.0		
26				Water Resources				
27	2.0	26.0	18.0	(-02) Environmental Services	1,451.5	1,149.9		
28	2.0	9.0	6.0	(-04) Surface Water Discharges	461.0	493.4		
29	3.0	13.0	8.0	(-05) Ground Water Discharges	599.1	472.7		
30	6.3	4.7	8.0	(-06) Water Supply	150.6	433.7		
31	5.2		15.8	(-07) Watershed Assessment		1,917.1		
32		3.0	5.0	(-08) Wetlands and Subaqueous	271.7	333.3		
33				Lands				
34	33.0	62.7	73.3	TOTAL -- Internal Program Units	3,711.8	9,464.1		

Year ending June 30, 2001

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

Personnel				\$ Program		\$ Line Item	
NSF	ASF	GF		ASF	GF	ASF	GF
			(40-09-00) Air and Waste Management				
58.7	95.8	55.5	Personnel Costs			2,827.3	3,355.1
			Travel			78.0	20.3
			Contractual Services			1,120.0	265.2
			Energy			10.0	93.0
			Supplies and Materials			185.9	98.3
			Capital Outlay			242.0	18.1
			Other Items:				
			Local Emergency Planning Committees			300.0	
			HSCA - Administration			900.0	
			HSCA - Clean-up			3,960.5	
			SARA			30.0	14.4
			Cost Recovery			525.8	
			UST Administration			350.0	
			Stage II Vapor Recovery			54.8	
			Extremely Hazardous Substance Program			180.9	
			Non-Title V			164.8	
			Enhanced I & M Program			106.2	
			Recycling Community Outreach				47.9
			Other Items			824.8	
			Debt Service				4.7
58.7	95.8	55.5	TOTAL - Air and Waste Management			11,861.0	3,917.0
3.5	16.0	16.5	(-01) Management and Support -	2,115.1	1,190.6		
			Air and Waste				
17.0	51.0	19.0	(-02) Air Quality Management	3,535.8	1,339.7		
38.2	28.8	20.0	(-03) Waste Management	6,210.1	1,386.7		
58.7	95.8	55.5	TOTAL -- Internal Program Units	11,861.0	3,917.0		
TOTAL - DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL						35,504.3	38,228.7
137.2	276.1	378.7					

(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	2,801.4
3				Travel				26.9
4				Contractual Services			198.1	492.0
5				Energy				230.0
6	29.1	1.0	55.9	Supplies and Materials			85.0	42.3
7				Capital Outlay				0.1
8				Other Items:				
9				Other Items			0.7	
10				Police Training Council				15.0
11				Real Time Crime Reporting				112.1
12				Local Emergency Planning Councils				50.0
13				Hazardous Waste Clean Up			100.0	
14				Debt Service				674.4
15	29.1	1.0	55.9	TOTAL -- Office of the Secretary			505.0	4,444.2
16								
17				(-01) Administration	100.0	1,394.5		
18				(-10) Boiler Safety		277.4		
19				(-20) Communication	405.0	1,528.7		
20				(-30) DEMA		1,110.7		
21	24.6	1.0	23.0	(-40) Highway Safety		132.9		
22	4.5		2.5	TOTAL -- Internal Program Units	505.0	4,444.2		
23	29.1	1.0	55.9					
24								
25				(45-02-00) Capitol Police				
26				Personnel Costs				1,744.7
27				Travel				2.5
28				Contractual Services				353.7
29				Supplies and Materials				18.5
30			44.0	TOTAL -- Capitol Police				2,119.4
31								
32				(-10) Capitol Police		2,119.4		
33			44.0	TOTAL -- Internal Program Unit		2,119.4		
34			44.0					
35								
36								
37								

(45-00-00) DEPARTMENT OF PUBLIC SAFETY

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

(45-04-00) Division of Alcoholic Beverage Control

2.0	2.0	19.0
	4.0	
2.0	6.0	19.0

Personnel Costs	49.4	862.5
Travel	2.8	3.4
Contractual Services	43.3	102.6
Supplies and Materials	2.3	12.1
Capital Outlay	2.0	3.0
Tobacco :		
Personnel Costs	157.4	
Travel	10.0	
Contractual	79.5	
Supplies and Materials	17.1	
Capital Outlay	51.5	
Other Items:		
Tobacco Enforcement Contingency		40.0
Other Items	10.0	
TAL — Division of Alcoholic Beverage Control	425.3	1,023.6

TOTAL – Division of Alcoholic Beverage Control

2.0	6.0	19.0
2.0	6.0	19.0

(-10) Division of Alcoholic Beverage Control	425.3	1,023.6
TOTAL -- Internal Program Unit	425.3	1,023.6

(45-06-00) State Police

31.4	23.5	762.1
31.4	23.5	762.1

Personnel Costs	1,108.9	48,492.9
Travel	146.7	63.3
Contractual Services	591.2	2,689.9
Energy		337.5
Supplies and Materials	422.6	1,759.0
Capital Outlay	76.0	1,439.7
Other Items:		
Other Items	87.5	
Pension - 20 Year Retirees		17,174.0
Crime Reduction Fund		75.0
Career Development		35.0
Handicapped/Fire Lane Enforcement		90.0
Debt Service		1,271.6
AL - State Police	2,432.9	73,427.9

TOTAL – State Police

		61.0
		8.0
3.5	6.0	316.5
20.0		143.0
1.7	7.0	36.3
		20.0
4.2		14.8
	7.0	35.0
		12.0
	3.5	88.5
		16.0
2.0		11.0
31.4	23.5	762.1

(-01) Executive	226.7	21,543.4
(-02) Bldg. Maintenance & Construction		1,095.8
(-03) Patrol	685.9	23,175.0
(-04) Criminal Investigation		10,235.6
(-05) Special Investigation	648.8	2,767.5
(-06) Aviation		2,189.6
(-07) Traffic		836.4
(-08) State Bureau of Identification	721.2	1,682.5
(-09) Training		1,322.0
(-10) Communications	114.3	4,713.0
(-11) Transportation	36.0	3,128.9
(-12) Community Relations		738.2
TOTAL - Internal Program Units	2,432.9	73,427.9

(45-00-00) DEPARTMENT OF PUBLIC SAFETY

	Personnel		
	NSF	ASF	GF
6		26.0	201.0
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19		26.0	201.0

(45-07-00) Division of Motor Vehicles
Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Other Items:
 CDL Fees
 Motorcycle Safety
 Special License Plates
 Odometer Forms
 Off Highway Vehicles
 Automation
Debt Service
TOTAL ~ Division of Motor Vehicles

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		948.8	7,681.9
		10.0	10.1
		1,787.0	882.8
		274.1	493.7
		517.5	0.1
		207.3	
		104.5	
		25.0	
		6.0	
		1.0	
		150.0	
			188.6
		4,031.2	9,257.2

21		30.0
22	2.0	70.0
23	24.0	101.0
24	26.0	201.0

(-01) Administration
 (-10) Driver Services
 (-20) Vehicle Services
TOTAL -- Internal Program Units

105.5	1,703.6
273.9	2,776.0
3,651.8	4,777.6
4,031.2	9,257.2

26	62.5	56.5	1,082.0
----	------	------	---------

TOTAL - DEPARTMENT OF PUBLIC SAFETY

7,394.4	90,272.3
---------	----------

(55-00-00) DEPARTMENT OF TRANSPORTATION

Personnel		
NSF	TFO	TFC

	55.0	
	55.0	

2.0	38.0	
2.0	38.0	

	11.0	
	11.0	

2.0	104.0	
-----	-------	--

3.0	73.0	1.0
3.0	73.0	1.0

	70.0	7.0
	70.0	7.0

(55-01-00) Office of the Secretary

(55-01-01) Office of the Secretary

Personnel Costs
Operations/Capital
Environmental Contingency
Salary Contingency

TOTAL -- Office of the Secretary

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

Personnel Costs
Operations/Capital

TOTAL -- Division of Financial Management and Budget

(55-01-03) Division of External Affairs

Personnel Costs
Operations/Capital

TOTAL -- Division of External Affairs

TOTAL-- Office of the Secretary

(55-02-01) Division of Administration

Personnel Costs
Travel
Contractual/Supplies
Energy
Capital Outlay

TOTAL-- Division of Administration

(55-03-01) Division of Planning

Personnel Costs
Operations/Capital

TOTAL -- Division of Planning

\$ Line Item

TFO	GF
-----	----

3,455.5	
3,454.3	
5.0	
161.0	
7,075.8	

1,746.8	
828.5	
2,575.3	

654.1	
116.8	
770.9	

10,422.0	
----------	--

3,655.1	
28.0	
2,907.2	
234.0	
19.0	
6,843.3	

3,632.8	
516.9	
4,149.7	

(55-00-00) DEPARTMENT OF TRANSPORTATION

Personnel		
NSF	TFO	TFC

\$ Line Item	
TFO	GF

(55-04-00) Division of Highway Operations

(55-04-01) Office of the Director

	15.0	
	15.0	

Personnel Costs

694.1	
-------	--

Operations/Capital

87.7	
------	--

TOTAL -- Office of the Director

781.8	
-------	--

(55-04-40) Construction

	64.0	81.0
	64.0	81.0

Personnel Costs

3,944.8	
---------	--

Operations/Capital

92.7	
------	--

TOTAL -- Construction

4,037.5	
---------	--

(55-04-50) Traffic Engineering and Management

	119.0	1.0
	119.0	1.0

Personnel Costs

5,172.7	
---------	--

Energy

854.3	
-------	--

Capital Outlay

33.7	
------	--

Contractual/Supplies

2,750.2	
---------	--

TOTAL -- Traffic Engineering and Management

8,810.9	
---------	--

(55-04-60) Field Services

	43.0	64.0
	43.0	64.0

Personnel Costs

2,406.5	
---------	--

Operations/Capital

2,617.2	
---------	--

TOTAL -- Field Services

5,023.7	
---------	--

(55-04-70) Maintenance Districts

	634.0	
	634.0	

Personnel Costs

24,649.6	
----------	--

Energy

696.5	
-------	--

Capital Outlay

223.5	
-------	--

Contractual/Supplies

9,824.8	
---------	--

Snow/Storm Contingency

2,500.0	
---------	--

TOTAL -- Maintenance Districts

37,894.4	
----------	--

(55-04-90) Toll Administration

	131.0	
	131.0	

Personnel Costs

4,852.7	
---------	--

Travel

26.0	
------	--

Energy

371.3	
-------	--

Capital Outlay

106.0	
-------	--

Contractual/Supplies

1,716.6	
---------	--

Turnpike Operating Reserve *

--	--

TOTAL -- Toll Administration

7,072.6	
---------	--

TOTAL -- Division of Highway Operations

	1,006.0	146.0
--	---------	-------

63,620.9	
----------	--

* The Cumulative Turnpike Operating Reserve Fund is established at \$843.8

Year ending June 30, 2001

(55-00-00) DEPARTMENT OF TRANSPORTATION

Personnel		
NSF	TFO	TFC

S Line Item	
TFO	GF

(55-06-01) Delaware Transportation Authority

Delaware Transit Corporation

	3.0	
	3.0	

Transit Administration

Transit Administration

Transit Operations Plan

Transit Operations

Taxi Services Supp

Newark Transportation

Kent and Sussex Transp

Kent and Sussex Transportation L & N

Total -- Delaware Transit Corporation

8.084.6

2.028.5

31.460.8

148 5

148.3
101.8101.8
066.7

956.7

42,780.9

DTA Indebtedness

Debt Service

General Obligations

Transportation Trust Fund

1,770.0

74,433.0

Total -- DTA Indebtedness

76,203.0

TOTAL -- Delaware Transportation Authority*

118,983.9

*Delaware Transportation Authority, Title 2, Chapter 13, Delaware Code,

These funds, except the Regulatory Revolving Funds, are not deposited with the State Treasurer.

(55-07-10) Division of Pre-Construction

	87.0	85.0
	87.0	85.0

Personnel Costs

Operations/Capital

TOTAL – Division of Pre-Construction

4,834.1	
931.4	
5,765.5	

**TOTAL -- DEPARTMENT OF
TRANSPORTATION**

5.0	1,343.0	239.0
-----	---------	-------

209,785.3

(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		\$ Line Item	
ASF	GF	ASF	GF
		1,480.6	473.4
		18.3	10.2
		715.0	146.0
		116.4	11.8
		73.5	4.0
		2,403.8	645.4

	10.6	1.4
12.5		2.5
		3.0
	19.0	1.0
12.5	29.6	7.9

(-10) Office of the Secretary
(-20) Office of Occupational
and Labor Market Information
(-30) Commission for Women
(-40) Administrative Support

TOTAL -- Internal Program Units

907.2	194.0
	143.0
	222.8
1,496.6	85.6
2,403.8	645.4

(60-06-00) Unemployment Insurance

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Other Items

TOTAL -- Unemployment Insurance

143.9	
0.1	
172.3	
1.0	
5.2	
1.0	
108.9	
432.4	

134.0	5.0
134.0	5.0

(-01) Unemployment Insurance

TOTAL -- Internal Program Unit

432.4	
432.4	

(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

2,600.7	
30.8	
575.5	
41.0	
95.4	
4,500.0	
7,843.4	

6.0	35.0
2.0	19.0
8.0	54.0

(-01) Office of Workers' Compensation,
Safety and Health

(-02) Office of Labor Law Enforcement

TOTAL -- Internal Program Units

6,968.3	
875.1	
7,843.4	

Year ending June 30, 2001

(60-00-00) DEPARTMENT OF LABOR

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	24.1
89.9	3.0	24.1

89.9	3.0	24.1
89.9	3.0	24.1

359.4	97.6	34.0
-------	------	------

(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

ASF	GF
-----	----

626.3	2,314.1
626.3	2,314.1

\$ Line Item

ASF	GF
-----	----

388.3	77.9
	0.5
223.0	1,839.5
	72.8
	310.4
15.0	13.0
626.3	2,314.1

154.7	924.7
4.2	7.1
115.9	407.8
	1.7
6.2	17.6
13.4	6.0
	235.2
	281.6
	959.0
1,128.2	
1,422.6	2,840.7

(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

1,422.6	2,840.7
1,422.6	2,840.7

TOTAL -- DEPARTMENT OF LABOR

12,728.5	5,800.2
----------	---------

(65-00-00) DEPARTMENT OF AGRICULTURE

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

15.2	31.5	86.8
15.2	31.5	86.8

(65-01-00) Agriculture

- Personnel Costs
- Travel
- Contractual Services
- Energy
- Supplies and Materials
- Capital Outlay
- Other Items:
 - Information, Education & Certification
 - Nutrient Management Contingency
 - Nutrient Transport
 - Agriculture Development Program
 - Laurel Auction
 - Alternative Agriculture Projects
 - Agriculture Advertising
 - Cooperative Advertising
 - Plant Pest Survey & Control
 - Educational Assistance
 - Revenue Refund
 - Fingerprinting
 - Equine Drug Testing
- Debt Service

2,110.2	4,269.7
60.9	66.2
288.9	460.7
6.3	98.3
147.1	161.3
131.5	47.0
	225.0
	200.0
	250.0
	23.0
	9.5
	15.0
	35.0
	40.0
	132.2
15.0	
6.0	
79.0	
444.0	
	101.6
3,288.9	6,134.5

TOTAL - Agriculture

	1.0	19.0
6.7		7.0
4.5	12.0	7.3
	2.5	17.0
	4.5	
3.0	6.0	
1.0		4.0
	1.0	14.5
		7.0
	4.5	
		8.0
		3.0
15.2	31.5	86.8

- (-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
- AL -- Internal Program Units

213.1	1,539.1
12.2	348.4
681.3	402.6
271.1	878.3
903.4	
367.2	
41.8	353.8
85.1	906.1
	412.7
713.7	
	421.4
	872.1
3,288.9	6,134.5

TOTAL -- Internal Program Units

15.2	31.5	86.8
------	------	------

TOTAL - DEPARTMENT OF AGRICULTURE	
1950	100.0
1951	100.0
1952	100.0
1953	100.0
1954	100.0
1955	100.0
1956	100.0
1957	100.0
1958	100.0
1959	100.0
1960	100.0
1961	100.0
1962	100.0
1963	100.0
1964	100.0
1965	100.0
1966	100.0
1967	100.0
1968	100.0
1969	100.0
1970	100.0
1971	100.0
1972	100.0
1973	100.0
1974	100.0
1975	100.0
1976	100.0
1977	100.0
1978	100.0
1979	100.0
1980	100.0
1981	100.0
1982	100.0
1983	100.0
1984	100.0
1985	100.0
1986	100.0
1987	100.0
1988	100.0
1989	100.0
1990	100.0
1991	100.0
1992	100.0
1993	100.0
1994	100.0
1995	100.0
1996	100.0
1997	100.0
1998	100.0
1999	100.0
2000	100.0
2001	100.0
2002	100.0
2003	100.0
2004	100.0
2005	100.0
2006	100.0
2007	100.0
2008	100.0
2009	100.0
2010	100.0
2011	100.0
2012	100.0
2013	100.0
2014	100.0
2015	100.0
2016	100.0
2017	100.0
2018	100.0
2019	100.0
2020	100.0
2021	100.0
2022	100.0
2023	100.0
2024	100.0
2025	100.0
2026	100.0
2027	100.0
2028	100.0
2029	100.0
2030	100.0
2031	100.0
2032	100.0
2033	100.0
2034	100.0
2035	100.0
2036	100.0
2037	100.0
2038	100.0
2039	100.0
2040	100.0
2041	100.0
2042	100.0
2043	100.0
2044	100.0
2045	100.0
2046	100.0
2047	100.0
2048	100.0
2049	100.0
2050	100.0
2051	100.0
2052	100.0
2053	100.0
2054	100.0
2055	100.0
2056	100.0
2057	100.0
2058	100.0
2059	100.0
2060	100.0
2061	100.0
2062	100.0
2063	100.0
2064	100.0
2065	100.0
2066	100.0
2067	100.0
2068	100.0
2069	100.0
2070	100.0
2071	100.0
2072	100.0
2073	100.0
2074	100.0
2075	100.0
2076	100.0
2077	100.0
2078	100.0
2079	100.0
2080	100.0
2081	100.0
2082	100.0
2083	100.0
2084	100.0
2085	100.0
2086	100.0
2087	100.0
2088	100.0
2089	100.0
2090	100.0
2091	100.0
2092	100.0
2093	100.0
2094	100.0

3,288.9	6,134.5
---------	---------

(70-00-00) DEPARTMENT OF ELECTIONS

Personnel

S Program

S Line Item

NSF	ASF	GF
-----	-----	----

ASF	GF
-----	----

ASF	GF
-----	----

(70-01-01) Commissioner of Elections

Personnel Costs

Travel

Contractual Services

Supplies and Materials

Capital Outlay

Other Items:

Voter Purging

School Elections

TOTAL -- Commissioner of Elections

472.7

1.3

186.2

22.6

0.8

20.0

442.2

1,145.8

(70-02-01) New Castle County Department of Elections

Personnel Costs

Travel

Contractual Services

Energy

Supplies and Materials

Capital Outlay

Other Items:

Mobile Registration

TOTAL -- New Castle County Department of Elections

761.9

13.1

166.7

16.4

7.7

15.2

5.0

986.0

(70-03-01) Kent County Department of Elections

Personnel Costs

Travel

Contractual Services

Energy

Supplies and Materials

Capital Outlay

Other Items:

Mobile Registration

TOTAL -- Kent County Department of Elections

393.0

1.5

151.0

18.0

5.1

1.5

3.0

573.1

(70-04-01) Sussex County Department of Elections

Personnel Costs

Travel

Contractual Services

Supplies and Materials

Capital Outlay

Other Items:

Mobile Registration

TOTAL -- Sussex County Department of Elections

381.4

1.4

38.7

13.2

5.0

5.3

445.0

TOTAL -- DEPARTMENT OF ELECTIONS

3,149.9

(75-00-00) FIRE PREVENTION COMMISSION

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

TOTAL -- Office of the State Fire Marshal

ASF	GF	ASF	GF
-----	----	-----	----

1,227.7	1,258.1
34.0	
395.3	154.1
	54.0
71.0	37.5
377.5	88.8
1.5	
	2.0
	231.0
2,107.0	1,825.5

(75-02-01) State Fire School

		18.0
		18.0

Personnel Costs
Contractual Services
Energy
Capital Outlay
Other Items:
 Fire School Operations
 Local Emergency Planning Committee
 Stress Management
Debt Service

TOTAL -- State Fire School

	894.8
	375.0
	125.4
	95.0
50.0	
50.0	5.0
	377.3
100.0	1,872.5

(75-03-01) State Fire Prevention Commission

		1.0
		1.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Other Items:
 State-wide Fire Safety Education
 Contingency - Extraordinary Expenses
 Governors Fire Safety Conference
Debt Service

TOTAL - State Fire Prevention Commission

	39.3
	25.5
7.5	25.0
	2.6
	100.0
	20.0
	10.0
7.5	222.4

	28.2	41.8
--	------	------

TOTAL - FIRE PREVENTION COMMISSION

2,214.5	3,920.4
---------	---------

Year ending June 30, 2001

(76-00-00) DELAWARE NATIONAL GUARD

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2								
3								
4				(76-01-01) Delaware National Guard				
5				Personnel Costs				1,630.0
6	74.3		31.0	Travel				4.7
7				Contractual Services				303.4
8				Energy				418.5
9				Supplies and Materials				94.5
10				Other Items:				
11				Educational Assistance				350.0
12				Unit Fund Allowance				12.2
13				Debt Service				335.7
14				TOTAL -- DELAWARE NATIONAL				
15				GUARD				
16	74.3		31.0					3,149.0

(77-00-00) ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS

1
2
3
4
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10
11
12

Personnel

NSF	ASF	GF
-----	-----	----

(77-01-01) Advisory Council For
Exceptional Citizens

		2.0
		2.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials

TOTAL -- ADVISORY COUNCIL FOR
EXCEPTIONAL CITIZENS

\$ Program

ASF	GF
-----	----

\$ Line Item

ASF	GF
-----	----

	89.8
	6.0
	11.1
	1.1
	108.0

Year ending June 30, 2001

(90-00-00) HIGHER EDUCATION

Personnel

NSF	ASF	GF
-----	-----	----

\$ Program

ASF	GF
-----	----

\$ Line Item

ASF	GF
-----	----

(90-01-00) University of Delaware

(90-01-01) University of Delaware

Operations	77,309.2
Scholarships	7,304.8
Agricultural Programs	3,343.7
Other Programs	10,678.7
The College School	79.9
Medical Technology	36.5
Debt Service	7,738.8
MCI/Equipment	1,500.0
TOTAL -- University of Delaware	107,991.6

(90-01-02) Delaware Geological Survey

Operations	1,189.6
River Master Program	88.0
TOTAL -- Delaware Geological Survey	1,277.6

TOTAL -- University of Delaware

	109,269.2
--	-----------

(90-03-00) Delaware State University

(90-03-01) Operations

Operations	23,746.1
Administrative Computing	125.0
Work Study	211.7
Faculty Development	100.0
Mishoe Scholarships	50.0
Cooperative Extension	15.1
Cooperative Research	238.6
Title VI Compliance	220.0
Academic Incentive	50.0
General Scholarships	306.0
Athletic Grant	133.1
Aid to Needy Students	720.0
Energy	1,431.5
Debt Service	6,004.8
MCI/Equipment	1,000.0
TOTAL -- Operations	34,351.9

(90-03-05) Sponsored Programs and Research

TOTAL -- Delaware State University

	34,351.9
--	----------

(90-00-00) HIGHER EDUCATION

1
2
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29
30
31
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38
39
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41
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43
44
45
46
47
48

Personnel

NSF	ASF	GF
-----	-----	----

10.0		43.0
10.0		43.0

49.0		191.0
49.0		191.0

42.0		153.0
42.0		153.0

(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

(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

(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

S Program

ASF	GF
-----	----

S Line Item

ASF	GF
-----	----

	3,065.5
	6.8
	155.2
	2.0
	25.2
	29.7
	36.8
	50.0
	78.8
	40.0
	1,404.7
	273.8
	1,502.5
	13.0
	50.0
	6,734.0

	11,491.8
	142.8
	551.2
	4.0
	43.2
	172.8
	31.2
	2,354.3
	42.4
	350.0
	15,183.7

	8,950.5
	333.7
	465.2
	76.1
	132.8
	22.5
	30.1
	2,186.4
	530.0
	12,727.3

(90-00-00) HIGHER EDUCATION

Personnel		
NSF	ASF	GF
30.0		186.0
30.0		186.0

(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
			11,241.6
			113.2
			237.7
			9.0
			117.8
			17.5
			31.1
			723.0
			12,490.9

44.4	124.0
44.4	124.0

(90-04-06) Terry Campus
Personnel Costs
Contractual Services
Energy
Supplies and Materials
Capital Outlay
NDSL Match
Aid to Needy Students
Work Study
Grants
Debt Service
Instructional Equipment
MCI/Equipment
TOTAL -- Terry Campus

	7,015.8
	343.3
	347.3
	20.8
	55.0
	1.0
	140.3
	16.7
	18.0
	1,084.8
	51.8
	350.0
	9,444.8

175.4		697.0
-------	--	-------

**TOTAL ~ Delaware Technical and
Community College**

	56,580.7
--	----------

**(90-07-01) Delaware Institute of Veterinary
Medical Education
Tuition Assistance
TOTAL ~ Delaware Institute of Veterinary
Medical Education**

	247.7
	247.7

175.4		697.0
-------	--	-------

TOTAL - HIGHER EDUCATION

	200,449.5
--	-----------

(95-00-00) DEPARTMENT OF EDUCATION

Personnel		
NSF	ASF	GF

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

(95-01-00) State Board of Education and
State Board for Vocational Education
and Department of Education

67.3		106.2
	1.0	
		4.0
		1.0
		0.5
	1.0	
67.3	2.0	111.7

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
State Board of Education
Tobacco:
 Prevention/Education
Other Items:
 AmeriCorps Kickstart Program
 Family Involvement
 Pupil Accounting
 Teacher in Space
 Education Compact of the States
 Private Business and Trade School
 Evaluation-Higher Education
 Teacher of the Year
 Odyssey of the Mind
 Computer Center
 Educator Certification and Development
 Professional Standards Board
 Student Mentoring
 Science in Motion
 School Profiles
 DE State Testing Program
 Student Standards & Assessment
 MCI/Annual Maintenance
 DE Educator Recruitment Initiative
 Contingency - Background Checks
 Tallman Scholarships
 Department of Education Library
 Trailer Rental Fund
 DOE Publications
 Delaware Secondary School Athletic Fund
 Registration Fees

	8,521.0
	35.8
	201.3
	36.6
	37.6
	243.3
217.0	
	300.0
	35.0
	904.1
	103.6
	42.1
	2.0
	1.0
	52.5
	35.0
65.1	580.7
	160.8
	160.3
	500.0
	252.3
	150.0
	3,682.7
100.0	529.5
	7,119.1
	50.0
	62.5
3.8	
34.0	
27.5	
15.0	
90.6	
40.0	
593.0	23,798.8

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

(-01) State Board of Education
and Department of Education

593.0	23,798.8
593.0	23,798.8

TOTAL -- Internal Program Unit

Year ending June 30, 2001

(95-00-00) DEPARTMENT OF EDUCATION

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

		10,437.2
		10,437.2

(95-02-00) School District Operations

Division I Units (7,009.2)

Formula Salaries

Cafeteria Funds

Other Employment Costs

Division II Units (8,061.2)

All Other Costs

Energy

Division III

Equalization

Other Items

General Contingency

Guaranteed Unit Count

Education Compensation

Off Grade and End of Summer Testing

Capacity - Educator Accountability

Other Items

Delmar Tuition

Charter School Tax Relief Funds

Debt Service

Department of Education

School Districts

TOTAL – School District Operations

	311,045.8
	5,222.2
	98,585.3
	26,174.7
	12,672.2
	55,971.1
	3,915.5
	1,000.0
	2,000.0
	1,645.9
	3,000.0
	392.4
	368.7
	184.1
	1,847.5
	19,425.9
	543,451.3

	10,437.2
	10,437.2

(-01) Division Funding

(-02) Other Items

(-03) Debt Service

TOTAL -- Internal Program Units

	509,671.3
	12,506.6
	21,273.4
	543,451.3

(95-00-00) DEPARTMENT OF EDUCATION

NSF	ASF	GF
-----	-----	----

S Program		S Line Item	
ASF	GF	ASF	GF

(95-03-00) Block Grants and Pass Through Programs

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			(-10) Education Block Grants		41,935.2
	2.0	1.5	(-15) K-12 Pass Throughs	400.0	5,938.8
		33.9	(-20) Special Needs Programs	2,632.6	44,553.8
		13.0	(-30) Driver Training		1,325.4
	2.0	48.4	TOTAL -- Internal Program Units	3,032.6	93,753.2

Year ending June 30, 2001

(95-00-00) DEPARTMENT OF EDUCATION

[illegible]

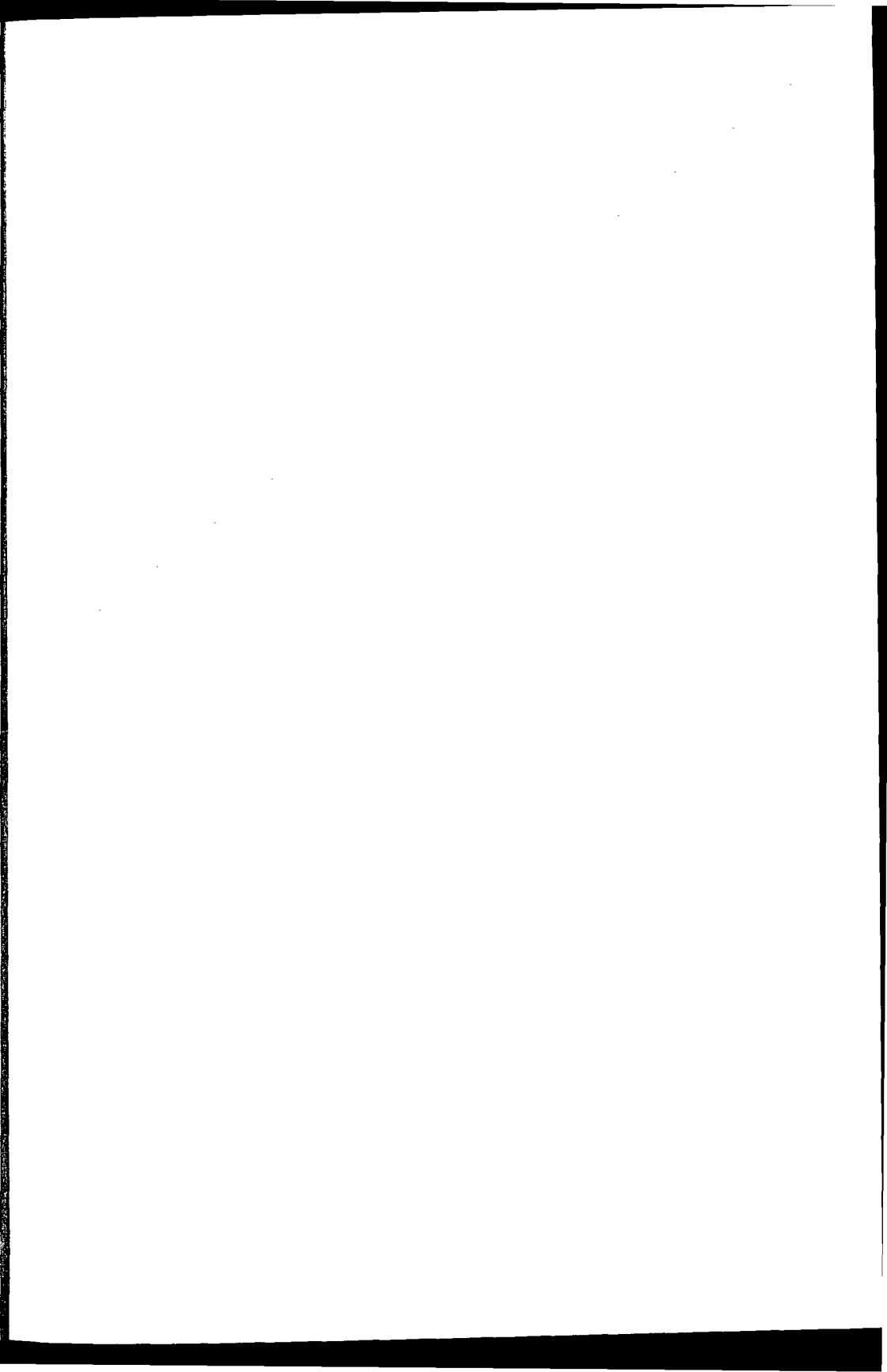
Year ending June 30, 2001

Personnel				
TFO	TFC	NSF	ASF	GF

S		
TTF	ASF	GF

TOTALS

1,343.0	239.0	1,796.9	1,371.3	11,555.1	TOTAL - DEPARTMENTS	209,785.3	340,420.0	1,262,191.6
		175.4		697.0	TOTAL - HIGHER EDUCATION			200,449.5
		67.3	4.0	10,615.8	TOTAL - PUBLIC EDUCATION		3,625.6	720,228.5
1,343.0	239.0	2,039.6	1,375.3	22,867.9	GRAND TOTAL	209,785.3	344,045.6	2,182,869.6



GENERAL

Section 2. Any previous Act inconsistent with the provisions of this Act is hereby repealed to the extent of such inconsistency.

Section 3. If any provision of this Act, or of any rule, regulation or order thereunder, or the application of such provision to any person or circumstances, shall be invalid, the remainder of this Act and the application of such provisions of this Act or of such rule, regulation or order to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 4. The monies appropriated in Section 1 of this Act shall be paid by the State Treasurer from the General Fund, except as otherwise referenced in Section 1.

Section 5. The provisions of this Act to the contrary notwithstanding, any section, chapter or title of the Delaware Code and any Laws of Delaware providing for the application of "Sunset" shall be operative for those agencies, commissions or boards 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, 2001, and as the Governor and members of the General Assembly have reviewed the findings of such surveys, effective July 1, 2000, 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	15,450***	18,245	21,894
2	15,618	19,523	23,428
3	16,714	20,893	25,072
4	17,880	22,350	26,820
5	19,135	23,919	28,703
6	20,474	25,592	30,710
7	21,903	27,379	32,855
8	23,438	29,298	35,158
9	25,081	31,351	37,621
10	26,837	33,546	40,255
11	28,713	35,891	43,069
12	30,724	38,405	46,086
13	32,875	41,094	49,313
14	35,173	43,966	52,759
15	37,638	47,047	56,456
16	40,274	50,343	60,412
17	43,093	53,866	64,639
18	46,106	57,633	69,160
19	49,335	61,669	74,003
20	52,792	65,990	79,188
21	56,486	70,607	84,728
22	60,439	75,549	90,659
23	64,671	80,839	97,007
24	69,201	86,501	103,801
25	74,042	92,553	111,064
26	79,225	99,031	118,837

* - Annual Salary in Whole Dollars

** - Minimum Salary shall be \$15,450.

STATE OF DELAWARE PAY PLAN*
(Standard Work Schedule of 40 Hours Per Work Week)

PAY GRADE	80% of Midpoint	100% of Midpoint	120% of Midpoint
1	15,569	19,461	23,353
2	16,659	20,824	24,989
3	17,825	22,281	26,737
4	19,072	23,840	28,608
5	20,410	25,513	30,616
6	21,837	27,296	32,755
7	23,366	29,207	35,048
8	25,002	31,253	37,504
9	26,752	33,440	40,128
10	28,624	35,780	42,936
11	30,626	38,282	45,938
12	32,772	40,965	49,158
13	35,066	43,832	52,598
14	37,522	46,902	56,282
15	40,147	50,184	60,221
16	42,960	53,700	64,440
17	45,965	57,456	68,947
18	49,181	61,476	73,771
19	52,625	65,781	78,937
20	56,310	70,388	84,466
21	60,254	75,317	90,380
22	64,471	80,589	96,707
23	68,981	86,226	103,471
24	73,812	92,265	110,718
25	78,978	98,723	118,468
26	84,506	105,633	126,760

* - 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

Department of Correction

CLASS SERIES

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
Telecommunication Specialist (ERC)

Department of Public Safety

Department of Transportation	Telecommunication Central Control Specialist 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, 2001, 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 2001 shall be limited to those governments and institutions of higher education as follows:

DELAWARE

New Castle County
Kent County
Sussex County
Wilmington
Newark
Dover
University of Delaware

Other Counties and Municipalities

Cecil County, Maryland
Caroline County, Maryland
Salisbury, Maryland
Chester County, Pennsylvania
Delaware County, Pennsylvania
Salem County, New Jersey

Other States

Maryland
Pennsylvania
New Jersey
North Carolina
Massachusetts
New York
Virginia

- (ii) The findings of the survey in Section 8(a) for Fiscal Year 2001 shall be calculated in the same manner as Fiscal Year 2000, using a comparable weighting formula and other components.

(c) SELECTIVE MARKET VARIATIONS.

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

- (1) The appointing authority shall identify job classes or job families to be considered for selective market variations according to turnover rates, recruitment problems, vacancy rates, feasibility for the work to be performed on a contractual basis and other criteria established by the State Personnel Director.
- (2) Upon receipt of the identified classes, the State Personnel Director shall survey the appropriate labor market to determine the state's position in this labor market.
- (3) The Budget Director, the State Personnel Director and the Controller General shall review the information provided in Sections 8(c)(1) and (2) and shall recommend approval or disapproval for the classes for selective market compensation variations.
- (4) Any such selective market variations which the State Personnel Director, the Budget Director and the Controller General have determined to be warranted and have been approved by the Joint Finance Committee, shall be designated to become effective July 1, 2000, provided that such variations have been processed as part of the regular budgetary process and the funds for such changes shall be appropriated.
- (5) The State Personnel Director shall establish criteria with the State Budget Director and the Controller General to allow for selective market to be effective January 1, 2001. An appointing authority may apply for selective market variation for job classes or job families that are experiencing severe recruitment and retention issues for January 1, 2001. Funds must be available within the agency budget to fund the selective market variation until such time as the General Assembly appropriates such funds.
- (6) Upon approval, the minimum, mid-point and maximum salary values shall be raised according to the results of the labor market surveys for the job class. For the purposes of this section, the minimum value of the salary scale shall remain at 75 percent of midpoint and the maximum value shall remain at 125 percent unless the minimum value under the selective market range for a class is less than the minimum value of the merit system pay range. The minimum for the class on selective market shall be no less than the merit system pay range minimum value. No further increases shall be applied to the scale and/or the midpoints.
- (7) Employees assigned to job classifications approved under the selective market variation program shall have their salaries adjusted in accordance with the following:
 - (i) The salary of employees in positions added to the selective market variation program on or after July 1, 2000, prior to application of the general increase outlined in Section 8(d)(1), whose salary in effect as of June 30, 2000, 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, 2000, after the application of the general increase outlined in Section 8(d)(1), whose salary in effect as of June 30, 2000, 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

Chapter 395
Vol.72

percent effective July 1, 2000. 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, 2000, 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, 1999.

(d) SALARY INCREASES FOR FISCAL YEAR 2001.

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 Technical and Community College Plan B:
 - (i) Effective July 1, 2000, the salary of each employee shall be increased by 3.0 percent or by \$1,500.00, whichever is greater.
 - (ii) 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, DNREC employees covered by the competency based pay plan, 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 and for the University of Delaware to provide for an increase in salaries paid from General Funds.
 - (iii) Any Merit System employee who is denied the general salary increase referred to in Section 8(d)(1)(i)(ii) due to an unsatisfactory performance rating in accordance with Merit Rule 5.1000, shall become eligible for the salary increase upon meeting job requirements as defined by their supervisor, but the salary increase shall not be retroactive.
 - (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 receive a 3% salary increase effective July 1, 2000. This plan shall continue as it was established in 71 Laws of Delaware, Chapter 354, Section 247, in fiscal Year 2001. In addition, the salary levels established in the competency Base Pay Plan shall be increased by 3% effective July 1, 2000.
 - (v) Notwithstanding Chapters 5.0 and 6.0 of the Merit rules, any Deputy Attorney General covered under the salary plan approved for Fiscal Year 2000 and established in 72 Laws of Delaware, Chapter 94, shall receive a 3% salary increase effective July 1, 2000. This plan shall continue as established and in addition, the salary levels contained in the approved matrix shall be increased by 3% effective July 1, 2000.

(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, 2001, 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, 2001, or July 1, 2001, 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, 2001.

(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.

(i) ADMINISTRATIVE REGULATIONS.

- (1) The administrative regulation and procedures necessary to implement this Section shall be promulgated by the State Personnel Director, Budget Director and Controller General.
- (2) During the fiscal year ending June 30, 2001, paragraph 5.1100 of the Merit Rules for a Merit System of Personnel Administration shall be null and void.
- (3) Consistent with Chapter 16 of the Merit Rules, all state agencies shall implement the performance review prescribed by Office of State Personnel after applicable training by the Office of State Personnel. A performance review shall be completed for employees between January 1 and December 31, 2001.
- (4) Employees who retain salary upon voluntary demotion in accordance with Merit Rule 13.0340 shall be ineligible for a promotional increase upon promotion to a paygrade lower than or equal to their original paygrade prior to voluntary demotion for a one year period from the date of their voluntary demotion.

(j) HOLIDAY PAY - DEPARTMENT OF TRANSPORTATION TOLL COLLECTION AND TRANSPORTATION MANAGEMENT CENTER EMPLOYEES.

- (1) Merit Rules 5.1410 and 5.1411 notwithstanding, all Department of Transportation employees directly engaged in toll collection operations, or directly engaged in the Transportation Management Center's 24-hour operation, shall be entitled to receive compensation at their normal rate of pay for holidays in lieu of compensatory time, and they shall also be entitled to receive compensation in accordance with the Fair Labor Standards Act.

(k) OVERTIME FOR WEATHER RELATED EMERGENCIES - DEPARTMENT OF TRANSPORTATION EMPLOYEES.

- (1) Department of Transportation personnel responding to weather related emergencies, who are not subject to the Fair Labor Standards Act, shall be entitled to receive compensation at one and one half times their normal rate of pay for all overtime services performed beyond the normal work week. This shall apply to employees classified through the Area Supervisor level. All additional personnel assigned to assist the area yards during weather related emergencies, who are above the level of Area Supervisor, shall be entitled to receive compensation at their straight time rate of pay for all overtime services performed beyond the normal work week.

(l) CALL BACK PAY - HIGHWAY EMERGENCY RESPONSE TEAM.

- (1) The Merit Rules notwithstanding, employees designated as Highway Emergency Response Team members 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(b), Delaware Code, by striking the words, "2000 shall be \$21,669.00." as it appears therein and by substituting in lieu thereof the value, "2001, shall be \$22,560.00."
- (2) Amend Title 14, Subsection 1308(a), Delaware Code, by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

" Years of Experience	Clerk	Secretary	Senior Secretary	Financial Secretary	Administrative Secretary
0	11,373	12,794	13,618	14,099	14,898
1	11,892	13,331	14,159	14,643	15,449
2	12,410	13,871	14,702	15,189	16,002
3	12,930	14,412	15,243	15,732	16,553
4	13,448	14,951	15,784	16,277	17,106
5	13,968	15,491	16,327	16,822	17,657
6	14,485	16,030	16,869	17,367	18,210
7	15,004	16,568	17,411	17,911	18,761
8	15,523	17,109	17,953	18,455	19,314
9	16,041	17,648	18,494	19,000	19,865
10	16,560	18,187	19,035	19,546	20,417
11	17,079	18,726	19,576	20,090	20,969
12	17,597	19,265	20,120	20,634	21,522
13	18,116	19,805	20,662	21,179	22,073
14	18,635	20,345	21,202	21,725	22,624
15	19,154	20,884	21,744	22,268	23,178
16	19,672	21,423	22,286	22,812	23,729
17	20,192	21,963	22,829	23,357	24,280
18	20,709	22,502	23,371	23,901	24,832
19	21,228	23,042	23,912	24,448	25,385
20	21,745	23,581	24,453	24,992	25,936
21	22,276	24,132	25,007	25,548	26,500
22	22,821	24,696	25,574	26,117	27,077

- (3) Amend Title 14, Subsection 1311(a), Delaware Code, by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

"Years of Exp.	Custodian	Custodian Fireman	Chief Cnstodian Supervising 5 or Fewer Custodians	Chief Custodian Supervising 6 or More Custodians	Mainteuance Mechanic	Skilled Craftsman
0	14,271	14,814	15,089	16,179	16,685	17,130
1	14,679	15,224	15,499	16,590	17,159	17,679
2	15,089	15,632	15,909	16,997	17,636	18,224
3	15,498	16,042	16,317	17,405	18,110	18,769
4	15,909	16,450	16,728	17,817	18,524	19,315
5	16,317	16,857	17,132	18,226	19,060	19,860
6	16,728	17,271	17,543	18,633	19,535	20,405
7	17,132	17,681	17,951	19,041	20,011	20,951
8	17,543	18,088	18,361	19,451	20,486	21,496
9	17,951	18,497	18,769	19,860	20,959	22,044
10	18,361	18,907	19,178	20,270	21,436	22,587
11	18,769	19,318	19,589	20,676	21,911	23,134
12	19,186	19,739	20,010	21,091	22,396	23,694
13	19,613	20,170	20,441	21,515	22,892	24,268

- (4) Amend Title 14, Subsection 1322(a), Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

"(a) School food service managers who have the qualifications required by the 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	12,963	13,847	14,729	15,611	16,497	17,677	18,263
1	13,404	14,285	15,172	16,054	16,936	17,821	18,705
2	13,847	14,729	15,611	16,497	17,377	18,263	19,146
3	14,285	15,172	16,054	16,936	17,821	18,705	19,588
4	14,729	15,611	16,497	17,377	18,263	19,146	20,030
5	15,172	16,054	16,936	17,821	18,705	19,588	20,473
6	15,611	16,497	17,377	18,263	19,146	20,030	20,913
7	16,054	16,936	17,821	18,705	19,588	20,473	21,355
8	16,497	17,377	18,263	19,146	20,030	20,913	21,799
9	16,936	17,821	18,705	19,588	20,473	21,355	22,241
10	17,377	18,263	19,146	20,030	20,913	21,799	22,680
11	17,821	18,705	19,588	20,473	21,355	22,241	23,122
12	18,263	19,146	20,030	20,913	21,799	22,680	23,566
13	18,705	19,588	20,473	21,355	22,241	23,122	24,007
14	19,146	20,030	20,913	21,799	22,680	23,566	24,452
15	19,588	20,473	21,355	22,241	23,122	24,007	24,895
16	20,042	20,927	21,807	22,691	23,574	24,456	25,347
17	20,507	21,392	22,269	23,151	24,035	24,914	25,808

Salaries provided for in this schedule shall be paid to the school food service manager of a single cafeteria. A food service manager responsible for the preparation of food for more than one (1) cafeteria shall receive \$400 for each additional cafeteria. A manager of satellite

cafeteria(s) shall receive the salary provided for in this schedules less \$200. A satellite cafeteria is defined as one where no basic food preparation takes place. A manager who manages more than one (1) cafeteria shall receive the salary provided in this scale using the total school enrollments of all cafeterias managed. The salaries listed in this schedule for school food service managers shall be increased for additional training as defined by the State Board of Education as follows:

One Year of College	\$ 452
Two Years of College	\$ 682
Bachelor's Degree	\$1,360

- (5) Amend Title 14, Subsection 1322(c), Delaware Code, by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

"SCHOOL LUNCH COOKS AND GENERAL WORKERS

Years of Experience	General Worker	Cook/Baker
0	7.67	8.44
1	7.80	8.55
2	7.94	8.67
3	8.02	8.77
4	8.14	8.90
5	8.30	9.06
6	8.43	9.16
7	8.52	9.24
8	8.59	9.32
9	8.69	9.44
10	8.80	9.58
11	8.97	9.70
12	9.09	9.83
13	9.21	9.94
14	9.32	10.04
15	9.44	10.19
16	9.59	10.33
17	9.72	10.42
18	9.86	10.51
19	10.00	10.61

- (6) Amend Title 14, Subsection 1324(b), Delaware Code, by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

"(b) Aides actually working and paid ten months per year shall receive annual salaries in accordance with the following schedule:

Years of Experience	Service Aides	Instructional Aides
0	10,629	12,775
1	10,949	13,168
2	11,270	13,560
3	11,594	13,954
4	11,915	14,345
5	12,234	14,740
6	12,555	15,132
7	12,876	15,525
8	13,197	15,916
9	13,520	16,309
10	13,840	16,700
11	14,159	17,095
12	14,482	17,486
13	14,802	17,879
14	15,122	18,270
15	15,444	18,666
16	15,766	19,057
17	16,086	19,450
18	16,407	19,841
19	16,729	20,234
20	17,049	20,627

21	17,377	21,027
22	17,712	21,435

- (7) Amend Title 14, Subsection 1326(a), Delaware Code, by striking schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:
- "Class A - \$104.00 per day
Class B - \$ 83.00 per day
Class C - \$ 66.00 per day
- (8) 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.
- (9) Effective July 1, 2000, the State shall pay 65 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 50 percent of 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.
- (10) 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.
- (11) 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.

Section 9. (a) Except as specifically authorized to the contrary by the Delaware Code, no state employee whose title is designated in this Act shall receive total compensation whether in wages, salary, wages-in-kind or food allotment bonus or overtime from agencies of this State in excess of the total amount specified in such line item regardless of the source of funds involved. No full-time, part-time or casual/seasonal employee of the State of Delaware shall receive any additional stipend for the purchase of food or be supplied with food or be reimbursed for food that was consumed during normal working hours within the State; except as provided in Title 29, Chapter 51, Section 5112 (b), Delaware Code; or unless approval has been granted by the Budget Director and the Controller General; provided, however that this Section shall not apply to State Police recruits during the period of their training. In the event that an employee shall receive excessive compensation, the amount of the appropriation from the General Fund shall be reduced by the amount of such excessive compensation and the Attorney General shall take such steps as are necessary to recover from such employee any such excessive amount as has actually been paid. In the event the "All Other" part of the salary is made up entirely of federal funds, and such federal funds are terminated or reduced, the state appropriation is hereby increased to provide the "Total Salary" indicated. An agency may provide housing for such employee without reduction in the salary provided such housing is on the site of the principal location of employment and further provided that the head of the department or agency has determined that such location of the employee is necessary to the operation

Chapter 395

Vol. 72

of the agency and that the employee has no other employment. No agency shall provide an employee with a housing allowance or compensation for housing.

(b) A state employee whose salary is designated in this Act may perform additional duties for a state agency other than his/her principal employing agency, with the consent of his/her principal employing agency, and may be paid additional compensation therefore, provided such additional duties are not a part of his/her regular duties for the principal employing agency and not rendered during time paid for by the principal employing agency. All wage payments resulting from the performance of such additional duties, including FLSA overtime, shall be the responsibility of the secondary employing agency unless otherwise authorized by the Budget Director and the State Personnel Director.

Section 10. (a) For the fiscal year ending June 30, 2001, the salaries displayed below represent the salary effective on July 1, 2000.

Budget Unit	Line Item	General Funds	All Other Funds
(01-01-01)	Representative	32.2	
(01-02-01)	Senator	32.2	
(02-01-00)	Chief Justice - Supreme Court	137.0	
(02-01-00)	Justice - Supreme Court	132.1	
(02-02-00)	Chancellor - Court of Chancery	130.5	
(02-02-00)	Vice Chancellor - Court of Chancery	125.9	
(02-03-00)	President Judge - Superior Court	130.5	
(02-03-00)	Associate Judge - Superior Court	125.9	
(02-03-00)	Commissioner - Superior Court	75.1	
(02-03-00)	New Castle County Prothonotary	55.0	
(02-03-00)	Kent County Prothonotary	48.7	
(02-03-00)	Sussex County Prothonotary	48.7	
(02-06-00)	Chief Judge - Court of Common Pleas	129.1	
(02-06-00)	Judge - Court of Common Pleas	122.6	
Budget Unit	Line Item	General Funds	All Other Funds
(02-06-00)	Commissioner - Court of Common Pleas	75.1	
(02-08-00)	Chief Judge - Family Court	129.1	
(02-08-00)	Associate Judge - Family Court	122.6	
(02-08-00)	Commissioner - Family Court	75.1	
(02-13-00)	Chief Magistrate - Justice of the Peace Courts	90.3	
(02-13-00)	Magistrate - Justice of the Peace Courts - 1st Term	51.8	
(02-13-00)	Magistrate - Justice of the Peace Courts - 2nd Term	53.5	
(02-13-00)	Magistrate - Justice of the Peace Courts - 3rd Term	55.2	
(02-17-00)	St. Court Administrator - Off. of the St. Court Administrator	103.7	
(02-18-00)	Public Guardian	57.6	
(02-18-00)	Executive Director - Violent Crimes Compensation Board		55.3
(02-18-00)	Executive Director - Foster Care Review Board	52.1	
(10-01-01)	Governor	114.0	
(10-02-00)	Budget Director	105.3	
(10-02-07)	Director - SAC	76.1	
(10-03-01)	Director - Delaware Economic Development Office	98.4	
(10-04-00)	Personnel Director	98.4	
(10-07-01)	Executive Director - CJC	77.1	
(10-07-01)	Director - Domestic Violence Coordinating Council	56.7	
(10-07-02)	Executive Director - DELJIS	68.3	

(10-08-01) Director - Delaware State Housing Authority
(10-09-00) Executive Director - Information Services

105.3

Chapter 395
Vol. 72

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(12-01-01)	Lieutenant Governor	60.0	
(12-02-01)	Auditor	83.4	
(12-03-02)	Insurance Commissioner	83.5	
(12-05-01)	State Treasurer	87.3	
(15-01-01)	Attorney General	108.4	
(15-01-01)	Chief Deputy Attorney General	105.7	
(15-02-01)	Public Defender	108.4	
(15-02-01)	Chief Deputy Public Defender	105.7	
(15-03-01)	Parole Board Chairman	68.6	
(20-01-00)	Secretary - State	98.4	
(20-02-00)	Director - Human Relations	60.7	
(20-03-00)	Director - Division of Archives	62.0	
(20-05-00)	Director - Corporations		80.8
(20-06-00)	Director - Historical and Cultural Affairs	76.3	
(20-07-00)	Director - Arts	62.0	
(20-08-00)	State Librarian	72.3	
(20-15-00)	State Banking Commissioner		92.0

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(25-01-00)	Secretary -- Finance	105.3	
(25-05-00)	Director - Accounting	88.3	
(25-06-00)	Director -- Revenue	102.7	
(25-07-00)	Director - State Lottery		82.6
(30-01-00)	Secretary - Administrative Services	91.8	
(30-01-00)	Director - Administration	75.1	
(30-01-00)	Executive Director - Public Employment Relations Board	65.2	
(30-03-00)	Public Advocate		66.1
(30-03-00)	Director - Public Service Commission		74.9
(30-03-00)	Director - Professional Regulation		68.0
(30-04-00)	Director - Support Operations		66.0
(30-05-00)	Director - Facilities Management	80.2	
(30-05-00)	Executive Secretary - Architectural Accessibility Bd.	39.0	
(30-06-00)	Director - Purchasing	69.2	
(35-01-00)	Secretary - Health and Social Services	105.3	
(35-01-00)	Director - Management Services	85.0	9.4
(35-04-00)	Chief Medical Examiner	130.1	
(35-05-00)	Director - Public Health	136.1	
(35-06-00)	Director - Alcoholism, Drug Abuse & Mental Health	117.1	

Chapter 395
Vol.72

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(35-07-00)	Director - Social Services	47.2	47.3
(35-08-00)	Director - Visually Impaired	66.7	
(35-09-00)	Director - Long-Term Care Residence Protection	75.8	
(35-10-00)	Director - Child Support Enforcement	25.0	50.8
(35-11-00)	Director - Mental Retardation	94.5	
(35-12-00)	Director - State Service Centers	75.8	
(35-12-00)	Director - Community Services	62.0	
(35-14-00)	Director - Services for Aging and Adults with Physical Disabilities	75.8	
(37-01-00)	Secretary - Services for Children, Youth and Their Families	105.3	
(37-01-00)	Director - Management Services	82.4	
(37-03-00)	Director - Child Mental Health Services	105.8	
(37-05-00)	Director - Youth Rehabilitative Services	88.9	
(37-06-00)	Director - Family Services	96.8	
(38-01-00)	Commissioner - Correction	98.4	
(38-01-00)	Bureau Chief - Management Services	78.2	
(38-04-00)	Bureau Chief - Prisons	94.5	
(38-06-00)	Bureau Chief - Community Corrections	90.0	

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(40-01-00)	Secretary - Natural Resources and Environmental Control	98.4	
(40-01-00)	Deputy Secretary - Natural Resources and Environmental Control	75.4	
(40-05-00)	Director - Fish and Wildlife	40.5	40.5
(40-06-00)	Director - Parks and Recreation	81.7	
(40-07-00)	Director - Soil and Water Conservation	81.0	
(40-08-00)	Director - Water Resources	83.4	
(40-09-00)	Director - Air and Waste Management	87.6	
(45-01-00)	Secretary - Public Safety	98.4	
(45-01-00)	Director - Boiler Safety	52.4	
(45-01-00)	Director - Del. Emergency Management Agency	31.9	31.9
(45-04-00)	Director - Alcoholic Beverage Control	67.3	
(45-06-00)	Superintendent - State Police	109.9	
(45-06-00)	Assistant Superintendent - State Police	100.8	
(45-07-00)	Director - Motor Vehicles	80.5	
(55-01-01)	Secretary - Transportation		98.4
(55-01-01)	Chief Engineer		96.1
(55-02-01)	Director - Administration		81.5
(55-03-01)	Director - Transportation Planning		96.1

Chapter 395
Vol.72

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(55-04-01)	Director - Highway Operations		96.1
(55-06-01)	Director - Delaware Transit Corporation		96.1
(55-07-10)	Director - Pre-Construction		96.1
(60-01-00)	Secretary - Labor	9.2	82.6
(60-06-00)	Director - Unemployment Insurance		78.6
(60-07-00)	Director - Industrial Affairs		78.6
(60-08-00)	Director - Vocational Rehabilitation		78.6
(60-09-00)	Director - Employment and Training	7.8	70.8
(65-01-00)	Secretary - Agriculture	92.0	
(65-01-00)	Deputy Secretary - Agriculture	70.5	
(70-01-01)	Commissioner - Elections	63.2	
(70-02-01)	Administrative Director - New Castle County Elections	59.9	
(70-02-01)	Deputy Administrative Director - New Castle County Elections	58.7	
(70-03-01)	Administrative Director - Kent County Elections	59.9	
(70-03-01)	Deputy Administrative Director - Kent County Elections	58.7	
(70-04-01)	Administrative Director - Sussex County Elections	59.9	
(70-04-01)	Deputy Administrative Director - Sussex County Elections	58.7	

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(75-01-01)	State Fire Marshal	44.6	22.2
(75-02-01)	Director - State Fire School	66.8	
(76-01-01)	Adjutant General	82.2	
(95-01-00)	Secretary of Education	124.1	
(95-01-00)	Deputy Secretary of Education	105.3	
(95-06-00)	Executive Secretary - Advisory Council on Career and Vocational Education	83.2	
(95-08-01)	Executive Director - Higher Education Commission	67.8	

- (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, Delaware Code.

(c) Effective May 1, 2001, 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 2002.

(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, 2000

<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
(30-03-00)	Board Members - Public Service Commission		130.0
(30-05-00)	Board Members - Architectural Accessibility Board	2.3	
(38-04-00)	Board Members - Institutional Classification	12.0	
(45-04-00)	Board Members - Alcoholic Beverage Control Commission	8.6	
(60-07-00)	Board Members - Industrial Accident Board		153.0
(65-01-05)	Harness Racing Commission		13.6
(65-01-10)	Thoroughbred Racing Commission		11.2
(65-01-12)	Nutrient Management Commission	22.4	
(70-02-01)	Board Members - New Castle County Elections	21.5	
(70-03-01)	Board Members - Kent County Elections	13.0	
(70-04-01)	Board Members - Sussex County Elections	13.0	
(95-01-01)	Board Members - State Board of Education	16.8	
(95-08-01)	Higher Education Commissioners	2.4	

(e) Upon the enactment of legislation to standardize property assessments across all three counties and the creation of a State Assessment Practices Board, consisting of seven members, to provide guidance and oversight of the property tax system, there shall be established a salary of \$.5 per Board member.

(f) Amend Title 29, Section 710, Delaware Code by deleting subsection (c) in its entirety and substituting in lieu thereof the following:

"(c) Any member of the Senate or the House of Representatives who is elected or appointed to any of the following positions shall, while serving in such position, receive additional yearly compensation as follows:

1. President Pro Tempore of the Senate	\$12,298.00
2. Speaker of the House of Representatives	12,298.00
3. Majority and Minority Leader of the Senate	9,578.00
4. Majority and Minority Leader of the House	9,578.00
5. Chairperson and Vice Chairperson of the Joint Finance Committee	8,868.00
6. Majority and Minority Whip of the Senate	6,032.00
7. Majority and Minority Whip of the House	6,032.00
8. Members of the Joint Finance Committee	7,451.00
9. Chairperson & Vice Chairperson of the Capital Improvement Program Committee	3,543.00
10. Members of the Capital Improvement Program Committee	2,981.00
11. Members of the Joint Sunset Committee	2,981.00

Chapter 395
Vol.72

A member of the General Assembly shall be entitled to receive the higher of any one of the above stipends and receive one-half of the amount of a second stipend of an equal or lesser amount. Eligible recipients of a second stipend may choose not to accept such additional stipend. The stipend(s) included herein shall commence immediately when such member is elected or appointed to such position(s). Payments to such members shall be as described in Title 29, Chapter 27, Section 2712 of the Delaware Code.

Section 11. A Committee consisting of representatives from the Office of State Personnel, the Office of the Budget and the Controller General's Office shall be formed to make recommendations regarding options for State pay plans, including competency based pay, for State employees. These recommendations shall be submitted to the Chairs of the Joint Finance Committee and the Governor on or before December 15, 2000.

Section 12. Effective January 16, 2001, the annual salary for the Governor shall be increased to \$114.0, pursuant to the Delaware Compensation Commission Final Report, dated January 14, 1997. The report has the force and effect of law since it was not rejected in full by the General Assembly prior to February 1, 1997.

Section 13. The salaries contained in Section 10(a) of this Act may be increased according to the recommendations of the Delaware Compensation Commission Report as contained in Title 29, Chapter 33, Delaware Code, as amended in this Act.

Section 14. Effective January 16, 2001, the annual salary of the Lieutenant Governor shall be increased to \$60.0.

Section 15. The Office of State Personnel shall evaluate the Hay Points assigned to the Department of Elections positions in Section 10(a) of this Act. Should that evaluation result in a promotion, new salaries may be effective October 1, 2000, contingent upon approval of the Director of State Personnel, Budget Director and Controller General.

Section 16. Salaries and wage rates for state employees who are not covered by the provisions of Title 14, Chapter 13, Delaware Code, or by the Merit System, excluding employees of the General Assembly - House or the General Assembly - Senate, Uniformed State Police, all full-time and regular part-time non-Merit Telecommunications Specialists, Senior Telecommunications Specialists, 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 Public Safety, Delaware State Police, employees of the University of Delaware, employees of Delaware State University, employees of Delaware Technical and Community College who are paid on the Administrative Salary Plan or Faculty Plan, Plans D and A respectively, Executive Director of Educational Technology Center, members and employees of the Delaware National Guard and employees whose salaries are governed by Section 10 of this Act, shall have the following:

(a) The salary of employees shall be comparable to salaries and wage rates paid from funds appropriated by the State to employees with similar training and experience who serve in similar positions in the Merit System. In the event that there are no similar positions in the Merit System, the State Personnel Director shall establish an exempt position classification only for the purpose of assigning a salary or wage rate to said position. On or before August 15, 2000, the State Personnel Director shall publish a list of exempt positions and the comparable Merit System class and/or paygrade for each position. In addition, such listing shall show the name of the incumbent, if the position is filled, and shall show the statutory citation which authorizes the establishment of the exempt position(s). The State Personnel Director shall provide copies of such listing to members of the Joint Finance Committee and the Controller General. No exempt employee shall be hired until an approved comparability has been assigned to the position. No reclassification/regrading, change in paygrade comparability of a filled or vacant exempt position, or change of a Merit System position to an exempt position otherwise permitted under Delaware Law shall become effective unless approved by the State Budget Director, State Personnel Director and the Controller General. In order to permit the development of the comparability list, state agencies shall provide to the State Personnel Director job descriptions of all exempt positions and position classification questionnaires describing the duties and responsibilities of each of the positions. The certification of comparability by the State Personnel Director shall not be withheld unreasonably. Those positions assigned on a list of comparability that are assigned a comparable class and/or paygrade in the Merit System shall be paid in accordance with Sections 8(c) and (d) of this Act and Merit System Rules 13.0110 and 5.0900 through 5.0931; no other salary increases shall be given to such employees unless specifically authorized in this Act.

(b) The salary of employees whose salary in effect as of June 30, 2000, is below the minimum salary of the assigned paygrade of the pay plan shall be raised to the minimum salary. This adjustment shall be made in accordance with the general increase contained in Section 8(d)(1)(i).

(c) Notwithstanding any other provision of the Delaware Law or this Act to the contrary, civilian employees of the Delaware National Guard shall be compensated at a salary and wage rate established by the Federal Civil Service Commission.

(d) Merit Rules 5.0900 through 5.0931 and the applicable appeal rights provided in Title 29, Section 5915, Delaware Code, shall apply retroactively to any employee who was an incumbent in a merit comparable position that was reviewed for class/paygrade comparability with an effective date of July 1, 1990 or July 1, 1991.

Section 17. Any employee eligible for termination pay, whose regular pay was from special funds, shall have termination pay paid from special funds. If the employee's regular pay is from both General Funds and special funds, termination pay shall be on a pro rata basis. The intent of this Section is that if any school district charges their local share to Division III - Equalization Funds, that for termination pay purposes only, these funds are considered special funds. Exceptions to this method of payment must have the approval of the Budget Director and the Controller General. All agencies shall absorb termination pay within the appropriations set forth in Section 1 of this Act.

Section 18. All agencies or schools receiving federal funds subject to the federal Single Audit Act shall:

(a) Include in program budgets an amount sufficient to cover actual program audit costs incurred by the Office of Auditor of Accounts. Such amount shall be based on estimated audit costs determined and provided by the Office of Auditor of Accounts.

(b) Process audit cost payment documents (Intergovernmental Vouchers) within 30 days of receipt of same from the Office of Auditor of Accounts.

Section 19. All state agencies and departments that own land shall inform the Budget Director, the Controller General, the Secretary of Administrative Services, and the General Assembly, quarterly, as to any and all developments relating to the possible new use, lease or sale, of any portion of said land. This section shall not apply to lands owned by the Department of Transportation that are intended for transportation purposes except as provided in Title 17, Section 137, Delaware Code.

Section 20. No agency shall engage a consultant or authorize expenditure of any General or special funds for the purpose of studying personnel policies and/or the wage and salary classification of employees without the written authorization of the Personnel Director, the Budget Director and the concurrence of the Controller General.

Section 21. All state agencies are directed to remit payment for services rendered by the Division of Support Operations (Mail/Courier Services, Telephone Services, Printing and Publishing and Fleet Management) within 30 days after receipt of invoice. Services may include postal metering, paper supplies, facsimile, printing, telephone, photocopiers, printing and vehicle rental, Carvel Building parking, and vehicle fuels.

Section 22. All outside graphics and printing services for state agencies shall be obtained from the Division of Support Operations or, if appropriate, the Director of the Division of Support Operations may award a contract in accordance with Title 29, Chapter 69, Delaware Code.

Section 23. If a timely payment problem exists, the Department of Administrative Services may require all agencies and school districts paying telephone system payments through the department to make monthly estimated payments toward their telephone bills. The estimated payment is due within five working days of the beginning of each month. The estimated payment should equal the average of the last three months of actual reconciled payments; or payments based on a schedule established by the department. The department will continue to be responsible for the actual payments to the telephone companies and the reconciliation of accounts with the user agencies and school districts.

Section 24. With the exception of the custodial work associated with Legislative Hall and the Governor's Office, the Department of Administrative Services (30-00-00) may not hire any permanent, full-time custodial employees in any fiscal year without the approval of the Budget Director and the Controller General.

Section 25. It is hereby directed that the Indirect Cost Recovery Program, Office of the Budget, may recover indirect costs from non-federal special funded regulatory and service agencies. Costs that are allocated to a state agency under this authority shall be billed to the state agency, and the cost is payable to the General Fund of the State. The source of payment for the billed indirect cost shall be any revenue source except the General Fund. If the billed agency is authorized to bill and recover direct expenses, the agency shall recover indirect costs in the same manner. The effort initiated in Fiscal Year 1993 covering State Banking Commission, Professional Regulation and Public Service Commission shall continue in Fiscal Year 2001.

Section 26. Notwithstanding the provisions of Title 29, Section 6340(a), Delaware Code, Section 1 of this Act summarizes salary and wage and other employment costs into a single line entitled "Personnel Costs."

Section 27. Chapters 5.0000 and 6.0000 of the Merit Rules notwithstanding, the State Personnel Director, in accordance with the Budget Director and the Controller General, shall have the authority to designate and approve pilot projects within specified agencies. Such pilot projects shall accrue to the mutual benefit of the State as an employer and its affected employees in the Department of Health and Social Services, the Department of Services for Children Youth and Their Families, the Department of Correction, and the Department of Transportation. These pilot projects may include employee incentives which have the impact of reducing overtime usage in these departments, and which are designed to achieve a net reduction in costs to the State. Such projects may include elimination of pre-employment testing for certain classifications, eliminating the cap on vacation carry-over, gain sharing, and the substitution of certain fixed state holidays by floating holidays. Such pilot projects shall not exceed a period of two years duration, subject to renewal on a six month basis, and shall include a written assessment to the Budget Director and the Controller General of their effectiveness at the end of each period.

Section 28. For Fiscal Year 2001, the provisions of Section 6502(a), Title 29, Delaware Code, shall be waived for school districts. In its place, school districts shall be required to provide to the Budget Director and Controller General a signed copy of its approved district budget for expenditures, including positions to be funded from all funds, as well as any other information required by the Budget Director (provided the Budget Director furnishes official blank forms for such data).

Section 29. Notwithstanding the provisions of Title 29, Section 6334(c), Delaware Code, for Fiscal Year 2002, the proposed budget plan, as prepared by the Budget Director, shall be in such a format that it can readily be analyzed and comprehensive in nature.

Section 30. All agencies receiving an Energy appropriation in Section 1 of this Act must work through the Division of Purchasing, Department of Administrative Services, and the State Budget Office, Executive Department, to attain any contract(s) dealing with the retail wheeling of natural gas or electricity. This includes agencies 01 through 95 with the exception of the University of Delaware.

During the current fiscal year, all energy use systems for new facilities, rental/leasing changes, and/or renovations to energy use systems must be coordinated with the Energy Office within the Department of Administrative Services, Division of Facilities Management and with the Executive Department, Office of the Budget.

Any internal program unit/budget unit having energy funding (electricity, natural or propane gas and heating oils) for the purpose of reimbursing a host internal program unit/budget unit must release the remaining sums to the host internal program unit/budget unit in the event that the tenant internal program

Chapter 395

Vol.72

unit/budget unit vacates the premises. It is the responsibility of the host internal program unit/budget unit to initiate the transfer request. Those agencies which are budgeted energy as a result of occupying a portion of a host facility's property, and do not directly pay energy bills, may not transfer energy funds other than to the host agency.

Section 31. Members of the Board overseeing the Delaware Qualified Tuition Savings Program may be reimbursed for mileage expenses incident to their duties.

Section 32. Increased use of videophones and related technologies by agencies comprising the criminal justice system is beginning to have a positive impact on the operations of these agencies. One such positive impact is the reduction in the number of trips Department of Correction personnel need to make to transport offenders from the secure facilities in the prisons to the courts for various hearings and other procedural matters. To help quantify these positive impacts, agencies with videophones obtained through the Videophone Committee of the Criminal Justice Council shall submit to the Budget Director and Controller General an annual report on their use of their videophone(s). This report shall be submitted no later than December 1, 2000, and shall contain information such as but not limited to 1) the number of videophones used; 2) what types of activities the videophone(s) are used for; 3) the number of times the videophone(s) was used for each activity; 4) any savings or deferred costs resulting from the use of the videophone(s); 5) any costs directly associated with the use of the videophone(s); and 6) future plans for the use of the videophone(s).

Section 33. The Department of Corrections shall submit a report of videophone usage to the Budget Director, Controller General and members of the Joint Finance Committee annually by December 1. This report shall include a detailed description of the actual savings, deferred costs and previously anticipated savings and deferrals that were not realized.

Section 34. Amend the Classified Service Merit Rule No. 5.1453 to reflect the rate of pay per month for Level A to be \$150 and Level B to be \$75.

Section 35. Notwithstanding any other provision of the Delaware Code or this Act to the contrary, the State Budget Office, subject to the approval of the Controller General, is authorized to make technical adjustments to the personnel complement of any agency as appropriated in Section 1 of this Act in those situations where, due to the rounding of split-funded positions, such an adjustment is necessary so that an agency may establish its authorized complement. The provisions of this section are retroactive to January 1, 1999.

Section 36. Chapters 5.0000 and 6.0000 of the Merit Rules notwithstanding, the State Personnel Director in accordance with the Budget Director and the Controller General shall have the authority to approve statewide pilot projects including compensation for the purpose of attracting and retaining information technology personnel to State government. These pilot projects shall include, but are not limited to; the development of a competency based pay structure for information technology personnel, job rotation opportunities across various agencies, the development of technology resource groups, training opportunities and coordinating with the University of Delaware, Delaware State University and the Delaware Technical and Community College to develop formal cooperative education programs in information technology.

Section 37. For FY 2001, Merit Rule 5.0711 shall be amended to authorize the appointing authority to approve a starting rate or promotional rate up to 85 percent of midpoint where the applicant's qualifications are clearly over and above those required by the minimum for the class specification.

Section 38. Effective July 1, 1999 all employee benefit deductions shall be made on a pre-tax basis. Employees who have currently designated employee deductions on a post-tax basis shall continue

to have those deductions on a post-tax basis as long as the employee remains in a benefit program or the employee makes a change to pre-tax employee benefit deductions.

Section 39. 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 40. Amend 29 Del. Code 3303(b) by striking the fourth sentence in its entirety and replacing as follows:

"The rate of remuneration established in the report for offices which salaries are more than \$25,000, except for the Governor, shall not exceed 120% of the remuneration received in the fiscal year in which the report is submitted."

Section 41. Section 1 of this Act appropriates \$504.0 to the Office of the State Treasurer to establish an employee match component to the State of Delaware Deferred Compensation Program.

The fundamental structure, eligibility guidelines and match amounts are described in legislation sponsored by the members of the Joint Finance Committee. Further rules, stipulations and guidelines for administration of the program may be set by the Deferred Compensation Council.

Section 42. Amend 29 Del. Code 5956 by striking 5956(g) in its entirety. This Act shall be effective June 1, 2000.

Section 43. Notwithstanding Chapter 2.0 and Chapter 12 of the Merit Rules, upon approval by the Budget Director, Controller General and the State Personnel Director temporary appointees may be assigned to the same position as that already assigned to a permanent employee in order to complete a special project.

Section 44. Amend Title 29, Chapter 33, §3303 (a) by inserting "associate judges and court commissioners" after the words "all judges".

Section 45. (a) For the fiscal year ending June 30, 2000 any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 2001.

Fiscal Year	Account	Remarks
Appropriation	Codes	
2000	(01-05-01-01-40)	Travel
1999/00	(01-05-01-01-41)	Legislative Travel
2000	(01-05-01-01-50)	Contractual
1998/99	(01-05-01-01-50)	Contractual Services
1998-99	(01-05-01-01-85)	Delegation Expense
2000	(01-08-01-01-85)	TriCent Committee
2000	(01-08-02-01-50)	Contractual
1997/98/99	(01-08-02-01-80)	Senior Center Reporting
1998	(01-08-02-01-85)	Formula Update
1999	(01-08-02-01-50)	Contractual Services
2000	(01-08-02-01-60)	Supplies and Materials
1998	(01-08-02-01-70)	Capital Outlay
2000	(01-08-02-01-86)	Juvenile Detention Oversight Committee
1998/99	(01-08-02-01-86)	Juvenile Detention Oversight Committee
1996	(01-08-02-01-87)	Contingency - Legal
1999	(01-08-02-01-98)	One-Time
2000	(02-06-10-01-95)	First State Quality Improvement Program
1999/00	(02-13-10-01-95)	First State Quality Improvement Program

Chapter 395

Vol.72

2000	(02-17-01-01-86)	State Court Administrator Search/Kent County
		Judicial Furniture
1998	(02-17-04-01-80)	Computer Projects
1999	(02-17-04-01-81)	Special Projects
1998	(02-17-04-01-85)	Development Fund
1997	(02-17-04-01-97)	Technology Initiatives
1999	(02-17-04-01-98)	Flexible Technology Development Fund
1994	(02-17-04-01-98)	One-Time Item (Civil CMS)
1997/99/00	(10-02-01-01-82)	Computer One-Time
1998/99/00	(10-02-01-01-85)	Data Development
2000	(10-02-01-01-91)	Budget Automation
1998/00	(10-02-01-01-97)	PHRST
1998	(10-02-01-01-98)	One-Time (Automated Release Date Project)
2000	(10-02-01-01-99)	Technology
1997	(10-02-01-02-01)	Infrastructure
1998/00	(10-02-01-02-02)	Evaluation Project
1999	(10-02-07-01-98)	One-Time (SAC)
1997/99/00	(10-02-04-01-85)	Legal Fees
2000	(10-02-04-01-89)	Salary/OEC
1999/00	(10-02-04-01-92)	Family Services Cabinet Council
1996	(10-02-04-01-93)	Crime Bill Match
1997/98/00	(10-02-04-01-99)	Technology Initiative
1999	(10-02-04-02-01)	Home Visit
2000	(10-02-04-02-09)	KIDS Count
2000	(10-02-04-02-18)	Judicial Nominating Committee
2000	(10-03-01-01-87)	Welfare Reform
2000	(10-03-01-01-88)	Workplace Literacy
2000	(10-03-02-01-98)	One-Time Items
1999	(10-03-03-01-87)	Welfare Reform
1998/99	(10-03-03-01-88)	Workplace Literacy
2000	(10-04-02-01-81)	Employee Recognition
2000	(10-04-02-01-87)	School-to-Work
1999/00	(10-04-02-01-98)	First Quality Fund
2000	(10-04-05-01-86)	Self Insurance
1995/97	(10-05-01-01-80)	Pilot Programs
1999/00	(10-05-02-01-80)	Operations
1997	(10-09-01-01-99)	Technology Initiative
1996	(10-09-40-01-98)	One-Time - LIS
2000	(15-02-01-01-98)	One-Time
2000	(20-01-04-01-98)	One-Time
2000	(20-03-01-01-81)	Document Conservation
2000	(20-03-01-01-98)	One-Time
1998	(20-03-01-01-80)	Historic Markers
1997/99	(20-03-01-01-98)	One-Time
1999/00	(20-06-01-01-98)	Oral Histories
2000	(20-06-04-01-98)	One-Time
2000	(20-08-01-01-80)	Library Standards
2000	(20-08-01-01-81)	Delaware Electronic Library

2000	(20-08-01-01-86)	DELNET
1999	(25-05-01-01-97)	Dual Payroll
1999	(25-05-01-01-99)	Technology
1998	(30-01-40-01-98)	Collaborative Bargaining
1998	(30-04-50-01-98)	Consolidation of State Telephone 800 Numbers
1997/98/99/00	(35-01-20-01-83)	Electronic Benefit Transfer
1995	(35-01-20-01-87)	Electronic Benefit Transfer
1999/00	(35-01-20-01-97)	Development
2000	(35-01-20-01-84)	Nursing Home
2000	(35-01-20-01-98)	One-Time
1997/98	(35-01-20-02-05)	Technology
1999	(35-05-20-01-51)	Contractual
2000	(35-05-20-01-82)	Immunizations
2000	(35-05-20-01-83)	Hepatitis B
1998	(35-05-20-01-98)	Managed Care Home and Food Inspections
1999/00	(35-05-20-01-98)	One-Time
2000	(35-05-20-01-80)	School Based Health Clinics
1996	(35-06-10-01-98)	Managed Care One-Times
2000	(35-06-10-01-81)	First Quality
1997	(35-07-01-01-99)	DCIS
1997	(35-08-01-01-98)	Adaptive Equipment
2000	(35-09-01-01-98)	One-Time
2000	(35-12-10-01-98)	One-Time
2000	(35-12-10-02-00)	Federal Match
2000	(35-12-20-01-98)	One-Time
1999	(37-01-10-01-97)	Home Visiting Program Follow Up
2000	(37-01-10-01-84)	Home Visiting
2000	(37-01-15-01-50)	Silver Lake Leasing
2000	(37-01-50-01-81)	MIS Development
2000	(37-01-50-01-98)	One-Time (Client Records Project)
1995	(37-05-50-01-98)	Ferris Retraining
2000	(38-01-01-01-82)	Education Enhancement
2000	(38-01-01-01-83)	Advertising Enhanced CO Recruitment
2000	(38-01-10-01-86)	Warehouse
2000	(38-01-10-01-95)	First State Quality Improvement Program
1998	(38-01-10-01-97)	Technology Initiatives (DACS)
1999/00	(38-01-10-01-99)	MIS/Technology
1999	(38-01-20-01-98)	DCC Expansion Kitchen Start Up
2000	(38-01-30-01-80)	Medical Services
2000	(38-01-31-01-80)	Substance Abuse Treatment
1999/00	(38-01-40-01-99)	Maintenance and Restoration
2000	(38-04-01-01-82)	Drug Testing
2000	(38-04-01-01-88)	Out-of-State Boarding
2000	(38-04-03-01-86)	DCC Expansion Operating Start Up
1998	(38-04-03-01-98)	DCC Expansion One-Time Items
2000	(40-01-01-01-96)	Development Fund Project
1999/00	(40-01-01-01-97)	MCI/Equipment

Chapter 395

Vol.72

1999	(40-01-01-01-98)	Technology
1999/00	(40-08-01-01-80)	Delaware Estuary
1999	(40-08-02-01-98)	First State Quality Fund
2000	(40-08-02-01-98)	One-Time (LIMS Project)
1998	(40-08-05-01-97)	Permitting Project
1999/00	(40-08-07-01-81)	Whole Basin TMDL
1997/98/99	(40-09-03-01-80)	HSCA Loan/Super Fund
1998	(40-09-03-01-82)	Debris Disposal
2000	(45-01-01-01-98)	Computer Equipment
1986	(45-01-01-03-81)	Hazardous Waste Revolving Fund
2000	(45-01-20-01-98)	800 MHz Training
2000	(45-01-30-01-97)	Hurricane Floyd
2000	(45-01-30-02-00)	LEPC Expenses
1999	(45-04-10-01-98)	Re-engineering Study
2000	(45-04-10-01-80)	Tobacco Enforcement
2000	(45-04-10-01-97)	One-Time - Advert. and Database Replacement Study
1999	(45-06-01-01-98)	Child Abuse Intervention Training
1998	(45-06-01-01-98)	Academy Curricula and Training Study
1996	(45-06-05-01-80)	CMP Project
1996	(45-06-05-01-81)	AVL Tech
1998	(45-07-01-01-98)	Telephone System
1995/99	(45-07-01-01-99)	Anti-Theft Project
1999	(45-07-10-01-98)	GDL Program
1998	(45-07-10-01-97)	Point Changes
2000	(60-09-20-01-87)	Welfare Reform
2000	(60-09-20-01-88)	Individual Skills Grant
2000	(65-01-02-01-98)	One-Time
2000	(70-01-01-01-97)	Data Development/Printers
2000	(70-01-01-01-98)	Voter Education Initiative
1997	(70-04-01-01-98)	Road Naming/911 Project
1998	(75-01-01-01-98)	Staff Computer Training
2000	(75-02-01-01-97)	Student Records System
2000	(75-03-01-01-98)	One-Time
2000	(75-03-01-09-76)	GIA Section 2
2000	(76-01-01-01-69)	MCI-DNG
2000	(90-03-01-01-99)	Agricultural Match
2000	(95-01-01-01-89)	State Board of Education
2000	(95-01-01-01-91)	Professional Standards Council
1999/00	(95-01-01-01-93)	Building Improvement
1999	(95-01-01-01-98)	One-Time
1999/00	(95-01-01-02-00)	Standards and Assessment
2000	(95-01-01-02-02)	Delaware Student Testing Program
1999	(95-01-01-02-08)	Family Involvement
1999	(95-01-01-02-11)	FSCC-HV

2000	(95-01-01-02-27)	Off Grade/EOS Testing
1999/00	(95-03-10-01-91)	Professional Development
1996/97/98	(95-03-10-01-93)	Shared Decision Making
2000	(95-03-15-01-27)	Smithsonian Project
2000	(95-03-15-01-31)	Early Education Center
2000	(95-03-20-01-27)	Student Discipline Program
2000	(95-03-20-01-53)	3-5 Program
2000	(95-03-20-01-82)	Early Childhood Assistance
1999	(95-03-20-01-98)	One-Time
2000	(95-04-01-01-90)	Public School Transportation
2000	(95-07-01-01-80)	Operations
2000	(95-08-01-01-83)	Scholarship
1998	(95-08-01-01-84)	DHEC
2000	(95-08-01-01-85)	Ferguson DSTP Scholarship
1997	(95-08-01-09-75)	GIA Section 1
1998	(95-08-01-09-77)	GIA Tuition
1994	(95-13-00-01-48)	Teacher in Space
2000	(95-17-00-02-02)	Discipline
2000	(95-23-00-02-02)	Discipline
2000	(95-32-00-02-31)	Brandywine Springs-Equalization
2000	(95-33-00-02-02)	Discipline

(b) For the fiscal year ending June 30, 2000, any sums in Fiscal Year 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, 2000. Program expenses may not be incurred subsequent to the start of the regular 2000-2001 school year.

(c) For the fiscal year ending June 30, 2000, any sums in appropriation 0193 (Shared Decision Making) for Fiscal Year 1996, Fiscal Year 1997 and Fiscal Year 1998 for Public Education shall remain as continuing and not be subject to reversion until June 30, 2001.

(d) Funds appropriated under Sections 369, 397(a)(3), (5) and (7), and Section 421 of this Act shall be appropriated on a 15 month basis and not be subject to reversion until September 30, 2001. Program expenses may not be incurred subsequent to the start of the regular 2001-2002 school year.

(e) For the Fiscal Year ending June 30, 2000, any sums in Fiscal Year 2000 appropriation 0213 (Charter School Operations) for Public Education shall remain as continuing and not be subject to reversion until June 30, 2001.

(f) Of the Continuing Appropriation for Fiscal Year 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.

TOBACCO – MASTER SETTLEMENT AGREEMENT

Section 46. Section 1 of this Act includes Appropriated Special Funds of \$9,864.1 from funds received as a result of the Master Settlement Agreement on tobacco funds. These funds are allocated as follows:

(10-05-01) Health Care Commission

\$1,000.0	Uninsured Action Plan;
500.0	Diabetes;
47.5	1.0 ASF FTE – Assistance to the Commission on health issues;
9.0	Casual and Seasonal assistance

(15-01-01) Attorney General

\$ 110.02.0 ASF FTE's - legal matters relating to tobacco laws & regulations

(30-05-10) Administrative Services - Facilities Management

\$1,900.0 DHSS – Minor Capital Improvements

(35-01-10) Health & Social Services – Secretary

\$ 250.0 Disabled Client Survey

(35-05-20) Health & Social Services – Community Health

\$ 55.0 Chronic Disease Program;
2,135.5 Tobacco prevention through Community Based organizations including \$110.0
for Department of Services for Children, Youth, & their Families;
150.0 Research and testing regimens of detecting lesser known illnesses

(35-05-30) Health & Social Services – Emergency Medical Services

\$ 752.9 Public Access defibrillation initiative

(35-06-40) Health & Social Services – Alcoholism, Drug Abuse, and Mental Health

\$ 200.0 Transitional housing for persons completing detoxification

(35-07-01) Health & Social Services – Social Services

- \$ 328.0 Prescription Drug Program (difference from FY00 funding);
- 1,485.0 SSI coverage for persons who lose benefits due to unearned income;
- 408.7 Increase Medicaid eligibility for pregnant women/infants to 200% of poverty

(45-04-01) Public Safety – Alcoholic Beverage Control

- \$ 315.53.0 FTE Agents and 1.0 FTE Clerical for Enhanced Enforcement
(of which \$79.0 is one time funding)

(95-01-01) Public Education – State Board of Education and Department of Education

- \$ 77.01.0 ASF FTE School Health Coordinator for statewide training;
- 70.0 Professional development of public school staff, promotion of prevention activities in private schools, and prevention and health promotion supplies in public schools;
- 70.0 Pilot Life Skills Training Program

All of the above allocations are contained in the specified budget unit in Section 1 of this Act including associated positions and line item funding. The funds herein appropriated shall be disbursed in accordance with the recommendations of the Delaware Health Fund Advisory Committee as amended by the Joint Finance Committee.

All remaining unallocated funds shall be invested by the Cash Management Policy Board and any interest accrued shall be deposited to the credit of the funds of the Master Settlement Agreement.

LEGISLATIVE

Section 47. 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 48. Section 1 of this Act provides an appropriation to the Office of the Controller General (01-08-02) for Other Items: Legislative Council. 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 49. 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 50. The Hay points and the salary schedule for the Controller General shall be calculated in a manner comparable to division directors.

Section 51. Section 1 of this Act makes an appropriation to the Office of the Controller General (01-08-02) for legal expenses regarding neighborhood schools. Expenditures of such funds shall be approved by both the Speaker of the House and the President Pro Tempore of the Senate on issues arising from planning for and implementation of neighborhood schools.

JUDICIAL

Section 52. 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 53. 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
J.P. Court #20 (City of Wilmington)	21 eight-hour shifts per week

Section 54. Law clerk positions in the Court of Common Pleas (02-06-00) and the Staff Attorney position in 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 55. Section 1 of this Act appropriates \$424.8 in Contractual Services to the Office of the State Court Administrator (02-17-01) for Victim Offender Mediation Programs. The Victim Offender Mediation Committee will determine which programs are to be awarded funds from this appropriation.

Section 56. This Act appropriates \$110.8 ASF in personnel costs to the Court of Common Pleas (02-06-00) for 2.0 ASF FTE Court Clerks and 1.0 ASF FTE for a Fiscal Administrative Officer 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 Appropriated Special Fund spending authority for the Court of Common Pleas (02-06-00) can be made upon the concurrence and approval of the Budget Director and the Controller General.

Section 57. Section 1 of this Act appropriates \$215.5 in personnel costs and 5.0 FTEs to the Superior Court (02-03-10) for Drug Court positions funded by an expiring federal grant. Upon the expiration of the grant, the existing 5.0 Non-appropriated Special Fund positions will be converted into General Fund positions.

Section 58. Section 1 of this Act appropriates \$120.0 in Personnel Costs and 4.0 GF FTEs to the Court of Common Pleas (02-06-00) for the implementation of civil restraining orders. These positions are subject to enactment of Senate Bill 237 of the 140th General Assembly, or similar legislation, relating to civil restraining orders and the Court of Common Pleas. If this bill, or similar legislation, is not enacted these appropriations shall revert to a Budget Office Contingency.

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

Office of the Budget

Family Services Cabinet Council

Master Client Index

Agriculture

Delaware Nutrient Management Commission

Database

Office of Information Services

Operations

Oracle Licensing

Health and Social Services

Social Services

MMIS Development

Child Support Enforcement

DACSES Modifications

Natural Resources and Environmental Control

Office of the Secretary

Data Integration

Allocation of the funds appropriated for this purpose shall be made by the Budget Director in consultation with the affected department/agency head. Service need allocations shall not be transferred to another department or service need unless approved by the Budget Director. In the event there are federal funds available for match in support of a project or projects, the Budget Director and the Controller General may transfer such funds as are necessary for matching purposes to the department/agency involved.

(b) No computer or computer-programming related systems project identified in Subsection (a) of this Section may be initiated by the departments/agencies during this fiscal year, unless covered by a formalized plan approved by the department/agency head and the Budget Director. After the Budget Director approves a formalized project, he/she shall forward a copy to the Controller General and the Director of the Office of Information Services. Such project will be in the form approved by the Budget Director, or his/her designee, and shall include:

- (i) statement of work to be done;
- (ii) existing work to be modified or displaced;
- (iii) total cost of systems development and conversion effort, including systems analysis and programming cost, establishment of master files, testing, documentation, special equipment costs, including full overhead, savings or additions in positions and operating costs that will result after development or conversion;
- (iv) other advantages or reasons that justify the work;
- (v) source of funding for the work and whether or not work is within scope of work envisioned under this Section; and
- (vi) estimated costs of such project shall include a three-year projection, i.e., current fiscal year and two succeeding fiscal years.

(c) No project is to be undertaken which is beyond the scope of work approved by the department/agency head and the Budget Director. This requirement applies to all computer or computer-programming related systems development performed by the Office of Information Services and approved by the Office of the Budget, department/agency itself or an outside consultant or contractor. Further, this requirement applies to new computer programs or systems purchased or otherwise acquired and placed in use.

(d) Status reports supplied by the Budget Office and approved by the Office of Information Services and the Controller General, sufficiently descriptive in nature of each project, shall be completed

by each department/agency and provided quarterly to the Budget Director, the Director of the Office of Information Services and the Controller General.

(e) In support of all projects executed between the Office of Information Services and the Office of the Budget and the concerned department/agency, Information Services shall maintain staff support to the benefit of department/agency at the projected level of effort (subject to recruitment delays) until the project work has been accomplished.

(f) No funds appropriated in Section 1 of this Act may be used to employ data or word processing professionals in support of current or proposed data or word processing systems without prior written approval of the Budget Director.

Section 60. The General Assembly finds that the establishment of the federal TANF block grant has left the state vulnerable to deficits from caseload increases attributable to an economic downturn. In order to minimize such exposure, the funds within the Reserve Account for CSCRP Disallowances (10-02-01-80-51), and any funds which may become available from a one-time federal surplus resulting from the old AFDC (Title IV-A) and JOBS (Title IV-F) Programs, shall be available to mitigate to the extent possible, projected deficits in TANF supported programs within the Division of Social Services, Department of Health and Social Services. The use of such funds for such purposes shall require the approval of the Budget Director and Controller General.

Section 61. Section 1 of the Act contains an appropriation in Office of the Budget, One-Time Items and Contingencies (10-02-04) for Contingency - Salary. The Budget Director with the concurrence of the Controller General is authorized to transfer agency salary funds through transfers in order to adjust for salary savings, the general salary increase contained in Section 8 of this Act.

Section 62. The amount appropriated to the Office of the Budget, Contingency and One-Time Items, Prior Years' Obligations, shall be used to pay personnel costs, reimbursement of overpayment of fringe benefits, and other obligations except coding errors by a school district which require adjustment of the state's accounts. Any use of the Prior Years' Obligations account by any agency receiving funds in Section 1 of this Act, in excess of the amount reverted from the applicable line code on June 30 of the fiscal year in which the expense was incurred, will require the requesting agency or school district to reimburse the Prior Years' Obligations account by the amount equal to the excess requested. A line code reversion sum does not negate the necessity of encumbering sufficient funds to cover known expenses. proof of circumstances beyond an agency's ability to encumber must be documented on the request for transfer to be excluded from the reimbursement clause. All requests for prior year funds to complete the payment of one-time items will require a reimbursement to the Prior Years' Obligations account by the requesting agency from any appropriation other than personnel costs. The reimbursement can be removed from the current fiscal year's budget. The reimbursement clause shall not apply to legal judgments against the agency or school district. A reimbursement under this Section shall not be deemed to be prohibited by Title 10, Section 8111, Delaware Code.

Section 63. For Fiscal Year 2001, Title 29, Chapter 65, Section 6529, Delaware Code is interpreted to include the ability to implement a hiring review process. All State agencies with the exception of Legislative, Judicial, Higher Education and School Districts shall be subject to the provisions of Section 6529 as interpreted by this section. Implementation of a hiring review process shall require all positions to be reviewed and approved by the Budget Director and the State Personnel Director prior to filling. All non-cabinet agency hiring requests shall also require the review and approval of the Controller General prior to filling.

Section 64. Section 1 of this Act appropriates \$100.0 to Office of the Budget Contingencies and One-Time Items (10-02-04) for Tax Warrant Adjustment. Upon the approval of the Budget Director and the Controller General, \$50.0 shall be transferred to both Kent and Sussex County for reimbursement of interest lost due to the change in the deadline for the delivery of school property tax warrants.

Section 65. The appropriation in Section 1 of this Act to the Office of the Budget, Contingency and One-Time Items (10-02-04) for Contingency, Appropriated Special Funds for \$20,000.0 shall be used to make adjustments in the amount of state special fund appropriations in the event additional state special funds are received which were not previously anticipated. Such adjustments shall be made in accordance with the approval of the Budget Director and the Controller General.

Section 66. Section 1 of this Act includes a contingency of \$200.0 in the Executive Department, Office of the Budget, One-Times and Contingencies (10-02-04) for West Nile Virus. With the approval of the Budget Director and the Controller General, all or part of these funds shall be transferred to state agencies to combat a potential outbreak of the West Nile Encephalitis Virus

Section 67. 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 \$8,811.4 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 2002 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:

Fiscal Year	Account	Remarks
Appropriation	Codes	
(01-08-01)	Legislative Stationery	\$70.0
(01-08-01)	Phone System	\$80.6
(01-08-01)	Furniture	\$11.0
(01-08-01)	MIA Memorial on the Green	\$30.0
(01-08-02)	Statewide Redistricting	\$75.0
(01-08-02)	Computer Training	\$10.0
(02-03-10)	Board of Canvass	\$30.0
(02-06-10)	Office Furniture and Equipment for Clerks	\$12.4
(20-06-10)	Electronic Cash Register for Collections	\$2.4
(02-08-10)	Pro Se Program Center Supplies	\$9.6
(02-08-10)	Pro Se Program Staff Attorney Furniture and Equipment	\$1.5
(02-08-10)	Pro Se Program Attorney Computers	\$2.5
(02-08-10)	Pro Se Program Center Audio Visual Equipment	\$1.2
(02-08-10)	Pro Se Program Center Computers	\$5.6
(02-08-10)	Court Security (Door Locks, Alarms, etc.)	\$27.6
(02-08-10)	Court Security (CCTV)	\$20.9
(02-08-10)	Court Security (Metal Detectors)	\$18.0
(02-08-10)	Court Security (800 MHz Radios)	\$81.0
(02-13-10)	Uniforms	\$2.4
(02-13-10)	Weapons	\$2.8
(02-17-04)	PC, Printer and Server Replacements	\$110.9
(02-17-04)	Infrastructure Support Field and Help Desk Software	\$40.0
(02-17-04)	Infrastructure Support Field and Help Desk Furniture	\$9.0
(02-17-04)	Infrastructure Support Field and Help Desk Computers	\$21.0
(10-01-01)	Computer Equipment	\$28.0
(10-02-01)	Computer Equipment	\$7.5
(10-02-07)	Sentencing Study	\$100.0
(10-02-07)	RDBB Offset for Use of SAC FTE	27.2
(10-03-01)	Computers and Software	\$18.0
(10-03-03)	Fraun Hofer	\$200.0
(10-07-02)	DELJIS Relocation	\$92.7
(12-02-01)	Travel and Training Related to SAP Accounting System	\$35.4
(12-02-01)	Peer Review, External Quality Control Review	\$15.0
(12-05-01)	RFP 403(b)	\$30.0
(15-01-01)	Computer Maintenance/Wiring for Kent County Space	\$40.0
(15-01-01)	Office Equipment/furniture for Kent County Space	\$40.0
(15-02-01)	Computer Upgrades	\$25.0
(15-02-01)	Furniture and Equipment	\$19.0
(15-02-01)	Network Upgrades (Rewire New and Existing Buildings)	\$10.0

Chapter 395

Vol.72

(15-02-01)	MPCJF Wiring (Fix Water Damaged Wiring)	\$4.0
(15-02-01)	Computer Training (IT Staff)	\$18.0
(15-03-01)	Computer Upgrades	\$6.0
(20-01-03)	Heavy Equipment Purchase (Front-end Loader)	\$27.2
(20-01-03)	Excavator	\$48.0
(20-01-03)	Turf Utility Vehicles (3)	\$20.4
(20-01-03)	Riding Mulch Mower	\$9.9
(20-01-03)	Flat Bed Utility Vehicle	\$9.3
(20-03-01)	Historical Markers	\$70.0
(20-03-01)	Revolutionary War Marker	\$7.5
(20-03-01)	Metal of Honor Grove	\$10.0
(20-06-04)	Computer Upgrades for J-V Museum	\$14.0
(20-06-04)	Truck and Equipment Replacements	\$48.0
(20-08-01)	DE Libraries Centennial Celebrations	\$75.0
(30-05-10)	Accessibility Survey	\$82.1
(30-06-10)	Projector	\$3.5
(35-05-20)	Office of Narcotics & Dangerous Drugs Vehicle	\$30.0
(35-05-20)	Narcotics Vehicle	\$25.0
(35-12-10)	Customer Service Training	\$50.0
(37-01-20)	Truancy Bill	\$200.0
(37-05-30)	Staff Development Supplies & Capital Items	\$5.0
(37-05-50)	Probation Officers - Furniture & Equipment	\$15.0
(38-01-02)	Office Furniture, Equipment and Computer Equipment for HR/EDC FTEs	\$9.0
(38-01-02)	Ammunition for CEIT Classes	\$75.0
(38-01-02)	Supplies for CEIT Classes	\$75.0
(38-01-10)	Furniture and Computers for JIS FTEs for DACS Maintenance	\$9.0
(38-01-10)	Replacement Computers	\$210.0
(38-01-20)	Kitchen Start Up and Supplies for DCC Max	\$50.0
(38-01-20)	Kitchen Start Up and Supplies for KWRC	\$20.0
(38-01-20)	Kitchen Start Up and Supplies for Central VOP	\$10.0
(38-01-40)	Vehicle for MPCJF CO/Maintenance Mechanics (Day-Shift)	\$17.5
(38-04-01)	Security Equipment for Institutions	\$100.0
(38-04-03)	AFIS - Finger Print Machine	\$75.0
(38-04-03)	3 Vans	\$70.0
(38-04-06)	Furniture, Equipment and Computer for Correctional Counselor	\$4.5
(38-04-06)	Computers for Record Clerk Positions	\$5.0
(38-04-06)	Furniture and Equipment for Record Clerk Positions	\$22.5
(38-04-09)	Radios for Prison Industries FTEs	\$1.6
(38-04-09)	Sewing Machines	\$16.0
(38-06-02)	Furniture, Equipment and Computer for Middletown Staff	\$9.0
(38-06-02)	Start Up Costs for Middletown Office	\$50.0

(38-06-02)	Furniture, Equipment and Computers for PO's Apprehension Unit	\$31.5
(38-06-08)	Furniture, Equipment and Computers for KWRC Staffing	\$31.5
(38-06-10)	Furniture, Equipment and Computers for Central VOP Staff	\$31.5
(40-05-04)	Moving Expenses	\$6.0
(40-05-04)	Office Furniture	\$5.0
(40-06-02)	4-Wheel Drive Beach Patrol Vehicle for Cape Henlopen	\$30.0
(40-06-02)	Killens Pond	\$30.0
(40-06-02)	Bellevue - Golf Vehicles	\$17.2
(40-07-01)	Dredging Study for the Inland Bays	\$25.0
(40-09-01)	Debris Disposal Fund	\$250.0
(40-09-01)	Debris Disposal Fund Supplies and Materials	\$17.1
(40-09-01)	Debris Disposal Contractual	\$42.9
(40-09-03)	Furniture and Equipment	\$12.0
(45-01-30)	HB 427 - DEMA Assistance and Relief Fund	\$50.0
(45-01-30)	Retrofit New Castle County Decon Trailer	\$28.0
(45-01-30)	Retrofit Sussex County Decon Trailer	\$19.0
(45-02-10)	Equipment and Uniforms for new Capitol Security Officers at CSOB	\$16.5
(45-02-10)	Start Up Costs for Court Security	\$33.2
(45-06-01)	New School Resource Officer Training Supplies	\$14.4
(45-06-01)	Upgrade State Police Applicant Tracking System	\$8.0
(45-06-04)	Computer Crime Unit Hardware	\$25.0
(45-06-04)	New School Resource Officer Personnel Costs while in Academy	\$75.6
(45-06-05)	Computer Crime Unit Hardware	\$33.0
(45-06-07)	Replacement for Radars	\$52.0
(45-06-09)	Replacement for Vests	\$50.8
(45-06-09)	Replacement for Weapons: Handguns, Shotguns	\$57.2
(45-06-10)	800 MHz Radios for New School Resource Officers	\$16.4
(45-06-11)	Patrol Vehicle Replacement	\$400.0
(45-06-11)	Replacement for Front Seat Barriers	\$22.5
(45-07-10)	Spanish Drivers Manual	\$10.0
(60-01-10)	WIA Awareness/Marketing Campaign	\$6.5
(60-01-30)	Additional Copies of Delaware Legal Handbook	\$5.5
(60-01-30)	Public Forums and Workshops	\$35.0
(60-01-30)	Release of Women in Delaware Status Report	\$2.5
(60-09-20)	PC, Furniture and Telecommunications Equipment	\$5.0
(65-01-01)	Replacement of Computer Server	\$35.0
(65-04-01)	Blackbird Forest Storage Building	\$25.0
(65-04-01)	Fire Fighting Equipment for Redden and Blackbird Forests	\$22.0
(70-01-01)	FY 2001 Primaries and General Elections	\$329.3
(70-01-01)	Hardware and Software for Reapportionment	\$60.0
(70-02-01)	FY 2001 Primaries and General Elections	\$1,495.3

Chapter 395

Vol. 72

(70-02-01)	Office Chairs	\$4.2
(70-02-01)	2000 Elections Fail-Safe Enhancement	\$48.0
(70-02-01)	Satellite Office	\$30.0
(70-03-01)	FY 2001 Primaries and General Elections	\$285.4
(70-03-01)	Polling Place Rent Increase	\$5.1
(70-04-01)	FY 2001 Primaries and General Elections	\$245.4
(70-04-01)	Polling Place Rent Increase	\$5.0
(70-04-01)	New Telephone System	\$11.5
(75-01-01)	Radio Equipment for the New Castle County Office	\$20.0
(75-01-01)	10 Units for Pen Based Technology	\$50.0
(75-01-01)	Smoke Detectors	\$10.0
(75-02-01)	Combustive Gas Analysis Study	\$25.0
(75-02-01)	Air Compressor	\$20.0
(75-03-01)	EMT-B Training Reimbursement	\$160.5
(76-01-01)	Upgrade PC Systems to Link to State Database	\$25.0
(76-01-01)	Promotional Video	\$40.0
(77-01-01)	Computer Upgrades	\$3.0
(90-01-02)	Replacement of 1994 Field Vehicle	\$24.0
(90-01-02)	Spacial Data Conversion	\$75.0
(90-04-02)	Replacement of Broken Heat Pumps at Owens Campus	\$25.0
(90-04-04)	Short-term MCI Projects at Stanton and Wilmington Campuses	\$50.0
(90-04-06)	Space Conversion for Information Systems Division FTEs at Terry Campus	\$25.0
(95-01-01)	Diploma Index Standard Setting	\$15.0
(95-01-01)	School Library Resources	\$780.0
(95-01-01)	Neighborhood Schools	\$250.0
(95-01-01)	Summer School Committee	\$20.0
(95-01-01)	National CCSSO Annual Conference	\$20.0
(95-01-01)	State Board of Education Accountability Survey	\$40.0
(95-03-10)	Diploma-at-a-Distance Computer Equipment	\$40.0
(95-03-20)	ECAP Classroom Relocation/Renovation Costs	\$25.0
(95-08-01)	Computer Equipment	\$1.7

Section 68. 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.

The Cabinet Council is encouraged to use the Delaware Kids Count Project as a resource in the collection and analysis of data on children and family issues.

The Cabinet Council is encouraged to explore with the University of Delaware and Delaware State University to determine how these institutions can participate consistent with their land grant mission.

The Cabinet Council shall report quarterly to the Controller General on expenditure of funds in FY 2001.

Additionally, \$21.0 of this appropriation shall be used to support the University of Delaware, Cooperative Extension newsletter series, Great Beginnings.

Section 69. Section 1 of this Act provides one-time funding of \$25.0 to the Office of the Budget Contingencies and One-Times for the Delaware High School Football Championship. These funds are to be used for the Championship games of both Division I and Division II to be held at the University of Delaware, Delaware Stadium. Another location, if agreed to by the Delaware State High School Football Tournament Committee, may be selected. If funds are not expended during Fiscal Year 2001 for Championship games held at the University of Delaware, the funds may be continued to Fiscal Year 2002 or until such time the University is the sight of the Championship games. Proceeds from these two events shall be used as necessary to cover the cost of holding these Championship games at the Delaware Stadium in subsequent years unless another location is agreed to.

Section 70. Section 1 of this Act appropriates \$1,244.8 to the Office of the Budget, Contingencies and One-times, Motor Fuel Tax operations (10-02-04). The purpose of this funding is to reimburse the Transportation Trust Fund of the Department of Transportation, Office of Financial Management and Budget (55-01-02) for the operating cost of Motor Fuel Tax.

Section 71. Section 1 of the Act makes an appropriation of \$100.0 to the State Budget Office, Statistical Analysis Center (10-02-07) for the purpose of conducting a comprehensive study of Delaware's criminal justice system. The Sentencing Accountability Commission (SENTAC) shall submit a plan prior to researching the study to the Budget Director and the Controller General for approval. SENTAC shall submit a final report to the Office of the Controller General and the Budget Office by January 17, 2002.

Section 72. Section 1 of this Act makes an appropriation of \$50.0 in Appropriated Special Funds to the Criminal Justice Council (10-07-01) for SENTAC. These funds shall be used contractually for the Statistical Analysis Center (10-02-07) in order to provide an in-depth look at Level IV drug treatment programs. SENTAC, in conjunction with the Statistical Analysis Center, shall submit a plan prior to conducting the study to the Budget Director and the Controller General for approval. SENTAC shall submit a final report to the Office of the Controller General and the Budget Office by January 17, 2002.

Section 73. Notwithstanding the provisions of any other law, for the fiscal year ending June 30, 2001 interest earnings of the Delaware Strategic Fund as provided for in Section 5027, Title 29 of the Delaware Code, shall be used in the following manner and not to exceed the amounts so noted:

- (i) the first \$350.0 shall be used for the general operating expenses of the Delaware Small Business Development Center.
- (ii) the second \$300.0 shall be used to continue the Delaware Business Marketing Program within the Delaware Economic Development Authority (10-03-03). It is the intent of the General Assembly that these funds shall be used to match non-state contributions to the Delaware Business Marketing Program. Receipt of non-state funds shall be deposited in a special fund for business marketing and recruitment purposes only. Expenditures of the

program shall be divided between non-state contributions and the state matching funds such that non-state contributions are not less than one half of total expenditures. These funds shall not be used for hiring full-time employees. On or before April 1, 2001, the Director of the Delaware Economic Development Office shall provide to the Budget Director and the Controller General a report on the Delaware Business Marketing Program. The report shall include an itemized list of non-state funds received, total expenditures and an assessment of the performance of the program to date.

- (iii) the third \$100.0 shall be used for general operating expenses of the Working Capital Delaware Program (YWCA of New Castle County).
- (iv) any remaining funds shall be used for the purposes of the Delaware Strategic Fund.

Section 74. Section 1 of this Act appropriates \$65.0 for Other Items to Delaware Economic Development Authority (10-03-03). Of this amount, \$15.0 shall be allocated for the Delmarva Advisory Council.

Section 75. The Delaware Economic Development Authority (10-03-01) will continue to use revenue from Blue Collar Training Fund for the Workforce Development Grant. Funding for this grant shall be maintained at current levels.

Section 76. Amend Section 6102(b) Title 30, Chapter 61, Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(b) The proceeds of this tax shall be distributed as follows: Five percent to the State General Fund, one percent to the Beach Preservation Program of the Department of Natural Resources and Environmental Control of the State, one percent annually shall be designated, in the proportion in which collected, to the duly established convention and visitors bureau in each county and one percent to the Delaware Tourism Office."

Section 77. Of the Appropriated Special Funds allocated to the Delaware Tourism Office pursuant to Section 6102(b), Title 30, Chapter 61, Delaware Code contained in Section 1 of this act, \$200.0 ASF shall be used to fund a matching grants program and \$50.0 ASF shall be used to for a grant program where no match is required. Funds awarded as either grants or matching grants shall not be used for overhead or personnel related costs by the recipient entities. The Delaware Tourism Office, in cooperation with the Tourism Advisory Board shall develop rules and regulations for the application and award of the grants and matching grants. The Delaware Tourism Office shall provide the Controller General and Budget Director with a report by April 1, 2001 detailing the usage of the funds herein authorized. Said report shall also contain an assessment of the effectiveness of the programs in increasing tourism throughout the State.

Section 78. Section 1 of this Act authorizes \$27.0 ASF within the Delaware Tourism Office for the National High School Federation Wrestling Tournament. This is a one-time authorization for expenditure during Fiscal Year 2001.

Section 79. Section 1 of this Act authorizes a one-time \$50.0 ASF within the Delaware Tourism Office for the production of a book featuring Delaware Historical Markers for distribution by the Tourism Office. Notwithstanding any law to the contrary, the Delaware Public Archives, in consultation with the Tourism Office shall execute a contract for the production of 2,500 copies to be distributed as follows: 100 copies to the Speaker of the House of Representatives, 100 copies to the President Pro Tempore of the Senate and one copy to each incumbent legislator. The Tourism Office shall use the remaining copies for promotional purposes, which may include sale.

Section 80. Section 1 of this Act authorizes \$250.0 ASF within the Delaware Tourism Office for the Kalmar Nyckel. Said authorization is contingent upon the concurrence of the Board of Directors of the Riverfront Development Corporation.

Section 81. Section 1 of this Act authorizes \$5.0 ASF within the Delaware Tourism Office for the Juneteenth Celebration. This is a one-time authorization for expenditure during Fiscal Year 2001.

Section 82. Section 1 of this Act appropriates \$337.7 to the Office of State Personnel, Operations (10-04-02) for Generic Aides/Handicapped Employees. This appropriation is intended to encourage and enable qualified mentally and physically handicapped persons to obtain state employment in a State agency or school district per the provisions of Title 29, Chapter 59, Section 5924 of the Delaware Code.

Section 83. Section 1 of this Act provides authorization for a Staff Development Officer to be funded with Appropriated Special Funds in the Office of State Personnel, Staff Development and Training (10-04-04). The position will support statewide training programs for state managers, supervisors and employees. It is the intent of this Act to support these statewide training programs, in part, with funds generated from the assessment of charges for courses on agencies participating in certain classes held by the Office of State Personnel. The Office of State Personnel may set charges for courses to sustain or create training programs with the funds placed in an Appropriated Special Fund account established by the Budget Director.

Section 84. Section 1 of this Act provides an appropriation of 2.0 ASF FTEs and \$84.7 ASF in the Office of State Personnel (10-04-00). The State Personnel Director shall be the appointing authority and the two ASF FTEs will be housed in the State Personnel Office. These positions shall be Personnel Officers who will work on personnel issues for the Department of Transportation. The source of funding shall be the Department of Transportation, Division of Administration (55-02-01).

Section 85. For Fiscal Year 2001, the provisions of Title 29, Section 5905(b)(1), Delaware Code, shall be waived for any merit exempt employee on the PHRST project who is not covered by Merit Rule 6.0224, and the State Personnel Director shall have the same authority provided in Merit Rule 6.0224, in unusual circumstances and upon written request from the appointing authority, to authorize carrying over annual leave in excess of the maximum amount for PHRST project merit exempt employees.

Section 86. The State Employees Pension Benefits Review Committee will continue to review the pension plan by using appropriate and accepted comparative analysis, including, but not limited to, the benefit structure of the various state pension systems for the purpose of evaluating current pension plan benefits and recommending changes.

The committee membership will consist of the Chairman and the Vice Chairman of the Legislative Joint Finance Committee, one member of the Senate appointed by the President Pro Tem, one member of the House of Representatives appointed by the Speaker, three members appointed by the Chairman of the Board of Pension Trustees, one member of the Pension Advisory Council, the Pension Administrator, the State Personnel Director, the Budget Director, and the Controller General.

The Budget Office, the Controller General's Office, and the Pension Office shall provide the committee with staff support and such other resources as the committee may require.

Section 87. Whenever the annual valuation of the market value of the assets of the Special Pension Fund exceeds the actuarial value of benefits available to persons entitled to receive special pensions by a factor of at least 20 percent, the Board of Pension Trustees, in its sole discretion, may transfer the excess over 20 percent or any part of it to the State Employees Pension Fund for the benefit of that Fund.

Section 88. Section 1 of this Act provides funding for a state employee pension rate of 7.44 percent. The components of the rate are approximately 1.67 percent for the pension liability, 3.44 percent for the retiree health insurance liability and 2.33 percent for the Post-Retirement Benefit Fund. The 1991 Early Retirement Option (ERO) accounts for approximately .71 percent of the pension liability and .55 percent of the retiree health insurance liability.

Section 89. The Board of Pension Trustees may allocate the pension/health insurance monies received from the State during any month to ensure that funds are available to pay health insurance premiums for retirees in each month.

Section 90. Notwithstanding Section 5502(a)(3), Title 29 of the Delaware Code, pension benefit payments during fiscal year 2001 to the incumbent in position number 038593 who retired effective 12/31/98, shall not be reduced for earned income in excess of the allowable limit.

Section 91. The duties of the State Personnel Director shall include the administration and management of a statewide human resource information system and upon implementation, serve as the administrator of all data and processes supported by the system throughout the State, including all government agencies, school districts, Delaware State University and Delaware Technical and Community College.

Section 92. The Delaware Health Care Commission (10-05-01) is hereby authorized to reimburse Commission members for mileage associated with Committee responsibilities.

Section 93. The line item, Subvention, in Section 1 of this Act, Delaware Institute of Dental Education and Research (10-05-03), as provided by Title 14, Chapter 88, Delaware Code, provides for three dental internships and sufficient funds to contract with the Delaware Psychiatric Center to continue the Dental Internship Program. This program also will serve clients in the Community Mental Retardation Program.

Section 94. Section 1 of this Act appropriates \$1,832.5 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
Philadelphia School of Osteopathic Medicine	62.5
University of Delaware	50.0
Medical Center of Delaware	200.0
Scholarships/Loans	420.0
Loan Repayment	<u>100.0</u>
	\$1,832.5

Any changes in this allocation must receive prior approval from the Budget Director and the Controller General.

Of the scholarship/loan allocation identified above, \$400.0 is to be used to provide financial assistance in the form of loans for students attending Jefferson Medical College and \$20.0 is to be used for students attending Philadelphia College of Osteopathic Medicine 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 95. (a) Section 1 of this Act appropriates to the State Housing Authority (the "Authority") \$7,252.1 for its discretionary operating expenses. Discretionary operating expenses include personnel costs, travel, contractual services, supplies and materials and other normal business expenses of the Authority which are not required to be made pursuant to bond resolutions, trust indentures, agreements with the Federal Department of Housing and Urban Development, or otherwise required by operating agreements of the Authority.

(b) Nothing herein shall be construed to require any prior approval for the Authority to meet its previously contracted obligations, including debt service requirements under bond resolution or trust indenture of the Authority, nor shall anything contained herein require any such prior approval for any expenditure by the Authority under any such bond resolution or trust indenture or under any agreement with the Federal Department of Housing and Urban Development.

Section 96. Of the general funds appropriated in Section 1 of this Act to the Delaware State Housing Authority for the Housing Development Fund, \$480.0 shall be loaned to The Ministry of Caring for the Sacred Heart Village Assisted Living project. The terms of said loan shall be at the discretion of the Housing Authority and in accordance with Subsection 4030(c), Title 31, Delaware Code.

Section 97. The Delaware State Housing Authority is hereby authorized to use up to \$325.0 of the interest income from the Housing Development Fund for the support of administrative functions associated with that fund.

Section 98. Section 1 of this Act appropriates funding for a Senior Secretary in Criminal Justice Council (10-07-01) to be used as dedicated secretarial support for the Executive Director of the Domestic Violence Coordinating Council. This position shall be an exempt position and shall be excluded from classified service as defined under Title 29 Delaware Code, Section 5903.

Section 99. The Statistical Analysis Center (10-02-07) is authorized a one-time expenditure of \$4.2 from its Continuing Appropriation (99-10-02-07-01-98) in this Act for computer equipment replacement.

Section 100. Amend Title 11, Delaware Code by adding thereto a new Chapter 89 within Part V Law Enforcement Administration as follows:

"CHAPTER 89. STATISTICAL ANALYSIS CENTER

§ Section 8901. Established; employees.

(a) There is hereby established the Statistical Analysis Center within the Office of the Budget. The Director of the Statistical Analysis Center shall be qualified by training, education or experience to carry out the mission of the Statistical Analysis Center and shall report to the Budget Director.

(b) The Director of the Statistical Analysis Center may employ such personnel as are necessary to carry out the functions of this chapter, subject to the approval of the Budget Director and within the limits of any appropriation made by the General Assembly. The staff of the Statistical Analysis Center is hereby placed under the authority of and is subject to the oversight and supervision of the Budget Director.

§ Section 8902. Mission.

The Statistical Analysis Center shall provide the State with a professional capability for objective, interpretive analysis of data relating to crime and criminal justice issues in order to improve the effectiveness of policy making, program development, planning, and reporting.

§ Section 8903. General powers and duties.

In pursuit of its mission, the Statistical Analysis Center shall have the following powers, duties and functions:

- (1) Generate statistical and analytical products concerning crime and the criminal justice system in the State;
- (2) Provide statistical and analytical services from available information upon request;
- (3) Provide technical assistance in the identification of sources, collection, analysis, interpretation, and dissemination of criminal justice statistics to state and local governmental agencies;
- (4) Identify, collect, analyze and disseminate statistics regarding the resources expended on criminal justice in the state;
- (5) Promote the orderly development of criminal justice information and statistical systems within the state;
- (6) Maintain a state level capability for providing state and local governments with access to federal resources in criminal justice statistical information in cooperation with the U.S. Department of Justice;
- (7) Serve as the clearinghouse and point of contact for the U.S. Department of Justice and for state agencies, local government agencies, the courts, and appropriate non-governmental organizations;

Chapter 395

Vol. 72

- (8) Direct or participate in the research design for the analysis of crime or criminal justice issues for the State; and
- (9) Conduct research and provide analyses as required to determine the impact proposed policy changes may have on the criminal justice system.

§ Section 8904. Access to information and data.

The Statistical Analysis Center shall have full access to all information and data in any form, including computerized files and official records, to accomplish its research and analysis. All data referencing individuals shall be used only for research purposes and shall not in any way be shared or portrayed as to identify any individual so as to meet both state and federal security and privacy laws. It shall be the duty of all officials of the State or any political subdivision thereof to furnish any information and compile any report that may be requested by the Statistical Analysis Center.

§ Section 8905. Criminal justice agencies and courts to provide assistance.

It shall be the duty of all criminal justice agencies and courts of the State or any political subdivision thereof to provide such assistance as may reasonably be requested by the Statistical Analysis Center to carry out its mission under this chapter."

Section 101. An Implementation Committee for the Office of the Budget, Statistical Analysis Center (SAC), shall be established to review how SAC will carry out its mission and responsibilities under the administration of the Office of the Budget. The committee shall evaluate and make recommendations on the method of allocating resources; recurring project assignments; guidelines to establish procedures prioritizing ad hoc research report requests; guidelines for a peer review committee that would review research design, methodology, and statistical integrity of the analytical process; and other issues as needed. This committee shall consist of ten members as follows:

1. Budget Director or his designee;
2. Controller General or his designee;
3. Director of the Statistical Analysis Center;
4. Chair of the Criminal Justice Council;
5. Commissioner of the Department of Correction or his designee;
6. Secretary of the Department of Public Safety or his designee;
7. Secretary of the Department of Services for Children, Youth and Their Families or his designee;
8. One member to be designated by the Chief Justice of the Supreme Court;
9. One member of the Department of Justice, to be designated by the Attorney General; and
10. One member of the Office of the Public Defender, to be designated by the Public Defender.

The SAC Implementation Committee shall submit a report of its findings and recommendations to the Budget Director on or before December 31, 2000.

Section 102. Section 1 of this Act includes 1.0 FTE in the Executive Department, Office of the Budget, Statistical Analysis Center (10-02-07) for the Director of the Statistical Analysis Center. This position shall be exempt from the Merit System until such time as the current incumbent vacates the position, at which time the position shall be classified by the Director of State Personnel in accordance with the Merit System, Title 29, Chapter 59, Delaware Code.

Section 103. In an effort to manage the cost/benefit of professional services, the Office of Information Services is hereby authorized to implement a pilot project to utilize the services of Limited Term employees in lieu of contractual services. Requests, accompanied by an implementation plan and/or status report, from the Executive Director of the Office of Information Services for transfer of unexpended contractual services to personnel costs, for purposes of this pilot within the Office of Information Services, may be made upon approval of the Budget Director and the Controller General. OIS employees hired as Limited Term under this section shall be hired within the procedures of the Merit Rules and compensated at rates within salary ranges as specified in the Merit System and Merit Comparable Salary Schedules.

Section 104. A Committee consisting of representatives from the Office of the Controller General, the Office of the Budget, the Governor's Office, the Public Service Commission and the Office of Telecommunication Management within the Office of Information Services shall be formed to make recommendations regarding the

State's E911 System. These recommendations shall address funding for equipment, maintenance and operations, as well as operational and contractual issues. The Committee shall report its findings to the Governor, Controller General, Co-Chairs of the Joint Finance Committee and Budget Director by December 1, 2000.

OTHER ELECTIVE OFFICES

Section 105. 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 14, Chapter 51, Section 5109, Delaware Code. The Contractor conducting the audit shall be selected jointly by the University of Delaware and the State Auditor.

Section 106. 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 107. 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 108. 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 85 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 109. 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 110. 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.

Section 111. Section 1 of this Act provides an ASF appropriation of \$1,904.0 to the State Treasurer, Administration (12-05-01), Cash Management Policy Board, authorized by Title 29, Chapter 27, Delaware Code, for the purpose of providing staff support and operational expenses, including payment of fees for banking services. The \$1,904.0 in interest income on bank deposits shall be coded as special fund revenue to provide funds for operation of the Cash Management Policy Board.

Section 112. Section 1 of this Act authorizes \$370.0 for Expense of Issuing Bonds in the Office of the State Treasurer, Debt Management (12-05-03), for payment of expenses relating to the issuance of State long-term debt. Disbursement from the Expense of Issuing Bonds fund shall not be made without the prior approval of the State Treasurer and the Secretary of Finance.

Section 113. Section 1 of this Act establishes a special fund appropriation entitled Electronic Data Interchange, in the Office of the State Treasurer, Administration (12-05-01) Cash Management Policy Board to support the Electronic Data Interchange/Electronic Funds Transfer initiative. Use of these funds shall be coordinated with and approved by the Executive Director of the Office of Information Services and the Secretary of Finance.

Section 114. Notwithstanding Section 6059, Title 29, Delaware Code, the program participants shall pay for all costs, excluding personnel, associated with the administration of the Deferred Compensation Program.

LEGAL

Section 115. Section 1 of this Act authorizes an appropriation for contractual services for the Office of Attorney General (15-01-01). Of this amount, \$773.6 shall be used for the purpose of providing services covering family violence in New Castle County, and \$393.6 shall be used for the purpose of providing services covering family violence in Kent and Sussex counties.

Section 116. Section 1 of this Act provides an appropriation of \$564.5 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 117. 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

Chapter 395

Vol.72

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;

(q) One Special Fund Deputy Attorney General shall be assigned to the Drug Unit to handle forfeiture cases statewide. Said Deputy Attorney General position shall be funded from assets and/or proceeds from the disposition of seized property resulting from forfeitures;

(r) One Special Fund Deputy Attorney General and two Special Fund support staff shall be assigned to handle personal injury litigation involving state-owned vehicles; and

(s) One split-funded (0.5 ASF FTE and 0.5 GF FTE) Deputy Attorney General shall be assigned to the Department of Agriculture. Fifty percent of this position shall be assigned to work on issues related to nutrient management and shall be funded by General Funds; 50 percent of this position shall be assigned to work on issues related to the Thoroughbred Racing Commission and Harness Racing Commission, and shall be funded by Appropriated Special Funds.

(t) One Deputy Attorney General shall be assigned to the Delaware State Police.

(u) Section 1 of this Act appropriates two special fund positions (one Deputy Attorney General IV and one Paralegal) relating to the tobacco settlement; in an effort to supplement and enhance the on-going aggressive enforcement efforts by the Attorney General's Office of Delaware's Tobacco laws pertaining to youth access and to enforce the Master Settlement Agreement in an effort to prevent the loss of settlement dollars.

(v) The Attorney General shall submit a semi-annual report to the Budget Director and Controller General that details the number of Deputy Attorney General FTEs, the source of their funding and the divisions to which they are assigned. These reports are due on November 30 and May 15.

Section 118. Section 1 of this Act makes an appropriation of \$15.0 to the Office of the Attorney General (15-01-01) in Appropriated Special Funds to establish an Attorney General Opinion Fund. The Office of the Attorney General is authorized to publish and sell the opinions of the Attorney General; to deposit the proceeds of any sales in a special fund to be designated "Attorney General Opinion Fund"; and to expend all monies deposited in such fund for any expense connected with the publishing or sale of opinions of the Attorney General. Copies of the published opinions will be distributed at no cost to the General Assembly, the Governor and state agencies. If at the end of the fiscal year, the amount deposited in this fund exceeds \$15.0, the amount exceeding \$15.0 shall be deposited into the General Fund.

Section 119. Section 1 of this Act makes an appropriation of \$852.3 Appropriated Special Funds, \$400.0 General Funds and 22.0 positions, split-funded 66 percent Appropriated Special Funds and 34 percent General Funds to the Office of the Attorney General to support the Child Support Enforcement function. The Child Support Enforcement function in the Attorney General's Office will operate on a reimbursement basis, wherein the State makes the initial expenditures and is reimbursed from federal funds controlled by the Department of Health and Social Services. The reimbursement rate for operations will be 66 percent of total direct costs; the reimbursement rate for indirect costs will be 25 percent of federal dollars spent on direct salary costs.

Notwithstanding the provisions of Title 29, Chapter 64, Subsection 6404 (h)(1)(2)(3), of the Delaware Code, the Attorney General's Office shall be allowed to retain the federal reimbursement of

direct costs in an Appropriated Special Funds account to pay the Appropriated Special Funds share of operating expenses associated with the Child Support function.

The Attorney General's Office shall also be allowed to retain up to a maximum of \$30.0 of the departmental portion of indirect cost recoveries for this function to support the agency's overhead and \$16.3 to be applied to the state's share for four clerical positions. The statewide portion of indirect cost recoveries will be deposited to the indirect cost account in the Budget Office. The remainder of the indirect cost recoveries and any unused portion of indirect cost funds in the Attorney General's Office will be deposited into a separate account in the Office of the Treasurer, to be established by the Budget Office, and retained to be used to support the General Fund portion of the budget for this function in subsequent years.

Adjustments to Appropriated Special Fund spending authority for the Office of the Attorney General (15-01-01) can be made upon the concurrence and approval of the Budget Director and the Controller General.

Section 120. Notwithstanding any other laws to the contrary, including, but not limited to, Part VI of Title 29, Delaware Code, the Attorney General is authorized to enter into a contract for the production, distribution and marketing of the video entitled "Crossing the Line" on such terms and conditions as the Attorney General deems appropriate. All revenues received by the Attorney General from such contract shall be deposited in a Non-Appropriated Special Fund. Revenues received and deposited into such NSF account shall be used for the purpose of reproducing, marketing, and distributing copies of this film.

Section 121. Section 1 of this Act appropriates \$35.0 in personnel costs and 1.0 General Fund position to the Office of the Attorney General (15-01-01) for a Social Worker position, currently funded by an expiring federal grant, that assists elderly and juvenile victims of crime. Upon the expiration of the grant, the existing 1.0 Non-appropriated Special Fund position will be converted into a General Fund position.

Section 122. Section 1 of this Act appropriates funding in personnel costs to the Office of the Attorney General (15-01-01) to be used to pay for the salary matrix in the Department of Justice as approved by the Joint Finance Committee, notwithstanding Chapters 5.000 and 6.000 of the Merit Rules. This salary matrix is intended to maintain the salaries of Deputy Attorneys General at competitive rates. Deputy Attorneys General who were eligible for a salary increase greater than 15 percent in Fiscal Year 2000 shall be provided with the additional increase during Fiscal Year 2001. A committee consisting of the Attorney General, the State Personnel Director, the Budget Director and the Controller General will bi-annually review the Department of Justice Salary Plan.

Section 123. Section 1 of this Act appropriates \$276.4 in personnel costs and 6.0 FTEs to the Public Defender (15-02-01) positions dedicated to the Videophone Project, currently funded by an expiring federal grant. Upon the expiration of the grant, the existing 6.0 NSF FTEs positions will be converted into General Fund positions.

Section 124. Section 1 of this Act appropriates \$271.5 in the Office of the Budget Contingency and One-Time Items. These funds shall be used to implement a salary matrix in the Public Defender's Office as approved by the Joint Finance Committee, notwithstanding Chapters 5.000 and 6.000 of the Merit Rules.

The salary matrix and promotional criteria shall be distributed to all eligible Public Defenders on July 3, 2000. Public Defenders shall receive an increase to the new entry-level salary of the matrix or the salary increase provided for in Section 8(d)(1) of this Act, whichever is greater, effective July 1, 2000.

A review committee shall be made up of 2 representatives from the Public Defender's Office and 3 representatives from the State Personnel Office. This committee shall determine the initial employee distribution throughout the salary matrix based on documentation provided by the employee. In the event that an employee does not agree with their initial placement, the employee may appeal via an interview and final determination shall be made by the review committee. This decision shall not be subject to further appeal.

Chapter 395
Vol.72

Public Defenders shall be considered for promotional increases, effective October 1, 2000, based on the approved salary matrix. Salary increases shall not exceed 15 percent of an employee's salary as of June 30, 2000. In the event that an employee is eligible for an increase greater than 15 percent, the difference shall be provided in the subsequent fiscal year. Additional increases due to promotional raises shall be provided in the subsequent fiscal year. The State Personnel Director and the Public Defender shall provide a written assessment of the program to the Budget Director and the Controller General by February 1, 2001. Thereafter, a committee consisting of the Public Defender, the State Personnel Director, the Budget Director and the Controller General will periodically review the Public Defender salary plan.

STATE

Section 125. Section 1 of this Act appropriates \$330.1 ASF and 1.0 ASF Information Resources Specialist 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 Government 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, 2001, as to the activities and accomplishments of this effort.

Section 126. Section 1 of this Act provides an appropriation to Office of the Budget, Contingency and One-time Items (10-02-04). Of that amount, \$10.0 shall be used for the Medal of Honor Grove at Valley Forge. These funds shall be used for repairs and improvements for the Memorial honoring Delaware Medal of Honor recipients. The Secretary of State shall oversee this project with State dollars not being expended until matching funds are available from private and other sources.

Section 127. Section 1 of this Act appropriates \$25.0 in the line item "Historical Marker Maintenance" to the Department of State, Division of Delaware Public Archives (20-03-01). Of this amount, \$10.0 shall be used for replacement, \$10.0 used for repair and refurbishing and \$5.0 for contractual assistance.

Section 128. Section 1 of this Act provides an appropriation to Office of the budget, Contingency and One-time Items (10-02-04). Of this amount, \$7.5 shall be used for Revolutionary War Markers for Delaware troops. This will fund approximately 8 markers.

Section 129. 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, \$49.9 shall be used to provide mental health services for veterans in Kent and Sussex counties.

Section 130. 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, ongoing maintenance, operational expenses for the Division of Corporations, and for electronic commerce initiatives. 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 131. Amend Section 2311, Title 29, Delaware Code by striking subsection (e) in its entirety and substituting in lieu thereof the following:

(e) "The maximum unencumbered balance which shall remain in the Division of Corporations, Corporate Revolving Fund at the end of Fiscal Year 2000 shall be \$1,300,000.00 and any amount in excess thereof shall be transferred to the General Fund of the State. The maximum unencumbered balance which shall remain in the Division of Corporations, Corporate Revolving Fund at the end of Fiscal Year 2001 and any subsequent fiscal year thereafter shall be \$1,000,000.00 and any amount in excess thereof shall be transferred to the General Fund of the State."

Section 132. 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 133. Pursuant to Title 29, Delaware Code, Section 5903(4), the position of Director of the Delaware Heritage Commission (20-06-01) shall be exempt from the Merit System.

Section 134. The Delaware Heritage Commission shall investigate which out of print books and writings on Delaware history should be considered for republication. Further, the Delaware Heritage Commission shall

Chapter 395

Vol. 72

investigate what writings in these categories would be valuable for republication. A report shall be made to the Controller General and Budget Director by December 1, 2000.

Section 135. Section 1 of this Act provides a special fund appropriation to the Department of State, Division of Historical & Cultural Affairs for conference center operations. The department is hereby authorized to retain revenue received from land and building rentals at Buena Vista, Belmont Hall, Dayett Mills, The Lindens, McCrone House, John Dickinson Plantation and the Meeting House Galleries to support these operations.

Section 136. Notwithstanding the provisions of Title 29, Delaware Code, Section 6102 (a), and Title 5, Delaware Code, Section 1106, the Office of the State Bank Commissioner is authorized to retain \$100.0 of the Bank Franchise Tax for costs associated with the collection and administration of the Bank Franchise Tax.

Section 137. Section 1 of this Act makes an appropriation to the Division of Libraries in the amount of \$2,121.6 for Library Standards. Of that amount, the Division of Libraries may reserve up to \$212.1 for planning and evaluation grants to determine each library's attainment of state and federal library standards. The remaining funds shall be paid to libraries in two installments equal to 50 percent of the total amount allocated to that library, one installment upon signature of the contract and the second installment in January of the fiscal year. Funds granted to any library under the provisions of Title 29, Chapter 66, Delaware Code, if unspent at the end of the fiscal year shall not revert to the General Fund, but instead shall be held in an account for the benefit of the library from which the unspent funds came. These funds may be spent in subsequent years for purposes described in Title 29, Chapter 66, Delaware Code. The use of such carryover funds shall not be used as part of any subsequent years' formula payment.

FINANCE

Section 138. The Department of Finance, Office of the Secretary, is authorized during Fiscal Year 2001 to maintain special funds with the State Treasurer for the acquisition of technology and payment of other costs incidental to the implementation and maintenance of computer systems at the Department of Finance. Deposits to the special funds shall be from the collection of delinquent taxes and shall not exceed \$2,400.0. Of this amount, \$700.0 shall be used for the purpose of maintaining the Division of Revenue's mainframe computer system and the programs that reside thereon, the provisions of Subchapter IV or Chapter 63 of Title 29, Section 6301 et seq. of the Delaware Code notwithstanding. Of the said \$700.0, \$130.0 shall be used to contract for system maintenance with the Office of Information Services.

Section 139. 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. 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. Unencumbered balances on June 30 in excess of \$150.0 shall revert to the General Fund.

Section 140. The Director of the Division of Revenue shall have the authority to accept, on whatever terms and conditions he/she may establish, 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 \$80.0 of the delinquent collections in the Appropriated Special Fund line may be used to pay for fees and expenses associated with the collection of taxes by credit cards.

Section 141. 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 of such money held in the escrow, custodian or other account established under this paragraph. No account shall be used to pay for employees of the Division of Revenue. Section 1 of this Act establishes an Appropriated Special Fund account "Escheat" from which charges relating to receiving and processing remittances and reports by holders, and claims by owners of abandoned property, as well as advertising and travel fees and associated costs may be paid and into which abandoned property remittances may, at the discretion of the Director, be deposited. Unencumbered balances on June 30, in excess of \$75.0, shall revert to the General Fund. A semi-annual report of amounts in escrow or custodian accounts shall be furnished to the Budget Director and the Controller General.

Section 142. The Division of Revenue is authorized to require payment of fees for issuance of certificates or other documents reflecting the status of taxes, if any, owed by the taxpayer requesting such certificate. In addition, the division is authorized to specify payment of fees for collection of debts owed to claimant agencies. Payment of these fees shall be deemed to reduce the contractual services expenditures of the division and shall be recorded as expenditure-reducing items.

Section 143. Pursuant to Section 4815 (b) (2), Title 29 of the Delaware Code, funds from the State Lottery Fund shall be released to an appropriately established account within the Division of Alcoholism, Drug Abuse and Mental Health on or before the fifteenth day of each month, the amount of which shall be determined based on the results of video lottery operations conducted during the immediately preceding month.

Section 144. (a) In the event that the State Lottery's amount of contractual services shall exceed the amount in Section 1 of this Act due to increased lottery ticket sales, the Appropriated Special Fund Budget in Section 1 of this Act may be amended by the Secretary of Finance, the Controller General and the Budget Director; provided that the total operating budget for this fiscal year shall not exceed 20 percent of gross sales as limited by Title 29, Section 4815(a) of the Delaware Code.

(b) In the event the State Lottery's amount of contractual services shall exceed the amount in Section 1 of this Act due to increased video lottery net proceeds, the Appropriated Special Funds Budget in Section 1 of this Act may be amended by the Secretary of Finance, the Controller General and the Budget Director, as limited by Title 29, Section 4815(b) of the Delaware Code.

ADMINISTRATIVE SERVICES

Section 145. During Fiscal Year 2001, 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 146. 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 147. 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 148. 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 149. 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 150. During Fiscal Year 2001, 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 151. For energy backcharge purposes, the Department of Administrative Services (host department) Fiscal Year 2001 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 152. (a) Section 1 of this Act appropriates \$10,820.8 and \$1,900.0 ASF 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 or deauthorization until June 30, 2003:

<u>Agency</u>	<u>General Fund</u>	<u>Special Fund</u>
Judicial	\$ 250.0	
Department of State	522.3	
Department of Administrative Services	4,147.0	
Department of Administrative Services (Asbestos/UST)	709.0	
Department of Health and Social Services	2,427.0	
DHSS - Long Term Care Facilities/Tobacco Settlement Funds		\$1,900.0
Department of Services for Children, Youth and Their Families	382.0	
Department of Correction	2,000.0	

Chapter 395

Vol.72

Department of Public Safety

139.8

Delaware National Guard

243.3

(b) The Secretary of the Department of Administrative Services shall work in concert with the State Court Administrator in the Administrative Office of the Courts, Office of the State Court Administrator to prioritize projects and ensure completion of necessary renovations and equipment acquisitions within the court system.

Section 153. 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 154. 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 155. 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, 2003.

Section 156. Section 1 of this Act provides an appropriation of \$3,486.0 in contractual services and \$502.6 in supplies and materials to the Division of Facilities Management (30-05-00). Of these amounts, \$92.2 and \$10.2, respectively, are for the operation and maintenance of the Kent County Courthouse. The purchase of the Kent County Courthouse is planned for Fiscal Year 2001. Should such purchase not occur, the Budget Director and the Controller General are authorized to transfer said funds to the Office of the Budget, Contingencies and One-Time Items (10-02-04) for Salary Contingency.

Section 157. Effective January 2, 2001, all office and reception space on the eleventh floor of the Carvel State Office Building shall be allocated between the Judiciary and the General Assembly as follows:

The Judiciary may occupy the same square footage and space occupied by the Judiciary as of July 1, 2000. The remaining space on the eleventh floor shall be allocated to the Delaware General Assembly divided equally between the House and the Senate.

The Department of Administrative Services shall provide necessary assistance in relocating those other agencies currently occupying space on the eleventh floor.

HEALTH AND SOCIAL SERVICES

Section 158. 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 159. 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 160. Notwithstanding any other provisions of the Delaware Code, the merit position Nursing Home Director I, Governor Bacon Health Center (B.P. #4554) shall become exempt at such time as the current incumbent vacates such position:

When this position becomes vacant, the State Personnel Director shall take the appropriate steps to carry out the provisions of this section.

Section 161. (a) The amount appropriated by Section 1 of this Act to the Department of Health and Social Services for Title XIX Federal Programs (Medicaid) - Other Than State Institutions shall be expended solely in accordance with the following conditions and limitations:

- (i) This appropriation shall be used for the purpose of continuing the program of medical assistance provided within the state plan under Title XIX of the Social Security Act and the requirement of Section 121(a) of P.L. 89-97 and all subsequent amendments enacted by the Congress of the United States and commonly known as Title XIX of the Social Security Act.
- (ii) The state plan of medical care to be carried out by the Department of Health and Social Services shall meet the requirement for Federal Financial Participation under the aforementioned Title XIX, and the sums expended by the Department pursuant to this Act shall be limited to:
 - (1) Services mandated by the Health Care Financing Administration (HCFA), including:
 - a) Acute care inpatient general hospital services (other than services in institutions for tuberculosis or mental diseases)
 - b) Outpatient hospital services
 - c) Rural health clinic services and federally-qualified health center services
 - d) Laboratory and X-ray services
 - e) Nursing facility (NF) services
 - f) Early and periodic screening, diagnosis and treatment (including routine eye care, dental services and other medically necessary services that are not covered for the general population) for individuals under age 21 only known as EPSDT
 - g) Family planning services (including voluntary sterilization)
 - h) Physician services
 - i) Home health services including assistive technology such as durable medical equipment and supplies, prosthetics and orthotics, PT, OT and speech and hearing services
 - j) Nurse-midwife services
 - k) Services furnished by a certified nurse practitioner
 - l) Transportation

- m) Medicare premiums and/or coinsurance and deductible amounts as mandated for dual Medicare/Medicaid eligibles, Qualified Medicare Beneficiaries, Specified Low Income Beneficiaries, and individuals qualified under Section 4732 of the Balanced Budget Act of 1997
- n) Additional services mandated by HCFA through future revisions to the Social Security Act
- (2) Optional services, including:
 - a) Podiatry services
 - b) Clinic services, including mental health clinics, ambulatory surgical centers (ASCs) or free-standing surgical centers (FSSCs) and rehabilitation facilities.
 - c) Pharmaceutical products
 - d) Services for individuals age 65 or older in institution for mental diseases (ICF/IMDs)
 - e) Institutional services for the mentally retarded (ICF/MRs)
 - f) Emergency hospital sites not approved by Medicare (for clients traveling out-of-state)
 - g) Private duty nursing
 - h) Non-traditional services provided under a federally approved waiver for maintaining individuals in the community as an alternative to institutionalization
 - i) Hospice services
 - j) Rehabilitation and specialty hospital services
 - k) Other medically necessary services that are funded by the State
- (3) To the following groups/individuals who are determined eligible under the Title XIX Program:
 - a) Pregnant women, and infants under the age of one, with family income up to 200 percent of the poverty limit;
 - b) Children up to age 6 (through age 5) with family income up to 133 percent of the poverty limit;
 - c) Children up to age 19 (through age 18) with family income up to 100 percent of the poverty level;
 - d) Pregnant teens;
 - e) Children whose families, sponsors or foster parents receive benefits under Title IV-E and IV-D of the Social Security Act and/or who meet Medicaid income and resource requirements;
 - f) Foster children and children in private facilities (under age 21) for whom a public agency is assuming full or partial financial responsibility;
 - g) Children (under age 21) for whom any Division within the Department of Services for Children, Youth and Their Families has custody or consent to place, who have been removed from their own home, and who are in a medical facility for a temporary planning period prior to placement;
 - h) Children under age 18 who receive General Assistance (GA);
 - i) Federal or State-funded adoption assistance children;
 - j) Infants placed with private agencies for adoption;
 - k) Children age 18 or under who require an institutional level of care, who qualify as blind or disabled, and who have personal income and resource below the limit for Supplemental Security Income (SSI), but who can be cared for safely and cost-effectively at home, may be covered;
 - l) Families who would have qualified for the following groups which have been replaced with Temporary Assistance for Needy Families (TANF) program effective March 10, 1997;
 - m) Cash assistance recipients;
 - n) Cash assistance applicants with a budgeted need of less than \$10;
 - o) Work Transition/Prospective - including:
 - 1. Families who lose eligibility for cash assistance due to new or increased earnings remained eligible for Medicaid for up to 24 additional months, or

2. Families who lose eligibility for cash assistance due to new or increased income from child support remain eligible for Medicaid for four additional months.
 - p) Income Deeming Eligibles - When income deemed from a step-parent, grandparent, sibling or the sponsor of an alien makes an individual ineligible for cash benefits, Medicaid determines eligibility excluding that deemed income;
 - q) Individuals who are categorically related to the Supplemental Security Income (SSI) program, including:
 - 1) SSI Beneficiaries,
 - 2) Recipients of Mandatory State Supplement Payments,
 - 3) Recipients of Optional State Supplement Payments,
 - 4) Deemed SSI Clients due to:
 - Loss of SSI due to an increase in Social Security benefits,
 - Disabled individual's loss of SSI due to employment,
 - Disabled Widows and Widowers, or
 - Adult Disabled Children.
 - r) Qualified Medicare Beneficiaries (QMBs);
 - s) Qualified Working Individuals (QDWIs);
 - t) Specified Low Income Medicare Beneficiaries (SLIMBs);
 - u) Institutionalized Individuals with incomes at or below a percentage of the SSI standard as specified by the 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 162. The Division of Public Health (35-05-00) currently operates the following programs for which a fee for service is charged to cover the cost of the program:

Child Health
Vanity Birth Certificate
Public Water
Medicaid Enhancements
Infant Mortality
Medicaid Aids Waiver
Children with Special Needs
Family Planning
Newborn
Indirect Costs

- Vaccines
- Food Inspection
- Medicaid Contractors/Lab Testing and Analysis
- Tuberculosis (TB)
- Sexually Transmitted Diseases (STD)
- Child Development Watch
- Preschool Diagnostic and Development Nursery (PDDN)
- Home Visits
- Food Permit
- Water Operator Certification
- Long Term Care Prospective Payment
- Long Term Care IV Therapy

Notwithstanding the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and expend fees from the aforementioned accounts, except as noted below.

Corresponding Appropriated Special Fund spending authority has been provided in Section 1 of this Act.

The Children with Special Needs and Child Health programs shall continue to deposit 30 percent of program collections to the General Fund.

Section 163. The sum of \$170.0 is hereby advanced from the General Fund of the State to the Management Services IPU (35-01-20), in order that the Public Welfare Revolving Fund emergency checks can be paid on a timely basis and without interruption.

Section 164. Section 1 of this Act includes an appropriation to the Department of Health and Social Services, Division of Public Health, Director's Office/Support Services (35-05-10) for contractual services. Of that amount, \$446.4 shall be used for the purpose of providing school nursing services five days a week to non-public schools in New Castle County and Kent County.

The Secretary of the Department of Health and Social Services will ensure that the contracts with the various schools in this program are executed no later than August 15 of each year. The Secretary will also ensure that timely payments are made to all contractors.

Section 165. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Public Health, Community Health (35-05-20), in the line item, "Office of Narcotics and Dangerous Drugs", in the amount of \$40.0. This amount shall be used at the discretion of the Drug Control Administrator and shall not be utilized for normal operating budget items attributed to the Office of Narcotics and Dangerous Drugs.

Section 166. Section 1 of this Act includes an appropriation for the Department of Health & Social Services, Division of Public Health, Community Health (35-05-20). Of that amount, \$22.0 shall be used to fund 1.0 GF position for a Senior Secretary for the Radiation Authority.

Further, Section 1 of the Act includes an appropriated special fund appropriation (ASF) to this IPU (35-05-20) for "Indirect Costs". Of that amount, \$100.0 ASF shall be used to publish and distribute Rules and Regulations of the Radiation Authority.

Section 167. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-20), for contractual services. Of that amount, \$84.0 shall be available for medicine, equipment and part-time nursing services for a community-based adult health services clinic serving the Claymont area of New Castle County.

Section 168. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-20) for contractual services. Of that amount, \$65.0 shall be used to contract for mammography screening. These services shall be provided by the mobile mammography van. In addition to the above General Funds, \$19.0 shall be made available from the Preventive Health and Health Services Block Grant or other federal funds.

Section 169. Section 1 of this Act provides an appropriation of \$120.0 to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-20) to provide vaccinations to individuals who are members of volunteer ambulance companies or volunteer fire companies acting as "first responders" in the State of Delaware. The Division of Public Health shall purchase vaccine and administer-or contract-vaccine at local fire stations or other sites mutually agreed upon by the fire companies and the Division of Public Health. No such vaccinations shall be furnished until after certification by the volunteer fire or ambulance company on a form provided by the Division of Public Health, indicating that the person for whom the vaccination is desired, is a member in good standing of a volunteer ambulance or volunteer fire company in the State of Delaware. A record of the names and addresses of all persons immunized shall be maintained by the Division of Public Health. To insure the success of this program, the Division of Public Health and representatives of the Delaware Volunteer Firemen's Association shall work collaboratively in the best interests of all parties. The Division of Public Health may promulgate reasonable rules and regulations regarding the vaccination of volunteer firemen and individuals who volunteer for ambulance companies. If resources allow, after the needs of the volunteer community have been met, similar assistance may be offered to other fire and ambulance companies such as the Wilmington City fire company. Such funds, as are necessary from this fund, may also be spent to provide any required post vaccination antibody testing in order to assure adequate protection has been achieved.

Section 170. Section 1 of this Act provides an appropriation for the Department of Health and Social Services, Division of Public Health, Community Health (35-05-20) to provide hepatitis B and other necessary childhood vaccinations for children between infancy and young adulthood who are uninsured, are not eligible for any Federal program providing the vaccination, and are otherwise medically indigent.

Section 171. The State desires to establish a permanent funding program for rodent control activities at the local level by providing the City of Wilmington \$15.0; New Castle County \$15.0; Kent County \$10.0; and Sussex County \$10.0. The Department of Health and Social Services, Division of Public Health, Community Health (35-05-20) shall dispense these funds to local governments in lump sum payments to be made no later than September 1, 2001; establish program objectives and spending guidelines; require regular expenditure reporting to the State; and allow unexpended funds to carry over at the local level into the next fiscal year.

Section 172. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Public Health, Community Health, Office of Narcotics and Dangerous Drugs (35-05-20) for personnel costs. Of that amount, \$30.8 and 1.0 GF position is to fund an additional Drug Control Enforcement Officer over the FY 2000 complement.

Section 173. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Public Health, Community Health (35-05-20) for "School Based Health Centers". Of that amount, \$131.0 shall be used as inflation and \$150.0 as a volume adjustment for existing centers as of June 30, 2000.

Section 174. The Department of Health and Social Services, Alcoholism, Drug Abuse and Mental Health (35-06-00) will be able to bill for additional Medicaid Revenue due to a waiver of the Institution for Mental Diseases exclusion, as part of the Medicaid Managed Care waiver. This additional revenue shall be deposited to the General Fund, and the division shall make every effort to ensure that these bills are submitted to the appropriate entities in an expeditious manner.

Section 175. Section 1 of this Act provides General Funds in the amount of \$2,800.0 in the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health. This amount is supported by disproportionate share revenues of \$2,000.0 that are projected to be collected from the federal government during Fiscal Year 2001. The department shall deposit disproportionate

Chapter 395

Vol.72

share revenues to the General Fund and shall continue to maintain its efforts to ensure that the State receives its allotted disproportionate share payments from the federal government. The department shall report quarterly to the Budget Director and the Controller General on disproportionate share revenue received.

Section 176. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Inpatient Mental Health (35-06-30), for contractual services. Of that amount, \$41.2 shall be made available for a Nurse Intern Program to enable graduate nurses to take graduate courses to increase their skills in specialty areas.

It is understood that participants in this program will provide clinical services with compensation to Delaware Psychiatric Center during the duration of their graduate level education. It is further understood that these individuals shall remain in the employ of Delaware Psychiatric Center for a minimum of one year after graduation or reimburse the State for any and all tuition received.

Section 177. Section 1 of this Act provides funds for a Dietitian position in the Inpatient Mental Health (35-06-30). The purpose of this position is to allow the IPU to provide services by a registered Dietitian as required for certification. This position shall also provide dietitian services to the Terry Children's Psychiatric Center. The charges associated with food contracts between Inpatient Mental Health (35-06-30) and the Terry Children's Psychiatric Center for Fiscal Year 2000 shall be finalized by October 1, 2000.

Section 178. 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 179. 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 180. 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 181. 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 182. (a) Section 1 of this Act appropriates \$1,875.9 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 through the early intervention process and to ensure coordination with the Program for Children with Disabilities. In addition, the IRMC may recommend the transfer of General Fund positions and/or General Fund dollars from the Department of Health and Social Services as necessary to operate this program. The lead agency shall report to the Budget Director and the Controller General on additional revenues that will be generated from Medicaid matching funds for reimbursable appropriate services that will be deposited into the General Fund in Fiscal Year 2001.

(b) As required by Regulation §303.521 under IDEA, there will be no charge to the parents for the following: "(1) implementing the Child Find requirements in §303.321; (2) evaluation and assessment, as included in §303.322, and including the functions related to evaluation and assessment in §303.12; (3) service coordination as included in §303.22 and §303.344(g) and (4) administrative and coordinative activities related to the development, review and evaluation of IFSPs in §303.340 through §303.346; and to the implementation of the procedural safeguards in Subpart E and the other components of the statewide system of early intervention services in Subparts D and F."

(c) The Secretary of the Department of Health and Social Services shall ensure that under the Part C Birth to Three Program, no child will be denied services because of his/her parent's inability to pay. The following will be adhered to by the Department of Health and Social Services in developing Part C/vendor agreements: 1) vendors will agree to bill Third Party Insurance including Medicaid and clients; 2) client fees will be based on the DHSS scale developed by the Ability to Pay Committee and found in the department's policy Memorandum 37; and 3) those agencies who have sliding payment scales currently will be permitted to continue using them as long as those scales do not require a greater financial burden than that of the Department of Health and Social Services scale.

(d) Management Services shall submit a monthly report to the Budget Director and the Controller General outlining the number of children screened and assessed by the program, the number of children receiving services, and the number of children transitioned out of the program.

Section 183. Section 1 of this Act makes an appropriation to the Department of Health and Social Services, Social Services (35-07-01), for Title XIX Federal Programs (Medicaid). Notwithstanding the provisions of the Delaware Code to the contrary, the Division shall be permitted to use Medicaid (XIX-OTSI) funds when necessary to reimburse the federal government for its portion of overpayments not collected within sixty (60) days of identification. When such overpayments are collected, the funds collected shall be deposited back into the Medicaid XIX-OTSI account.

Section 184. 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 185. 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 186. 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 \$16,408.7 ASF for the Medicaid program in Social Services, (35-07-00); the \$1,385.9 ASF for child support programs in Child Support Enforcement, (35-10-00); the \$8,049.6 ASF for programs in Public Health (35-05-00); and the \$2,111.3 ASF for programs in Alcoholism, Drug Abuse and Mental Health (35-06-00). This report will aid the Budget Director and the Controller General in determining if the projected revenue will support the Appropriated Special Fund accounts.

Section 187. The Department of Health and Social Services, Division of Social Services (35-07-01) is authorized to establish bank accounts to advance funds from the Employment and Training program to clients or vendors in a timely manner. These advances would be for supportive services or welfare diversion services in the nature of clothing and transportation allowances and other services, to advance client self-sufficiency, as proposed in Delaware's Welfare Program.

Section 188. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division 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 percent of the federal poverty level beginning January 1, 2000. The child care eligibility increase shall be annualized in Fiscal Year 2001 with Federal Aid to needy Families (TANF) funds in the amount of \$1,200.0.

Section 189. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Social Services (35-07-00) for contractual services. Of that amount, \$750.0 is for DCIS II system maintenance. The Division of Social Services shall have the authority to contract for positions needed to provide system maintenance. The Division shall also have the authority, with approval from the Budget Director and Controller General, to transfer a portion of these funds to Personnel Costs and establish up to 3.5 GF positions and 3.5 NSF positions in order to support DCIS II system maintenance.

Section 190. Notwithstanding any other provisions of the Delaware Code, the Chief Physician position (BP #69747) in the Division of Social Services (35-07-00) shall be considered exempt.

Section 191. Delaware Health and Social Services is authorized to contract with a cooperative Multi-State purchasing contract alliance for the procurement of Pharmaceutical Products and allied supplies. The provisions of 29 Del. Code, Chapter 69 shall not apply to such contract. Prior to entering into any such contracts the department will obtain the approval of the Secretary of the Department of Administrative Services.

Section 192. Section 1 of this Act makes an ASF appropriation to the Department of Health and Social Services, Social Services (35-07-00), for the Prescription Drug Program. These funds may be used for both client services and administrative costs. Drug rebates received for this program shall be deposited into the Prescription Drug Program account.

Section 193. The State accepts the provisions and benefits of the Vocational Rehabilitation Act of 1973 (P.L. 93-112), as amended. The Department of Health and Social Services shall act as the sole state agency with the Secretary of the Department as the State Officer, and Visually Impaired (35-08-00) as the Designated State Unit for all monies from the Act that are designated for persons with visual impairment and blindness, as defined in a Cooperative Agreement dated December 1985, between Visually Impaired and Vocational Rehabilitation (60-08-00), Department of Labor. The department shall cooperate with the U.S. Department of Education, Rehabilitation Services Administration and, in accordance with all state laws, prepare the State Plan and carry out the Rehabilitation Act of 1973 and amendments thereto.

Section 194. The Secretary of the Department of Health and Social Services shall report to the Budget Director and the Controller General by September 1, 2000, on the status of the implementation of additional dental services to Medicaid eligible children on a statewide basis. The Secretary shall consider the use of dental vans suitably equipped with appropriate dental professionals or other service delivery mechanisms.

Section 195. Section 1 of this Act appropriates \$1,867.9 in personnel costs and 35.4 FTEs to Visually Impaired, (35-08-00). This section authorizes 1.0 FTE in addition to the 7.0 FTEs itinerant teachers available to meet caseload requirements for the Braille Literacy Act. This additional FTE may be filled if the September 2000 educational unit count indicates the number of teachers required to meet caseloads for visually impaired students is greater than the Fiscal Year 2001 complement of teachers.

Section 196. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division for the Visually Impaired (35-08-01), for contractual services. Of that amount, \$18.9 shall be used to compensate correctional inmates for the purpose of producing Braille materials for visually impaired school children.

Section 197. Section 1 of this Act provides an appropriation of \$1,385.9 Appropriated Special Funds (ASF) in the Department of Health and Social Services, Child Support Enforcement (35-10-00), for the operation of the division. Revenue from child support collections shall fund this account and the related 17.3 ASF FTEs. The department shall continue its efforts to maintain collections related to child support programs, and all revenue in excess of the division's ASF authority shall be deposited as designated by Title 29, Section 6102 of the Delaware Code.

Section 198. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Mental Retardation, Institutional Services (35-11-20) for contractual services. Of that amount, up to \$10.0 shall be available for services provided by Camp Barnes.

Section 199. The Division of Mental Retardation, Community Services (35-11-30) receives Medicaid reimbursement for the provision of day rehabilitation services provided in state operated day centers. Notwithstanding the provisions of Title 29, Section 6102 of the Delaware Code, the Division shall be allowed to collect and deposit the Medicaid reimbursement in an Appropriated Special Fund account entitled "Day Rehabilitation Services Reimbursement." Receipts in the account may be used to fund community residential and day program contracts currently funded out of the Purchase of Care and Purchase of Community Services lines.

Section 200. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Mental Retardation, Community Services (35-11-30), for contractual services to reimburse facilities to provide sheltered workshop services to clients while they are actively attending sheltered workshop programs. The Director of Mental Retardation shall submit a report detailing the various cost components of each facility's per diem to the Budget Director and the Controller General no later than December 1, 2000. The Director of Mental Retardation shall ensure that only reasonable and appropriate cost items shall be included in each facility's per diem. The reimbursement shall not in the aggregate exceed the appropriation amount in Fiscal Year 2001.

The Division is encouraged, where appropriate, to provide supported employment opportunities for these clients within the appropriation limit.

Section 201.(a) The Division of Mental Retardation (35-11-00) is encouraged, where appropriate, to reallocate resources so as to maximize community-based residential placements for persons with mental retardation. Such reallocation initiatives must be made within the total Division's appropriation limit with the approval of the Budget Director and the Controller General. These

Chapter 395

Vol.72

reallocation initiatives shall not compromise the standard of care of the remaining Stockley Center population.

(b) Section 1 of this Act provides an appropriation to the Division of Mental Retardation, Community Services (35-11-20) for the Stockley Transition Plan. This reallocation is the result of the authority found in subsection (a) to reallocate resources to maximize community-based residential placements and shall be monitored to assure the most appropriate levels of care are provided both in the community and at Stockley Center.

(c) Section 1 of this Act also provides an appropriation to the Division of Social Services (35-07-01), for the SSI Supplement and Medicaid - Non-State. Of those amounts, \$30.3 and \$559.5, respectively, are the result of a reallocation from the Division of Mental Retardation, Community Services (35-11-20) as part of the Stockley Transition Plan and shall be used exclusively for the community placements of Division of Mental Retardation clients. This reallocation is also the result of the authority found in subsection (a) to reallocate resources to maximize community-based residential placements and was needed in order to maximize federal participation in such placements.

Section 202. The Division of State Service Centers, Family Support (35-12-10) maintains appropriation accounts (35-12-10-80-00) and (35-12-10-80-01) for the purposes of lending car seats to families who cannot afford to buy them and to publish a Human Services Directory, respectively.

Section 203. Section 1 of this Act provides an appropriation of \$50.0 to the Department of Health & Social Services, Division of State Service Centers, Family Support IPU (35-12-10) for Hispanic Affairs. Members of the Council on Hispanic Affairs shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties.

Section 204. The Division of State Service Centers, Service Center Management IPU (35-12-20), currently operates 14 facilities throughout the State for which a Tenant User Fee for service is charged to partially offset the cost of Service Center Operations. The holding account for this function is entitled "Facility Reimbursement".

Notwithstanding the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and deposit to the aforementioned accounts. Corresponding Appropriated Special Fund spending authority has been provided in Section 1 of this Act.

Section 205. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of State Service Centers, Community Services (35-12-30) for "Emergency Assistance". Of that amount, \$57.5 shall be used for inflation for existing shelter service providers as of June 30, 2000.

Section 206. Section 1 of this Act makes an appropriation to the Department of Health and Social Services, State Service Centers, Community Services (35-12-30), for emergency assistance. Some of this appropriation may be used for programs of longer than 30 days duration.

Section 207. The position of Director, Community Services, shall remain exempt from classified service until such time as the position becomes vacant.

Section 208. Notwithstanding any other provisions of the Delaware Code, State employee recognition funds may be used per existing guidelines to include the recognition of volunteers and other non-state employees under IPU (35-12-40) at the discretion of the Secretary of the Department of Health and Social Services.

Section 209. The Division of Services for Aging and Adults with Physical Disabilities (35-14-00) will receive Medicaid reimbursement for the administration of community based services for the Aging and Adults with Physical Disabilities population. Notwithstanding the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and deposit the Medicaid reimbursement in an Appropriated Special Fund account entitled "Community Based Services Reimbursement." Receipts in the account may be used to maintain existing services and provide additional services for adults with physical disabilities. Such services are not to exceed the estimated

annualized revenue, and are subject to initial and on-going review by the Budget Director and the Controller General.

Section 210. 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 211. 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 212. 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) All juvenile related SAC positions shall be located in YRS with access to all appropriate computer systems. After July 1, 2000, the Budget Director and the Controller General shall transfer \$50.7 in personnel costs; \$1.6 in travel; \$3.0 in contractual services; \$1.3 in supplies and materials; and \$4.0 in Capital Outlay.

(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 213. 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 214. In addition to the positions authorized in Section 1 of this Act for the Division of Youth Rehabilitative Services (37-05-00), Secure Care (37-05-50), the Controller General and the Budget Director may authorize additional positions for the youth rehabilitative counselors at the Stevenson House Detention Center if the current staffing is inadequate for the detained population for a continuous period of not less than sixty days.

Section 215. Amend §5916(b), Title 29 of the Delaware Code by inserting the following section:

"(4) Casual seasonal employees performing the same job duties as those eligible employees identified in subsections (1), (2), (3), shall also be deemed eligible. The amount of the monthly hazardous duty pay supplement shall be prorated based on the actual hours worked."

Section 216. For Fiscal Year 2001, the Division of Management Services (37-01-00) shall have 1.0 FTE exempt position in addition to those authorized by Title 29, Section 5903, Delaware Code. When position #55138 becomes vacant, it shall be classified by the Director of Personnel in accordance with the Merit System, Title 29, Chapter 59, Delaware Code.

Section 217. Funds which are appropriated for foster care of children in Section 1 of this Act in the Department of Services for Children, Youth and Their Families, Family Services (37-06-00), are made available with the goal of limiting the number of children who remain in foster care for more than two years. For the year beginning October 1, 2000, the goal will be 220 children. This goal statement is intended to satisfy the requirements of the Federal Adoption Assistance and Child Welfare Act (P.L. 96-272).

Section 218. The Division of Family Services is hereby directed to formally notify, in advance, the Foster Care Review Board of any meeting, hearing or other event of which the Board desires notification. Said notification shall be directed to the Executive Director of the Board.

Section 219. Section 1 of this Act includes a one-time appropriation of \$200.0 in the Office of the Budget, Contingencies and One-time Items (10-02-04). This appropriation is to be transferred to the Department of Services for Children, Youth and Their Families and used for expenses associated with an increased number of clients, in excess of those served in Fiscal Year 1999, referred by the Truancy Courts as a result of House Substitute #1 for House Bill No. 213 or similar legislation. The Department of Services for Children, Youth and Their Families shall submit quarterly reports to the Budget Director and the Controller General on the number of clients served by the Department that were referred for services by the Truancy Court as a result of HS #1 for House Bill No. 213 or

similar legislation. These funds shall revert on June 30, 2001, should HS #1 for House Bill No. 213 or similar legislation not be enacted into law.

Section 220. The Secretary of the Department of Services for Children, Youth and Their Families shall certify to the Governor and the General Assembly that the mixing of adjudicated and non-adjudicated youths shall not take place in Ferris School.

Section 221. (a) During Fiscal Year 2001 any employee who is currently enrolled in an education program as part of the Ferris School Restructuring Transition Plan shall continue to receive financial support from the Division of Youth Rehabilitative Services until the completion of a relevant bachelor's degree. Any remaining balance in 37-05-50-01-98 shall remain authorized and available for training and staff development within the division. Special consideration shall be given to probation and parole officers.

(b) The NSF account (37-05-50-80-04), established in Fiscal year 1996, shall remain authorized until June 30, 2001. This appropriation will allow the Department of Children, Youth and Their Families to receive reimbursements from employees who do not successfully complete Ferris work-force transition training. These Funds may also be used for general training and staff development in DYRS.

Section 222. As a means of monitoring and improving the excessive expenditure of casual/seasonal and overtime in the Division of Youth Rehabilitative Services, Secure Care (37-05-50), the Secretary of the Department of Services for Children, Youth and Their Families shall file a quarterly report with the Budget Director and the Controller General on casual/seasonal and overtime expenditures. The report should include but not be limited to sick leave usage, incidence of tardiness, vacancy rates, training and transportation costs and the use of correctional officers at the Ferris School, New Castle County Detention Center and Stevenson House. The report should reflect all actions (including disciplinary) being taken to expeditiously correct the noted problem areas.

Section 223. Section 1 of this Act includes an appropriation for Salary Contingency-Overtime in the Office of the Budget, Contingencies and One-time Items (10-02-04). Of that amount, the item amounting to \$305.8 for overtime in the Department of Services for Children, Youth, and Their Families, Division of Youth Rehabilitative Services, Secure Care (37-05-50) shall be transferred to the Department and used for overtime with the consent of the Budget Director and Controller General after the department has demonstrated that every effort has been made to control and limit the use of overtime.

Section 224. The Department of Services for Children, Youth and Their Families shall submit semi-annual reports to the Budget Director and the Controller General that detail the expenditures of the internal program unit of Community Services (37-05-30) by dispositional guideline level, outlines the numbers of youth served by various programs within the unit and summarizes the personnel complement associated with each program within the unit. These reports shall be due on November 30, 2000, and May 30, 2001.

Section 225. Section 1 of this Act provides an appropriation to the Department of Services For Children, Youth, And Their Families, Division of Youth Rehabilitation Services, Secure Care (37-05-50) for contractual services. Of that amount up to \$100.0 may be used for pre-trial diversion in the Superior Court (02-03-10).

Section 226. The Department of Services for Children, Youth and Their Families shall report on a quarterly basis during FY 2001 to the Controller General and Budget Director the status of the Stevenson House Facility in Milford. This report shall include, but not be limited to, staffing vacancies, total budgetary expenditures vs. appropriations, overtime, casual & seasonal expenditures, population statistics, facility condition and capacities, and incident reports.

Section 227. Section 1 of this Act provides an Appropriated Special Fund authorization of \$341.7 to the Department of Services for Children, Youth and their Families (37-00-00) for the purpose of supporting the Young Criminal Offender Program located at the Department of Correction, Multi-Purpose Criminal Justice Facility (38-04-06).

Section 228. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and Their Families, Child Mental Health Division, Managed Care Organization IPU (37-04-10) for Pass-Throughs. Of that amount, \$213.7 and \$86.3 from Contractual Services shall be used for the statewide Juvenile Drug Court Program and transferred to SODAT.

Section 229. (a) In addition to the positions authorized in Section 1 of this Act for the Division of Family Services (37-06-00), Intake/Investigation (37-06-30) and Intervention/Treatment (37-06-40), the Budget Director may authorize up to 15 additional training positions for the purpose of training investigative and treatment workers. The Budget Director may authorize additional recruit positions accordingly.

(b) Additional 2.0 General Fund FTEs were authorized in FY 00 in the Division of Family Services, Office of the Director (37-06-10) for the purposes of training workers hired in accordance with Section 230 of this Bill. As the need for the over-hire provisions and the associated training authority is reduced, the Budget Director and the Controller General may eliminate two positions through attrition.

Section 230. For the purposes of retaining and attracting experienced investigation and treatment workers in the Division of Family Services, the Division may competitively recruit for Family Crisis Therapists in their investigation and treatment units. It is anticipated that the Division shall hire a minimum of two Family Crisis Therapists per investigation and treatment units, subject to the availability of successful candidates. Current Division of Family Services employees who successfully apply for these positions shall have their position reclassified to Family Crisis Therapist. Such reclassifications or reclassifications of vacant positions to Family Crisis Therapist shall be effective upon the approval of the State Personnel Director, Budget Director and the Controller General. The Division of Family Services is authorized to transfer positions between budget units in order to adjust its complement to ensure the correct number of FTEs are in each functional unit of the Division. The Division of Family Services shall submit a quarterly report to the Budget Director and the Controller General detailing any adjustments to the complement, the number of Family Crisis Therapists hired and retention statistics.

Section 231. Section 1 of this Act appropriates 6.0 NSF FTEs to provide additional Probation Officers to serve youth on probation or parole in the Division of Youth Rehabilitative Services, Community Services (37-05-30). These additional officers will serve as part of a new program designed to more vigorously enforce violations of probation or parole by DYRS clients. Federal funds shall be available for these positions and to provide residential placements for youths who violate the conditions of their probation or parole. Such placements may be for two weeks for the first offense, three months for the second offense and until the youth reaches age 18 for the third offense.

Section 232. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and Their Families, Division of Family Services, Office of the Director (37-06-10) of \$423.6 for Pass-Throughs. It includes:

Child Advocacy Center	\$280.7
People's Place, Milford	\$ 67.0
CHILD, Inc.	\$ 29.5
Watchful Shepherd	\$ 46.4

Section 233. In addition to the .5 ASF position authorized in Section 1 of this Act to (37-06-10), 2.0 ASF positions are authorized to replace 2.0 NSF FTEs as of October 1, 2000. These positions are to be used to ensure compliance with State laws regarding youth access to tobacco, through activities including recruitment and training of youth to act as cooperative underage witnesses in compliance checks, educating retailers about State tobacco

laws, and educating youth about retailer compliance regarding the sale of tobacco to minors and other compliance activities.

CORRECTION

Section 234. Notwithstanding Title 29, Chapter 58, Section 5805 and Chapter 55, Section 5502, the Department of Correction is authorized to contract with former employees of the Department of Correction for construction oversight services. The purpose of this authorization is to provide expert oversight for the ongoing prison construction. This section shall be in effect for the fiscal year ending June 30, 2001.

Section 235. (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 236. 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 237. Section 1 of this Act makes an appropriation to the Department of Correction, Medical/Treatment Services (38-01-30). Of the total appropriation, \$25.0 shall be used for the purpose of inmate hospice care.

Section 238. 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 2002 by October 31, 2000, to the Budget Director and the Controller General.

Section 239. 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 a 1.0 FTE Administrative Assistant II and \$28.0 for personnel costs, \$23.0 for supplies and materials, \$43.5 for casual/seasonal, \$29.5 for contractual services and \$4.0 for travel.

Section 240. Section 1 of this Act appropriates the sum of \$19.0 in "gate money" or "release money" to the Department of Correction, Prisons, Bureau Chief - Prisons (38-04-01). The General Assembly intends that these funds be used for inmates, who upon their release, are financially unable to obtain transportation away from the facility. The funds thus appropriated shall be used for the express purpose of providing cash payments to eligible inmates being released from an adult correctional facility and shall be expended as follows:

(a) Upon release, a prisoner who within 30 days prior to release has \$50.00 or more in his/her inmate account or accounts shall not be eligible for such payment, but shall be paid in cash the amount in his/her inmate account or accounts.

(b) Upon release, a prisoner who has less than \$50.00 in his/her inmate account or accounts shall be paid in cash the amount remaining in his/her account or accounts and may be paid an additional sum sufficient to ensure transportation to his/her place of residence. Such sum sufficient, together with the funds available in the inmate account, shall not exceed \$50.00.

Any prisoner who, after using option (a) or (b) of this Section, has insufficient funds to provide a one-way bus ticket to his/her place of residence, shall forfeit all such funds and shall be provided with a one-way bus ticket to his/her place of residence, as well as sufficient funding to provide food during travel.

Section 241. Section 1 of this Act provides an appropriation for personnel costs to the Department of Correction, Delaware Correctional Center (38-04-03). Included in this appropriation is \$15.0 for legal services as required by the Warden of Delaware Correctional Center.

Section 242. Section 1 of this Act provides an appropriation for personnel costs to the Department of Correction - Delaware Correctional Center (38-04-03). Included in this appropriation is 1.0 position and personnel costs to allow the department to oversee a program to manufacture reading materials in Braille for the visually impaired.

Section 243. Section 1 of this Act appropriates funds to Baylor Women's Correctional Institution (38-04-05) in contractual services for a contract to provide a program for female offenders at BWC1 to address anger and behavior issues from a feminine psychological perspective. The Warden of the facility will submit an annual report to the Joint Finance Committee, Budget Director, Controller General and Commissioner of Correction by June 1 of each year, which will include but not be limited to the mission of the organization, the statement of the problem, a synopsis of the program, the number of participants, statistics relating to recidivism rates of those participating in the program and an annual budget of the organization.

Section 244. (a) Section 1 of this Act makes an appropriation of \$4,209.4 to the Department of Correction, Drug and Alcohol Treatment Services (38-01-31) for Drug and Alcohol Treatment Services; and \$132.0 to the Bureau Chief - Community Corrections (38-06-01); and \$305.9 Probation and Parole (38-06-02). These funds are intended to support drug and alcohol programs provided by the department to individuals in its custody or under its supervision. The administration of these contracts shall be the responsibility of the Commissioner of Corrections or his designee.

(b) On or before August 1, 2000, the department is to submit a plan on how these funds will be spent during the fiscal year. This plan shall be submitted for approval to the Budget Director and the Controller General.

(c) The Commissioner of Correction and the Secretary of Health and Social Services, or their designees, shall jointly participate in developing the appropriate requests for proposals (RFPs) for contract services to provide drug and alcohol treatment. All selected contract providers shall report on a regular basis to the Department of Correction on all follow-up regarding referrals and services provided to the offender population.

Section 245. (a) Of the total positions authorized in Section 1 of this Act for the Morris Correctional Institution (38-04-07), three positions shall be used to continue the existing highway beautification project.

(b) Of the total positions authorized in Section 1 of this Act for the Delaware Correctional Center (38-04-03), four positions shall be used to continue the existing highway beautification project.

(c) Of the total positions authorized in Section 1 of this Act for the Sussex Correctional Institution (38-04-04), four positions shall be used for a highway beautification project.

(d) Section 1 of this Act also makes an appropriation for contractual services to Morris Correctional Institution (38-04-07). Of this amount, \$5.0 shall be used for "tipping" fees.

Section 246. Section 1 of this Act provides an appropriation to Community Corrections, Probation and Parole (38-06-02). The department must submit a semi-annual report to the Budget Director and the Controller General that details the expenditure of these funds by SENTAC level (levels I, II and III) and the average personnel complement for each level. These reports are due on December 31 and June 30.

Section 247. Section 1 of this Act provides an appropriation to Community Corrections, Probation and Parole (38-06-02) for contractual services. Of this appropriation, \$94.0 shall be used to support a community restorative justice program in New Castle County.

Section 248. Section 1 of this Act provides an appropriation of 6.0 ASF FTEs and \$241.8 ASF in Department of Correction, Multi-Purpose Criminal Justice Facility (38-04-06). These positions shall be Correctional Officers who will supervise inmate work crews primarily for completing projects requested by DelDOT. The source of funding shall be the Department of Transportation, Maintenance (55-04-70). Adjustments to Appropriated Special Fund spending authority for this program can be made upon the concurrence and approval of the Budget Director and the Controller General.

Section 249. Section 1 of this Act provides an appropriation to Community Corrections, House Arrest (38-06-04) for the purpose of supporting a program of home confinement using electronic monitoring devices. The supervision of offenders assigned to home confinement and the use of the electronic monitoring devices shall be restricted to the area within the geographical boundaries of the State of Delaware, unless otherwise determined by the Commissioner of the Department of Correction.

Section 250. Section 1 of this Act appropriates \$2,571.8 in contractual services to Department of Correction, Prisons, Bureau Chief-Prisons (38-04-01) for out-of-state boarding of Delaware prisoners in Virginia. As Delaware prisoners are brought back from Virginia, the Department of Correction is authorized to transfer funds from this contractual services appropriation to other Department of Correction budget units and appropriations as needed, subject to the approval of the Budget Director and Controller General.

Section 251. Pursuant to appropriations in the Department of Correction, Prisons (38-04-00) and the Department of Education, Block Grants and Pass Through Programs (95-03-00) in Section 1 of this Act, the Department of Correction and the Department of Education shall enter into an agreement for the operation of prison education services. Under any such agreement the Department of Education shall be responsible for the operation of prison education services. These educational services shall include, but not be limited to, programs provided to juvenile inmates in the Young Criminal Offender Program and inmates between the ages of 18 and 21, including those requiring special educational services. Students served under this program shall not be included in the calculation for unit count purposes as defined in Chapter 17, Title 14, Delaware Code. The Budget Director and Controller General may transfer funds between lines and Departments to pay for this program.

To facilitate the coordination of education services within the prison system the Department of Correction may use an existing vacancy during Fiscal Year 2001 or may reimburse a school district or state agency to cover the salary and expenses for those services. Prison education services shall be provided by utilizing existing teachers that are in the Department of Correction as well as newly authorized teaching positions in the Department of Education. The management of all educational positions shall be provided by the Department of Education. All existing teachers in the Department of Correction may voluntarily transfer to the Department of Education. Any teacher wishing to transfer to the Department of Education shall have until August 15, 2000 to notify both Departments of their intent. Transfers shall be effective September 1, 2000 at which time the associated FTE and funding shall be transferred to the Department of Education. Department of Correction teachers shall have the opportunity each year thereafter to notify both agencies of their intent to transfer to the Department of Education. Such notification shall be made by April 15 of each year to become effective July 1 of that calendar year. Any position transfer made pursuant to this section shall be permanent.

If a remaining Department of Correction teacher applies for and is accepted into a newly authorized position in the Department of Education, the position and associated funding shall be transferred to the Department of Education for the operation of prison education services. If a remaining Department of Correction teacher position becomes otherwise vacant, the position and associated funding shall be transferred to the Department of Education for the operation of prison education services.

Section 252. 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 percent during night time and weekend hours.

Section 253. The Merit Rules notwithstanding, Department of Correction employees designated as Correctional Emergency Response Team (CERT) members shall be eligible for standby pay regardless of their classification.

NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 254. Section 1 of this Act authorizes the Division of Fish and Wildlife, Wildlife/Fisheries (40-05-02) to spend up to \$4,167.6 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 2001 Capital Improvement Program. Any deviation from the listed projects must be approved by the Budget Director and the Controller General.

Section 255. Section 1 of this Act contains a one-time appropriation of \$25.0 to the Department of Natural Resources and Environmental Control, Division of Soil and Water, (40-07-01) for the completion of the Inland Bays Dredging Study. This appropriation is subject to a \$20.0 federal match.

Section 256. 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, 2001, and July 31, 2001, respectively.

Section 257. Section 1 of this Act appropriates \$115.8 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 \$75.8 and the Inland Bays Citizen Monitoring Program in the amount of \$40.0. In addition, \$275.0 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 258. 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 259. Section 1 of this Act appropriates \$716.9 in General Funds and \$169.5 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. Of the total General Fund appropriation, \$135.0 is dedicated to fund 4 dog control officers: 2 in New Castle County, 1 in Kent County and 1 in Sussex County.

Section 260. 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 261. 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 262. 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 263. 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. All expenditures must be recommended by the Department and approved by the Secretary. All penalty funds will be deposited in the Penalty Fund Account. All of the penalty fund expenditures made by the Department of Natural Resources and Environmental Control in Fiscal Year 2001 shall be reported to the Joint Finance Committee in the Department's Fiscal Year 2002 budget presentation. Included in this presentation shall be an explanation of the process used to select the recipients of Penalty Fund money.

Section 264. 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 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 265. Section 1 of this Act appropriates \$4,265.9 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.

Section 266. 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 to ASF immediately. The remaining position shall not be converted.

Section 267. Section 1 of the Act appropriates \$4,664.0 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 268. Section 1 of this Act appropriates \$505.4 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 269. Section 1 of this Act appropriates \$501.9 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 pay plan is intended for the enforcement classes within the Divisions 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.

The promotional increases shall be based on a competency based matrix. The matrix shall provide for promotional standards both within and between pay grades. There shall be three levels that an employee must achieve within one paygrade before in order to be eligible for promotion to a higher paygrade. These three levels are skill building, full performance, and expert. Decisions related to promotion to a higher paygrade shall be determined by an Enforcement Oral Board made up of 2

representatives from the Department of Natural Resources and Environmental Control and 3 representatives from the State Personnel Office.

Section 270. Section 1 of this Act appropriates \$454.5 to the Division of Soil and Water Conservation, District Operations (40-07-04) for contractual services. Of that amount, \$130.0 shall be used to hire additional field staff personnel for the preparation of nutrient management plans.

Section 271. Section 1 of this Act appropriates funds to the Hazardous Substance Cleanup Act (HSCA) Cleanup Fund in the Division of Air and Waste Management, Waste Management (40-09-03). A maximum of \$500.0 ASF per fiscal year will be set aside from the HSCA Cleanup Fund to address orphaned and abandoned underground storage tank (UST) systems. These USTs shall include those where the responsible parties have shown to the satisfaction of the Department of Natural Resources and Environmental Control, that they do not have the ability to pay for the necessary UST system removal and the remediation of any resulting contamination. In such case, the Department shall not seek cost recovery of the funds expended under the HSCA fund.

Section 272. Amend § 2113(e), Title 23, Delaware Code, by striking the phrase "Fisheries Restoration (Dingell-Johnson)" and substituting in lieu thereof the phrase "Sport Fish Restoration". Also amend § 2113(f), Title 23, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

Beginning July 1, 2000 and annually thereafter, the funds derived by the State from Boat Registration Fees shall be deposited as Appropriated Special Funds by the Department with the State Treasurer.

Section 273. For Fiscal Year 2001, the Division of Fish and Wildlife is authorized to expend funds derived from the sale of boat registration fees during Fiscal Year 2000 for the purpose of supporting fisheries programs and marine enforcement.

Section 274. Section 1 of this Act makes an appropriation to the Department of Natural Resources and Environmental Control, Division of Water Resources (40-08-01). Of the total appropriation, \$120.0 will pass through the Department to fund the Environmental Training Center at Delaware Technical and Community College, Owens Campus. Funding is to be used to provide training for state and local water and wastewater operators.

Section 275. Amend § 8002(c), Title 29, Delaware Code by deleting the following:

"The Secretary may, during an absence from the State, appoint the Deputy Secretary of the Department to serve as Acting Secretary during such absence."

and replacing it with the following:

"The Secretary or the Acting Secretary may, during an absence from the State, appoint the Deputy Secretary or a Division Director of the Department to serve as Acting Secretary during such absence."

Section 276. Section 1 of this Act appropriates 1.0 FTE ASF Deputy Attorney General I position to the Department of Natural Resources and Environmental Control, Office of the Secretary (40-01-01) funded through legal assistance expenses recovered through administrative enforcement actions under 7 Del. Code, Chapter 60.

Section 277. It is intent of the General Assembly that the Department of Natural Resources and Environmental Control shall be required, pending legal review, to post on its Internet Web site within three working days, all unclassified misdemeanors issued by the Division of Air and Waste Management Enforcement Officers after such citations have been entered in the courts.

Section 278. The Budget Office Contingency and One-Time Items (10-02-04) contains an appropriation of \$310.0 for the Debris Disposal Program. The funding is contingent on passage of Senate Bill 185 of the 140th General Assembly or similar legislation. If this bill or similar legislation is not enacted the appropriation shall revert to the General Fund. The funds appropriated for the Debris Disposal Fund require a 50% match from New Castle County Council.

Section 279. Section 1 of this Act makes an appropriation for contractual services to the Department of Natural Resources and Environmental Control, Division of Water Resources, (40-08-05). Of the total appropriation, \$25.0 is dedicated to the Compliance Inspection Program in the Inland Bays/Atlantic Ocean Basin.

Section 280. Section 1 of this Act makes an appropriation for contractual services to Department of Natural Resources and Environmental Control, Division of Parks and Recreation, (40-06-02). Of the total appropriation, \$75.0 is dedicated to Greenways and Trails maintenance.

Section 281. Section 1 of this Act makes an appropriation of \$30.0 in Contractual Services to the Department of Natural Resources and Environmental Control, Division of Fish and Wildlife, (40-05-06). This appropriation is to fund 5 casual/seasonal enforcement officers to patrol the inland bays.

Section 282. Section 1 of this Act makes an appropriation for contractual services to the Department of Natural Resources and Environmental Control, Division of Water Resources, (40-08-01). Of that amount \$50.0 shall be used to support the Partnership for the Delaware Estuary.

PUBLIC SAFETY

Section 283. 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 284. 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 285. 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 286. 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 287. Section 1 of this Act authorized the conversion of 2.3 NSF FTEs within the Department of Public Safety, Division of State Police (45-06-03), funded via the COPS Universal Hiring Program to General Funds. Each of these positions will retain their NSF funding status, until such time as available federal funding is depleted.

Section 288. Section 1 of this Act authorizes the conversion of 5.0 NSF FTEs within the Department of Public Safety funded via the COPS Universal Hiring Program to General Funds: 1.8 FTEs in Capitol Police (45-02-10); 2.0 FTEs State Police, Patrol (45-06-03); and 1.2 FTEs State Police, Special Investigation (45-06-05).

Section 289. Notwithstanding Chapters 63 and 69 of Title 29 of the Delaware Code or any other statutory provision to the contrary, the Department of Public Safety is authorized to enter into agreements with private telecommunications companies to use space for communication facilities on telecommunications towers under their administration. The revenues paid to the State under these agreements shall be designated for use by the Division of State Police in support of mobile data computing telecommunications infrastructure cost, effective retroactively.

Section 290. Notwithstanding the provisions of Section 6102(o)(3), Title 29, Delaware Code, any remaining balance in the Inspection and Maintenance (I/M) Fund shall not be subject to General Fund deposit until June 30, 2001. These funds may be used for costs associated with Division of Motor Vehicle lane construction.

Section 291. Funds remaining in the Department of Public Safety, Division of State Police (45-06-01) FY 1998 one-time appropriation "One-Time Items" originally allocated for the "Promotional Testing Project" shall be a continuing appropriation to be used for the "Academy Curricula and Training Study."

Section 292. The 4.0 FTEs being transferred from the Division of State Police (45-06-00) to the Office of the Secretary, Administration (45-01-01) in Section 1 of this act shall become classified in compliance with the Merit System, Title 29, Chapter 59, by the Director of State Personnel. Any incumbent occupying a position that is "classified" by the Director of State Personnel pursuant to Title 29, Chapter 59, Delaware Code shall be considered qualified without further testing and shall be continued in the position without loss of compensation.

Section 293. Section 1 of this Act provides \$73.2 and 3 Physical Plant Maintenance/Trades Mechanic I FTEs to the Department of Public Safety, Building Maintenance and Construction (45-06-02). These positions shall report to Delaware State Police Troop 1, Troop 2 and Troop 6.

TRANSPORTATION

Section 294. 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 295. 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 296. 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 297. Section 1 of this Act appropriates \$828.5 to the Division of Financial Management and Budget (55-01-02) for Operations/Capital. Of this amount, \$200.0 shall be allocated to the Maritime Exchange for the Delaware River and Bay.

Section 298. Section 1 of this Act appropriates \$9,824.8 to Maintenance Districts (55-04-70) for Contractual/Supplies. Of this amount, \$30.0 shall be allocated to the Woodland Ferry.

Section 299. Section 1 of this Act makes an appropriation of \$516.9 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 300. The Office of Information Services shall bill the Department of Transportation, Division of Administration (55-02-01) on an actual usage basis.

Section 301. Section 1 of this Act provides an appropriation of \$63,620.9 to the Division of Highway Operations (55-04-00). Of that amount \$2,515.4 shall be used to implement the National Pollutant Discharge Elimination System (NPDES). The Secretary of Transportation shall report quarterly to the Budget Director and the Controller General on the status of the implementation of NPDES and provide associated cost projections for the remainder of the fiscal year. The Secretary of Transportation shall also report to the Budget Director and the Controller General upon final settlement of the related Consent Decree between the Department of Transportation and its co-defendants; and U.S. Environmental Protection Agency and U.S. Department of Justice, including a summary of settlement terms and applicable fines.

Section 302. Section 1 of this Act authorizes disbursement of \$1,770.0 in Transportation Trust Funds for Debt Service, General Obligation.

Section 303. 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, 2000, any authorizations in the following accounts shall remain as continuing appropriations and shall not be subject to deauthorization until June 30, 2001:

<u>Fiscal Year</u> <u>Appropriation</u>	<u>Account</u> <u>Code</u>	<u>Remarks</u>
1999	(55-01-01-68-00)	<u>Operations/Capital</u>
1999	(55-01-01-68-06)	Environmental Contingency
2000	(55-01-01-68-00)	Operations/Capital
2000	(55-01-01-68-15)	Personnel Costs
1997	(55-01-02-68-00)	Operations/Capital
1999	(55-01-02-68-00)	Operations/Capital
2000	(55-01-02-68-00)	Operations/Capital
2000	(55-01-02-68-15)	Personnel Costs
1999	(55-01-03-68-00)	Operations/Capital
2000	(55-01-03-68-00)	Operations/Capital
2000	(55-01-03-68-15)	Personnel Costs
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
2000	(55-02-01-68-01)	Travel
2000	(55-02-01-68-02)	Contractual/Supplies
2000	(55-02-01-68-03)	Energy
2000	(55-02-01-68-04)	Capital Outlay
2000	(55-02-01-68-15)	Personnel Costs
1995	(55-03-01-68-00)	Operations/Capital
1999	(55-03-01-68-00)	Operations/Capital
1998	(55-03-01-68-00)	Contractual/Supplies
2000	(55-03-01-68-00)	Operations/Capital

Chapter 395
Vol.72

2000	(55-03-01-68-15)	Personnel Costs
1998	(55-04-01-68-00)	Operations/Capital
1999	(55-04-01-68-00)	Operations/Capital
2000	(55-04-01-68-00)	Operations/Capital
2000	(55-04-01-68-15)	Personnel Costs
2000	(55-04-40-68-15)	Personnel Costs
1999	(55-04-50-68-02)	Contractual/Supplies
1999	(55-04-50-68-04)	Capital Outlay
1999	(55-04-50-68-03)	Energy
1997	(55-04-50-68-02)	Contractual/Supplies
2000	(55-04-50-68-02)	Contractual/Supplies
2000	(55-04-50-68-03)	Energy
2000	(55-04-50-68-04)	Capital Outlay
2000	(55-04-50-68-15)	Personnel Costs
1999	(55-04-60-68-00)	Operations/Capital
2000	(55-04-60-68-00)	Operations/Capital
2000	(55-04-60-68-15)	Personnel Costs
1997	(55-04-70-68-02)	Contractual/Supplies
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
2000	(55-04-70-68-05)	Storm Contingency
2000	(55-04-70-68-02)	Contractual/Supplies

2000	(55-04-70-68-03)	Energy
2000	(55-04-70-68-04)	Capital Outlay
2000	(55-04-70-68-15)	Personnel Costs
1998	(55-04-80-68-00)	Operations/Capital
1999	(55-04-80-68-00)	Operations/Capital
2000	(55-04-80-68-00)	Operations/Capital
2000	(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
2000	(55-04-90-68-01)	Travel
2000	(55-04-90-68-02)	Contractual/Supplies
2000	(55-04-90-68-03)	Energy
2000	(55-04-90-68-04)	Capital Outlay
2000	(55-04-90-68-15)	Personnel Costs
1995	(55-06-01-85-80)	DTA Operations
1987	(55-06-01-85-80)	DTA Operations
1998	(55-06-01-85-72)	Transit Operations
1999	(55-06-01-85-72)	Transit Operations

Chapter 395
Vol. 72

2000	(55-06-01-85-70)	Transit Administration
2000	(55-06-01-85-71)	Transit Ops Pmg/Cust Serv
2000	(55-06-01-85-72)	Transit Operations
2000	(55-06-01-85-81)	Newark Transportation
2000	(55-06-01-85-83)	Kent & Sussex
2000	(55-06-01-85-89)	Taxi Service
1987	(55-06-01-85-99)	Capital Outlay
1995	(55-07-10-68-06)	Operations/Capital
1996	(55-07-10-68-00)	Operations/Capital
1998	(55-07-10-68-00)	Operations/Capital
1999	(55-07-10-68-00)	Operations/Capital
2000	(55-07-10-68-00)	Operations/Capital
2000	(55-07-10-68-15)	Personnel Costs

Section 304. Section 1 of this Act makes an appropriation in the amount of \$37,894.4 to the Division of Highway Operations, Maintenance Districts (55-04-70) and \$7,072.6 to the Division of Highway Operations, Toll Administration (55-04-90). Additionally, the Turnpike Operating Reserve Fund is authorized at \$843.8.

The appropriation for both units may be allocated among the State's toll roads as follows:

LINE ITEM	TOLL OPERATIONS		MAINTENANCE	TOTAL ALL
	I-95	SR-1	Interstate, I-95, SR-1	
Personnel Costs	2,485.3	2,367.4	3,445.5	8,298.2
Energy	98.4	272.9	242.7	614.0
Capital Outlay	55.0	51.0	66.0	172.0
Contractual/Supplies	1,016.2	700.4	1,749.4	3,466.0
Travel	26.0	0.0	0.0	26.0
TOTALS	3,680.9	3,391.7	5,503.6	12,576.2
TOTAL POSITIONS	67.0	64.0	84.0	215.0

Section 305. 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 306. Section 1 of this Act includes 1.0 TFO position and \$91.6 TFO to implement the recommendations of the 1998 Delaware Department of Transportation Operations Review. The Secretary of Transportation shall submit for approval to the Budget Director and Controller General a plan outlining appropriate position classification including job duties and responsibilities for the 1.0 TFO FTE. Upon formal establishment of this position, the Budget Director and Controller General are authorized to transfer the position with the necessary TFO authorization to the appropriate budget unit.

Section 307. Section 1 of this Act appropriates \$95.1 in personnel costs and 1.0 TFO position to the Office of the Secretary (55-01-01). This appropriation is provided to continue funding position #70127 created to administer the Program Management Unit and implement the recommendations of the 1998 Delaware Department of Transportation Operations Review. Upon vacancy by the current incumbent, position #70127 will be deleted.

Section 308. During Fiscal Year 2001, the Department of Transportation shall be prohibited from changing its departmental policy regarding access pipe installation on private homeowner entrances. Specifically, the Department shall not charge said homeowners for the labor costs associated with the installation of the access pipe.

Section 309. Amend §8411, Title 29, Delaware Code by creating a new subsection (8) to read as follows:
“(8) Director of Division of Pre-Construction.”

Section 310. The incumbent in the position of Deputy Director Transportation Engineering (position #10615) on the effective date of this Act shall become the Director of Pre-Construction and shall retain all current duties and responsibilities.

LABOR

Section 311. (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, 2000. 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 \$5.65 per hour and shall work no longer than eight hours per day and five days per week.

In each of the political subdivisions wherein funds have been appropriated, no more than \$5.0 shall be expended for administrative purposes and no more than \$2.0 shall be expended for equipment, supplies and mileage.

A record of all equipment and supplies purchased with funds herein appropriated shall be kept by the sponsoring agent, and at the conclusion of the ten-week program such supplies and equipment shall be reverted to the Department of Labor.

(c) The funds appropriated for the Delaware State Summer Youth Employment Program shall not be co-mingled with funds appropriated from any other source. The guidelines for youth employment and administrative costs for all persons employed in the State Summer Youth Employment Program shall be based in accordance with prior years practice of payment for services.

Section 312. Section 1 of this Act appropriates \$65.0 General Fund Contractual Services to the Division of Employment and Training. This appropriation is to be used to fund a non-profit professional apprenticeship and training program for young Delawareans ages 18-30. The training and apprenticeships shall include leadership skills, team building, problem solving and community issues.

AGRICULTURE

Section 313. Section 1 of this Act appropriates \$903.4 in ASF to the Harness Racing Commission and \$713.7 in 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 314. Section 1 of this Act includes ASF funding and ASF position authorizations in the Department of Agriculture, Harness Racing Commission IPU (65-01-05). Three of these positions shall be used for the State Steward, the Presiding Judge and one Associate Judge. These positions shall be exempt from the classified service as provided in Title 29, Chapter 59 of the Delaware Code. The compensation for these positions shall be determined by the Harness Racing Commission. Persons appointed by the Commission to fill these positions shall be eligible for membership in the State Pension Plan, for coverage under the life and health insurance programs for State employees, and for worker's compensation benefits as State employees, but, because of the nature of these positions, they shall not be eligible for annual leave, sick leave or compensatory time.

Section 315. 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 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. The compensation for these positions shall be determined by the Thoroughbred Racing Commission. Persons appointed by the Commission to fill these positions shall be eligible for membership in the State Pension Plan, for coverage under the life and health insurance programs for State employees, and for worker's compensation benefits as State employees, but, because of the nature of these positions, they shall not be eligible for annual leave, sick leave or compensatory time.

Section 316. Section 1 of this Act makes an appropriation to the Nutrient Transport program. These funds are appropriated to support projects that transport poultry and animal waste, including litter, for alternative use projects and for transporting the poultry and animal waste to cropland showing a need for these nutrients as indicated by a nutrient management plan. Of this appropriation, \$100.0 shall be used for projects that will remove the nutrients from Delaware and the remainder shall be used for farm to farm relocation within Delaware. Reimbursement of transportation shall not exceed \$20 per ton of poultry or non-poultry waste. The program shall be developed and implemented by the Delaware Department of Agriculture according to the guidelines established by the Delaware Nutrient Management Commission. The Delaware Nutrient Management Commission shall provide a report to the Controller General and the Budget Director on the expenditure of these funds on or before December 1, 2000.

Section 317. Section 1 of this Act makes an appropriation to the Nutrient Management Contingency. These funds may be used for the sole purpose of nutrient relocation and/or nutrient management planning.

Section 318. Section 1 of this Act makes an appropriation to the Department of Agriculture, Nutrient Management Section (65-05-12) for Nutrient Transport to be used according to the guidelines established by the Nutrient Management Commission as provided for under Section 2220(a)(4) of Title 3 of the Delaware Code.

Section 319. Amend Title 3, Chapter 22, §2222 (f) by striking it in its entirety and substituting in lieu thereof the following:

"(f) Each appointed member of the Commission shall receive compensation of \$100.00 per meeting. Commission members shall be compensated for no more than 16 meetings per year. Commission members shall be entitled to be paid reasonable expenses for traveling to and from any Commission or Commission sub-committee meeting or conference attended on official business for the Commission."

Section 320. Section One of this Act appropriates \$16.5 and .5 GF FTEs to the Department of Agriculture, Plant Industries (65-01-08) to support the Grain Inspection program. The funding and position are contingent on passage of House Bill 600 of the 140th General Assembly or similar legislation. If this bill or similar legislation is not enacted, the appropriation shall revert to the General Fund and the position deleted.

ELECTIONS

Section 321. 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 322. 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 323. 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 324. 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.

Section 325. For purposes of designating and procuring polling places for primary, general and special elections, the respective county department of elections shall pay a rental fee totaling \$.2 for each facility used, no matter how many election districts are assigned to that facility.

Section 326. The Department of Elections for New Castle County is authorized to establish a satellite office in the department's warehouse and is further authorized to perform the same voter registration and absentee voting tasks as performed in accordance with Title 15, Delaware Code, in the department's Wilmington office.

FIRE PREVENTION

Section 327. During the first six months of Fiscal Year 2001, 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, 2001.

Section 328. 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 329. 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 330. Section 1 of this Act appropriates \$5.0 to the State Fire Marshal's Office (75-01-01) for the purchase of smoke detectors and educational materials for the Juvenile Firesetter Intervention Program. Section 1 also includes a one-time appropriation of \$10.0 for the purchase of smoke detectors and educational materials to target low-income families and the hearing impaired.

Section 331. Section 1 of this Act includes a one-time appropriation of \$160.5 to the State Fire Prevention Commission (75-03-01) for the reimbursement of EMT B 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.

Section 332. Section 1 of this Act makes a one-time appropriation of \$25.0 to the State Fire School (75-02-01) for the establishment of the Combustive Gas Analysis Study with the approval of the Delaware State Fire Commission. This study shall be conducted in conjunction with the National Fire Protection Research Foundation.

NATIONAL GUARD

Section 333. Section 1 of this Act provides an appropriation to Delaware National Guard (76-01-01) for energy. Within this appropriation, sufficient energy funds are included to defray energy expenses of the Lora Little School building that are not directly attributable to occupancy by the Delaware National Guard.

HIGHER EDUCATION

Section 334. (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 \$2,373.9 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, 2003.

(e) Section 1 of this Act provides an appropriation for "Operations" of the University of Delaware (90-01-01). Included in this appropriation is \$47.0 for travel. Of this amount, any funds used for in-state travel shall be subject to the state guidelines on mileage reimbursement.

Section 335. 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:

Chapter 395

Vol.72

Scholarships:

General Scholarships	\$ 2,135.4
Scholarships	1,771.9
Minority Student Recruitment	1,303.4
Aid to Needy Students	1,355.9
Governor's Scholars Program	486.7
Student Employment Program	136.9
Academic Incentive	<u>114.6</u>
Total	\$ 7,304.8

Agricultural Programs:

Agricultural Experimental Station	\$ 650.2
Agricultural Cooperative Extension	772.0
Agricultural Research and Education Center	451.9
Poultry Disease Research	554.5
Crop Extension	278.1
Agricultural Environmental Quality	182.3
Soil Testing and Pesticide Control	314.0
Diagnostic Poultry Program	<u>140.7</u>
Total	\$ 3,343.7

Other Programs:

Sea Grant	\$ 486.9
Urban Agent Program	118.2
Public Service and Applied Research Projects	392.8
Research Partnership Fund	1,252.6
Minority Recruitment	255.1
Financial Services Center	31.0
Local Government Research and Assistance	247.6
Graduate Education (Southern Delaware)	71.0
Library Automation	52.0
MALS/BALS - Southern Delaware	61.6
Nurse Practitioner	235.6
Science, Engineering and Technology Service Program	137.8
Management Training and Technical Assistance	57.6
Molecular Biology/Biotechnology Program	438.7
Math/Science Education for DE Teachers	579.9
Advanced Materials	214.9
Center for Community Development and Family Policy	269.9
Training and Research (Educational Management)	104.8
Computer Aided Math Instruction	80.0
Advanced Electronics and Materials Initiative	627.5
Field Hockey Coach	31.8
Delaware Center for Teacher Education	311.4
Research on School Finance Issues	79.4
Delaware Education Research and Development Center	208.6
Delaware Research Scholars Program	96.0
Milford Professional Development School	104.2
Information Technology Partnership	2,275.7
ITV Technician	91.4
Core Content Teacher Education	278.1
Biotechnology	649.6
Computer Aided Instruction, Arts & Science	100.0

Clinical Instruction in Teacher Education	210.0
Early Childhood Education	100.0
Civics Education for Teachers	100.0
Education Resource Center	52.0
Biotechnology Institute	275.0
Total	\$10,678.7

Section 336. Section 1 of this Act appropriates \$1,252.6 for the "Research Partnership Fund" at the University of Delaware, subject to the following:

(a) This appropriation shall be used to match, at least on a dollar-for-dollar basis, grants or contracts from private industry to conduct cooperative research with the University. The objective of the cooperative research efforts shall be to attract new high-technology research facilities and industries to locate within the State of Delaware;

(b) This appropriation shall be used to match "new" money and cannot be allocated to any projects in progress; and,

(c) Approximately 40 percent of the Research Partnership Funds will be used to support small start-up companies located in Delaware, 40 percent will be used to support research within large corporations, and 20 percent will be used to support the University of Delaware Research Institute; and,

(d) The University President shall submit to the Governor, members of the General Assembly, the Budget Director, and the Controller General, within 120 days after the close of each fiscal year, a report containing an account of how these funds were expended; what new industrial research organizations were attracted to the State; and plans for the ensuing fiscal year.

Section 337. Section 1 of this Act provides an appropriation to the University of Delaware (90-01-01) for Agricultural Programs. Within that appropriation are sufficient funds to fully fund 5.0 Agricultural Extension Agents in New Castle County, 3.0 Agents in Kent County and 2.5 Agents in Sussex County. Additional funding is provided for 1.0 Agricultural Extension Engineer to be based at the Agriculture Research and Education Center.

Section 338. Section 1 of this Act provides an appropriation to the University of Delaware for the Milford Professional Development School. The University and the Milford School District shall submit to the Controller General and the Budget Director, by March 1, 2001, a joint report detailing the implementation status of this program as it relates to the appropriation herein.

Section 339. Section 1 of this Act appropriates \$163.5 to Delaware State University for the establishment of an Early Childhood Montessori Teacher Training Program in Wilmington. The University shall submit to the Controller General and the Budget Director, by September 1, 2000, a report detailing the progress of this program.

Section 340. Section 1 of this Act makes an appropriation to Delaware State University (90-03-01) for General Scholarships. Of that amount, \$22.0 shall be for state scholarships for high ability students, \$20.0 shall be for departmental scholarships to attract high achievers into the sciences and \$100.0 shall be for scholarships to attract high ability students into the teaching program.

Section 341. For the fiscal year covered by this Act, in order to continue the assessment of procedures implemented during Fiscal Year 1993 intended to reduce the administrative burden incurred as a result of processing accounting transaction data into two independent accounting systems, the Budget Director has authorized Delaware State University to:

(a) Discontinue detail data input to the Delaware Financial Management System (DFMS) for encumbrance and vendor payment transactions related to General Fund, federal financial assistance and college funds;

(b) Effect vendor payment disbursements of the above identified funds on Delaware State University checks, generated through the University Accounting System and drawn on a University bank account; and,

(c) Summarize General Fund and federal financial assistance fund disbursements on a weekly, post disbursement basis, and draw down the corresponding amounts through the standard DFMS Payment Voucher process.

This authorization does not provide for any change to the processing of encumbrances and vendor payment transactions related to Bond/Capital funds; it does not affect payroll processing and does not relax or alter any control requirements prescribed by law or policy related to procurement, encumbrance and payment activity.

The University shall comply with specific procedures developed and prescribed by the Office of the Budget and the Department of Finance, Division of Accounting. In addition, the University shall cooperate fully with the Office of Auditor of Accounts to aid in any review or examination of the University's accounting procedures, records and system.

Operations as enabled by this section shall be periodically reviewed and evaluated during the stated period by the Office of the Budget, the Department of Finance and the Office of Auditor of Accounts. Any procedural/control weaknesses identified shall be addressed and resolved, and this authority may be withdrawn for cause at any time during the stated period, with the allowance that Delaware State University will be provided reasonable time to revert to standard processes.

Section 342. Section 1 of this Act provides funds for Delaware State University (90-03-01) MCI/Equipment. These funds shall not be subject to reversion until June 30, 2003.

Section 343. Contingent upon the passage of House Bill No. 512, amend Section 6503 of Title 14 of the Delaware Code as follows by inserting as new subsections (b)(1), (2), and (3) as follows:

"(b)(1) The University may appoint such number of police officers as are necessary to preserve the peace and good order of the University, and such officers shall be known as the "University Police" and shall be supervised by a Director. They shall have jurisdiction on the University campuses.

(2) The University police shall be law-enforcement officers of the State and conservators of the peace with the right to investigate and arrest, in accordance with the laws of the State, any person for violation of federal or state laws or applicable county or city ordinances when such violations occur on any properties or facilities which are under the supervision, regulation and control of the Delaware State University or on contiguous streets and highways.

(3) The provisions of this section shall neither reduce nor restrict the jurisdiction of other duly appointed peace officers who are empowered to enforce federal or state laws or applicable county or city ordinances on the property of the Delaware State University."

Section 344. Section 1 of this Act provides an appropriation to Delaware Technical and Community College, Office of the President (90-04-01), for Parallel Program Operations and Parallel Program Academics. This appropriation is to assist in the provision of the Delaware Technical/University of Delaware Parallel Program which will be operated jointly by the two institutions under a contract initiated by Delaware Technical and Community College. Under this contract, the University of Delaware will teach students at Delaware Technical and Community College's facilities. Future budget requests will be made jointly by Delaware Technical and Community College and the University of Delaware, and budget cuts, if necessary, will be shared on a pro rata basis. Approval of tuition and other fees will be made by the Board of Trustees of the institution that delivers the relevant service and after the institutions have reached an agreement for tuition sharing. Representatives from both institutions will meet at least once each semester to review program operations.

Section 345. Section 1 of this Act provides funds for Delaware Technical and Community College (90-04-00) MCI/Equipment. This appropriation may be utilized for the acquisition of computer hardware and software. These funds shall not be subject to reversion until June 30, 2003.

Section 346. Section 1 of this Act contains an appropriation of \$247.7 for the Delaware Institute for Veterinary Medical Education (DIVME) (90-07-01). Notwithstanding current Laws of Delaware relating to the DIVME Program, these funds shall be used to provide tuition support for up to eight persons at the Virginia-Maryland Regional College of Veterinary Medicine for Delaware residents accepted to veterinary school. These funds may also be used for assistance of up to two additional Delaware residents accepted to a veterinary medicine program at the University of Georgia.

EDUCATION

Section 347. At the end of Fiscal Year 2000, all Division II - All Other Costs, Division II - Energy, Division III - Equalization Funds and Education Expense and Property Tax Relief 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 the year balance is greater than \$250.00 in an individual appropriation.

Section 348. The Department of Education, per the implementation of Senate Bill 260 of the 140th General Assembly, is authorized to implement the following:

- (a) Salary adjustments for employees paid under Title 14, Chapter 13, Section 1305, Delaware Code, and who are employed on a 10-month contract, shall be retroactive to September 1, 1999, or to the commencement of the 1999-2000 school year, whichever is earlier. For all other employees paid under Section 1305, salary adjustments shall be retroactive to September 1, 1999.
- (b) Funding shall be provided for state-funded positions to cover the state share of the retroactive payment for eligible employees for Division I and for state-funded positions outside of Division I.
- (c) Local school districts with federally funded employees who are eligible for the retroactive payment shall provide such payment with federal funds. If such funds have expired and/or the federal grant application can not be amended, state funding may be provided to cover the retroactive payment, subject to the approval of the Department of Education.
- (d) Payment shall be provided for eligible employees who have achieved certification from the National Board for Professional Teaching. This stipend shall be retroactive to September 1, 1999, or to the commencement of the 1999-2000 school year, whichever is earlier.
- (e) Per Title 14, Chapter 5, Section 509, Delaware Code, charter schools shall be provided retroactive payment based on the revised Section 1305, Title 14 salary schedule as set forth in Senate Bill 260.
- (f) For eligible educators who are currently on a temporary certificate, a prorated, retroactive payment shall be provided effective May 3, 2000.

For Fiscal Year 2001, employees who have been issued a temporary certificate for a third or fourth year due to failure to pass Praxis I shall continue to receive a 10 percent salary reduction. Employees currently on a temporary certificate as a result of being assigned to an area outside the area of certification shall not receive a 10 percent salary reduction.

For those state-funded eligible employees that are paid the state share of the retroactive salary increase after July 1, 2000, the funding appropriated in Section 1 of this Act to the Department of Education (95-00-00) may be used to absorb these costs. If after making a good faith effort, the local school district, or the Department of Education, is unable to identify and compensate a previously terminated employee prior to June 30, 2001, the obligation for payment of retroactive compensation as provided for in Senate Bill 260 shall become null and void.

For the purposes of implementing stipends for lead mentors, such stipends shall not be paid until the Professional Standards Board, with the approval of the State Board of Education, has authorized the stipend per the provisions of Senate Bill 260.

The effective date of any supplements associated with skills and knowledge, leadership, lead mentor, and other National Board certificates shall be determined by the Budget Director and Controller General, in consultation with the Department of Education, and upon approval by the Professional Standards Board and the State Board of Education.

Section 349. Notwithstanding the provisions of Section 20 of this Act, the Department of Education in conjunction with the Budget Office, the Office of the Controller General and the State Personnel Office shall form a committee to conduct an assessment of salaries currently being provided to educational support personnel. The committee will seek input from various stakeholders. This assessment shall include the evaluation of paraprofessional, custodial, secretarial, and food service salaries. Upon completing such assessment, the committee shall submit any resulting recommendations to the Governor and the Co-Chairs of the Joint Finance Committee on or before December 1, 2000.

Section 350. Section 1 of this Act makes an appropriation to Office of the Budget Contingencies and One-Time Items (10-02-04) for One-Time Appropriations. Of this amount, \$780.0 shall be used for School Library

Resources per the provisions of Senate Bill No. 334 of the 140th General Assembly or similar legislation. If this bill or similar legislation is not enacted, the appropriation shall revert to the General Fund of the State of Delaware.

Section 351. Amend §509(b)(1), Title 14, Delaware Code by inserting after the third sentence the following:

"Furthermore, a charter school which was in operation as of September 15, 1999, shall receive from the state an amount based on the Education Expense and Property Tax Relief Fund allocations to be determined by weighting the funding that would have been generated by its students had they been counted in their district of residence."

Section 352. Amend §1318(g), Title 14 of the Delaware Code by deleting the fraction "1/261" as it appears therein and substituting in lieu thereof the fraction "1/222".

Section 353. Amend §1318A(b)(10), Title 14 of the Delaware Code by deleting the number "261" as it appears therein and substituting in lieu thereof the number "222".

Section 354. Amend §1320, Title 14 of the Delaware Code by deleting the fraction "1/261" as it appears therein and substituting in lieu thereof the fraction "1/222".

Section 355. For any section in the Delaware Code that makes reference to the annual work year for teachers and paraprofessionals in terms of days, such reference can be converted to equivalent hours as follows:

$$\begin{array}{lcl} 180 \text{ Regular Days} \times 7.5 \text{ hours} & & = 1,350.0 \text{ hours} \\ 7 \text{ Staff Development Days} \times 5.5 \text{ hours} & = & 38.5 \text{ hours} \end{array}$$

Section 356. Amend Title 14, Section 1321(a), Delaware Code by deleting "10" where it appears in the second sentence of the second paragraph and replacing it with "11".

Section 357. 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	187
Schedule 1308	7.5	261
Schedule 1311	8.0	261
Schedule 1322(a)	7.0	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 358. During Fiscal Year 2001, the Department of Education shall develop rules and regulations consistent with hours per day with respect to the inclusion or exclusion of lunch plus the amount of time required for the discharge of such duties and services as may be reasonably expected and required.

Section 359. (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 submitted with the Fiscal Year 2000 Budget Act.

(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.

Section 360. The Department of Education shall continue to provide funding through its discretionary federal special education funds for a portion of the education costs associated with prison inmates aged 18 to 21 years, who qualify as special education students.

Section 361. The Department of Education shall continue to work towards the implementation of school-level financial data during FY 2001. Due to the State's movement from the DFMS to ASAP, the Department shall work with the Department of Finance in the design of the new accounting system.

Section 362. For Fiscal Year 2001, the inflation factor for the local per pupil payments required under the state's Enrollment Choice Program, as specified in Title 14, Section 408(e), Delaware Code, and for the local per pupil payments required under the state's Charter School Program, as specified in Title 14, Section 509(d), Delaware Code, shall be 2.0 percent.

Section 363. Local school districts shall provide a preliminary report to the Department of Education by March 1, 2001 indicating how funding appropriated for Division II - All Other Costs and Division III - Equalization will be used to support vocational education programs within the district. If the funding expended on vocational programs is less than the amount generated based upon the September 30 unit count, the district shall indicate how the balance of funds will be expended. Local districts shall submit a final report reflecting actual expenditures to the Department of Education by July 31, 2001. The Department of Education shall forward a copy of these reports to the Budget Director and the Controller General.

Section 364. Any course offered at a Vocational Technical high school may be offered in the comprehensive high schools if a sufficient student interest can be demonstrated as determined by the Secretary of Education.

Section 365. Amend Title 14, Chapter 17, Section 1703(j) by deleting the section in its entirety and substituting in lieu thereof the following:

"(j) Effective for the Fiscal Year beginning July 1, 2001, each public high school may hire an occupational/vocational teacher for an additional 37 days for participation in program development and oversight of summer vocational-occupational cooperative programs. Commencing in FY 2002, these teachers shall be entitled to payment of the state share of salaries at the rate of 1/189 of their entitlement for a full school year multiplied by the number of days employed. Commencing in FY 2003 and beyond, these teachers shall be entitled to payment of the state share of salaries at the rate of 1/190 of their entitlement for a full school year multiplied by the number of days employed."

Section 366. Section 1 of this Act makes an appropriation to Public Education, State Board of Education and State Board for Vocational Education and Department of Education, State Board and Department of Education (95-01-01) for Educator Certification and Development activities. This appropriation is intended to offset Department of Education expenditures in the following areas: standard setting for PRAXIS II; teacher and administrator assessment procedures; revision and update of teacher and administrator evaluation procedures (DPASII); diversity recruiting; professional recertification and expanding the Alternative Route to Teacher Certification program.

Section 367. Section 1 of this Act provides an appropriation of \$529.5 to Public Education, State Board of Education and State Board for Vocational Education and Department of Education, State Board and Superintendent and Department of Education (95-01-01) for Standards and Assessment. Part of the Standards and Assessment program agenda is to support the development and completion of performance indicators.

Section 368. Section 1 of this Act makes an appropriation of \$35.0 to Public Education, State Board of Education and State Board for Vocational Education and Department of Education, State Board and Department of Education (95-01-01) for Odyssey of the Mind. This appropriation shall be made

available to school students to assist in defraying out-of-state travel expenses associated with this program.

Section 369. Section 1 of this Act makes an appropriation of \$500.0 to Public Education, State Board of Education and State Board for Vocational Education and Department of Education, State Board of Education and Department of Education (95-01-01) for Student Mentoring. Of this amount \$350.0 shall be used by the Department of Education to review and award grants competitively to schools with grades kindergarten through eighth grade. Programs selected shall provided at-risk children with academic tutoring and instruction, with the involvement of parents and volunteer mentors. School districts shall make direct application to the department of behalf of individual school buildings, addressing in their proposal the following: (a) one on one tutoring for academically at risk students; (b) early childhood preventive intervention strategies; (c) adherence to academic standards as adopted by the State Board of Education; (d) parental involvement; and (e) provision of program evaluation and performance evaluation. Local schools are encouraged to utilized such programs for students during non-core academic class time. Grant awards for individual schools, of no more then \$30,000 each, shall be determined by the department no later than November 30, 2000, and funds shall be allocated by December 31, 2000. The remaining \$150.0 may go to the University of Delaware for the Delaware Mentoring Council for technical assistance and professional development for mentors and other activities.

Section 370. (a) It is the intent of the General Assembly that the sum of \$7,119.1 allocated in Section 1 of this Act be used for Minor Capital Improvements and annual maintenance to school buildings. These funds shall not be subject to reversion until June 30, 2003.

(b) This amount shall be paid by the Department of Education to local districts in the following amounts. Districts may use up to 20 percent of the amount shown without the prior approval of a project plan by the Department of Education.

Chapter 395
Vol.72

<u>School District</u>	<u>Maximum State Share</u>	<u>Maximum Local Share</u>	<u>Total Cost</u>
Appoquinimink	\$267,468	\$178,312	\$445,780
Brandywine	673,988	449,325	1,123,313
Special	3,841	0	3,841
Christina	1,155,795	770,530	1,926,325
Special	71,407	0	71,407
Colonial	617,138	411,425	1,028,563
Special	11,918	0	11,918
New Castle Vo-Tech	343,248	0	343,248
Red Clay	930,819	620,546	1,551,365
Special	14,380	0	14,380
Caesar Rodney	320,890	213,927	534,817
Special	16,350	0	16,350
Capital	371,890	247,927	619,817
Lake Forest	206,540	137,693	344,233
Milford	227,342	151,561	378,903
Polytech	105,486	0	105,486
Smyrna	202,167	134,778	336,945
Cape Henlopen	236,206	157,471	393,677
Special	14,281	0	14,281
Delmar	43,556	29,037	72,593
Indian River	438,137	292,091	730,228
Special	16,251	0	16,251
Laurel	120,851	80,567	201,418
Seaford	221,609	147,739	369,348
Sussex Vo-Tech	115,335	0	115,335
Woodbridge	107,673	71,782	179,455
East Side Charter	4,728	3,152	7,880
Campus Community	17,729	11,819	29,548
Positive Outcomes	3,546	2,364	5,910
Wilmington Charter	32,621	21,747	54,368
Richard Milburn	5,910	3,940	9,850
Total to Schools	\$6,919,100	\$4,137,733	\$11,056,833
STATE BOARD OF EDUCATION	115,000	76,667	191,667
VOCATIONAL EQUIPMENT	<u>85,000</u>	<u>56,667</u>	<u>141,667</u>
TOTAL	\$7,119,100	\$4,271,067	\$11,390,167

Section 371. Section 1 of the Act makes an appropriation of \$250.0 GF to the Office of the Budget, Contingencies and One-Time Items (10-02-04) to fund House Bill 300 of the 140th General Assembly. Of the \$250.0, \$150.0 shall be made available to the City of Wilmington for the Wilmington Neighborhood Schools Committee for research and analysis. Of the \$150.0, the Department of Education is authorized to transfer up to \$50.0 during Fiscal Year 2000 to the City of Wilmington to offset start up costs. The remaining \$100.0 shall utilized by the Department of Education and the State Board of Education to support the costs associated with reviewing and analyzing the local district plans and to support with outreach efforts.

Section 372. Amend Title 14, Chapter 2, Section 203, Delaware Code, by inserting between the words "school" and "for" in the first sentence the words "or special programs" and inserting a new sentence at the end of said section to read as follows: "Such special programs may include, but are not limited to, bilingual programs or programs for pregnant students."

Section 373. Amend Title 14, Chapter 6, Section 604, Delaware Code, by deleting the title "Handicapped children" and inserting in lieu thereof a new Section 604 title to read as follows: "Handicapped and other special programs."

Section 374. Amend Title 14, Chapter 6, Section 602 (b), Delaware Code, by deleting said subsection and inserting in lieu thereof a new Subsection 602 (b) to read as follows: "In determining the tuition to be charged, the receiving district shall compute the tuition by adding such receiving district's share of educational related expenses as allowed by Department of Education regulations. The sum so obtained shall be divided by the total number of pupils in the authorized program and grades and attending all public schools in the receiving district as of September 30 of the current school year. The cost for the current year may be estimated cost and shall include an amount, added or subtracted from the estimate, which amount will represent the difference between the estimated and the actual costs of the tuition charges for the same purpose in the previous year. The resulting figure shall represent the amount of tuition charge per pupil in the current year. In Fiscal Year 1970 or later, the receiving district may include tuition charges for the previous year and the current year."

Section 375. Amend Title 14, Chapter 6, Section 602 (d), Delaware Code, by deleting said subsection and inserting in lieu thereof a new Subsection 602 (d) to read as follows: "For each pupil attending a public school of another district as of September 30, the receiving district shall bill the sending district and the sending district shall pay the tuition charges per pupil on or before January 1 of the fiscal year in which the bill is submitted to the sending district for payment. In the case of pupils attending the public schools of the receiving district for less than a full term, the tuition charge shall be prorated by reference to the period of time during which such pupils actually attended the receiving district's schools, provided that attendance for part of any month shall be counted as a full month of attendance."

Section 376. Amend Title 14, Chapter 6, Section 604 (a), Delaware Code, by inserting between the words "persons" and "the" in the second sentence the words "or special programs approved by the Department of Education for non-handicapped persons such as programs for bilingual students or programs for pregnant students,".

Section 377. Amend Title 14, Chapter 6, Section 604 (b), Delaware Code, by deleting said subsection and inserting in lieu thereof a new Subsection 604 (b) to read as follows: "In determining the tuition to be charged for a pupil attending special classes for the handicapped or approved special programs, such as bilingual programs or programs for pregnant students, operated by a district other than that in which the student resides or by an agency of the State Department of Education, the receiving district or the State Department of Education shall compute the tuition by adding such receiving district's share of educational related expenses as allowed by the Department of Education regulations. The sum so obtained shall be divided by the total number of pupils in the special program as of September 30 of the current school year. The resulting figure shall represent the amount of the "tuition charge" per pupil."

Section 378. Section 1 of this Act provides appropriations of \$311,045.8 for Formula Salaries and \$98,585.3 for Other Employment Costs to Public Education, School District Operations, Division Funding (95-02-01). These amounts provide salaries and other employment costs for the following categories as determined by the September 30 unit count entitlement of each school district: Title 14, Section 1305, Section 1306, Section 1307, Section 1308, Section 1309, Section 1310, Section 1311, Section 1321, Section 1324, Section 1331 and Section 1332, Delaware Code. These appropriations also contain salaries and other employment costs funds for the Americanization Program operated by the

Caesar Rodney and Red Clay Consolidated School Districts. These sums are \$9.3 and \$103.6, respectively.

Section 379. The Department of Education shall transfer \$62.5 to the Department of Public Safety, Division of State Police to reimburse qualified applicants for the cost of criminal background checks for the purpose of serving as substitute teachers on a first come, first served basis. The Division of State Police shall send quarterly reports to the Department of Education regarding expenditures of said funds.

Section 380. Section 122(e), Title 14, Delaware Code, requires the Department of Education to review all regulations to ensure that all regulations are current and not burdensome, and (f) and (g) provide a means for districts to pursue waivers of state regulations. The Federal Education Flexibility Partnership Act of 1999 allows districts to apply for waivers of federal regulation in states that have adopted challenging content and performance standards, have aligned assessments to those standards, have established a system of school and district accountability, and allow waiver of State statutory and regulatory requirements relating to education.

Upon federal approval of the Department of Education's application for Ed Flex, the Department may waive State statutory and regulatory requirements pursuant to the Federal Education Flexibility Partnership Act of 1999. Such waivers must 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, Title VI, Part C of Title VII, and the Carl D. Perkins Vocational and Technical Education Act of 1998. State programs for which waivers may be granted include, but are not limited to, extra time, school climate and discipline, academic excellence, early reading intervention, student mentoring, professional and curriculum development. The Budget Director and the Controller General shall review and approve the Department of Education waiver process.

Section 381. The Delaware Code notwithstanding, during Fiscal Year 2001, the Budget Director is authorized to continue funding for issues such as, but not limited to, the number of administrative positions and activity busing for which the State was required to provide funding as a result of a 1978 federal court order. This authorization, as it relates to administrative positions, shall apply only to positions filled for employment, and shall not be considered as authorization to fund any cash options pursuant to Chapter 13, Title 14, Delaware Code.

Section 382. Line Item funds appropriated in Section 1 of this Act to Public Education, School District Operations, Other Items (95-02-02) are to cover adjustments in the Appropriation Units of the State Board of Education and State Board for Vocational Education and Department of Education, Block Grants and Pass Through Programs, Pupil Transportation, or the local school districts. Examples of such use are: salary line transfers and adjustments; unit adjustments; state share of tuition payment for private placement of handicapped pupils; for Delaware residents of the Delmar School District attending Maryland schools; expenditures for Americanization classes; 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 383. 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 384. Section 1 of this Act provides certain appropriations to Public Education, School District Operations, Other Items and Debt Service in the State. These amounts are not based on the unit system. Allocation of these funds shall conform to the following:

(a) Debt Service amounts are predicated upon the amortization schedule as provided by the State Treasurer.

(b) The line item "Other Items" in the Internal Program Unit Other Items (95-02-02) shall be allocated as follows:

1. Caesar Rodney - Americanization	\$ 4.7
2. Red Clay - Americanization	9.0
3. Margaret S. Sterck -	
Residence - Other Costs	85.4
Consultant Services	11.0
Preschool Summer Program	6.9
4. Christina Autistic -	
Residence - Other Costs	206.5
Contractual Services	11.4
5. John G. Leach	50.0
6. Sussex Orthopedic School	<u>7.5</u>
Total	\$392.4

Section 385. Section 1 of this Act makes appropriations to Public Education, School District Operations, Division Funding (95-02-01) for Division II - All Other Costs and Energy. During the fiscal year ending June 30, 2001, a school district upon approval of the Budget Director and the Controller General, may transfer part of its allocated appropriation from Division II - Energy to Division II - All Other Costs. A school district may use Division II - Energy funds to obtain engineering studies required for Exxon or Stripper Well funds. A Division II - Energy Unit shall be valued at \$1,572.00. A Division II - All Other Costs Unit shall be valued at \$3,247.00. The Division II - All Other Costs appropriation shall be used for all school costs (including library resources) except salaries and other employment costs, state and local benefits, debt service, energy, and transportation of pupils to and from their regular sessions of school.

Section 386. Amend Title 14, Section 1321(e)(11) Delaware Code, by deleting the phrase "subsections (e)(1), (2), (3), (4), (9), or (10)" and inserting in lieu thereof "subsections (e)(1), (2), (3), (4), (5), (9) or (10)"

Section 387. Amend §1307(3), Title 14, Delaware Code by deleting the first sentence and inserting in lieu thereof the following:

"(3) During the fiscal year beginning July 1, 2000, and annually thereafter, a school district may employ one full-time assistant principal in a school which enrolls thirty or more Division I units of pupils or ½ of a unit for schools which enrolls twenty-five but less than thirty Division I units of pupils; and the school district may employ a second assistant principal when the enrollment reaches fifty-five Division I units or ½ of a unit when enrollment reaches fifty units but less than fifty-five units; subsequent assistant principals may be employed on the basis of one assistant principal for each twenty Division I units of pupils beyond the first fifty-five for which the principal and the first two assistant principals are

Chapter 395

Vol.72

authorized. Any fractional units provided herein must be assigned to the school which generated the fractional unit."

Section 388. The Department of Education shall submit with its Fiscal Year 2002 operating budget request a proposal to establish a new preschool unit to be added with other units generated under Title 14, Chapter 17, Section 1703, Delaware Code. This unit shall be utilized solely for preschool students eligible to receive services through the Program for Children with Disabilities and those preschool students currently classified as learning disabled, educable mentally handicapped and emotionally disturbed. It is anticipated that such proposal will include the date of the reporting of student enrollment for unit determination to be March 1 of the preceding fiscal year.

Section 389. Amend §1707(c), Title 14, Delaware Code by deleting "110%" wherever it appears therein and substituting in lieu thereof "105%".

Section 390. Amend §1707(d), Title 14, Delaware Code by deleting "110%" wherever it appears therein and substituting in lieu thereof "105%".

Section 391. Amend §1707(e), Title 14, Delaware Code by deleting "110%" wherever it appears therein and substituting in lieu thereof "105%".

Section 392. For Fiscal Year 2001, any school district whose per unit amount for Division III - Equalization funding, as computed under the provisions of §1707, Title 14 of the Delaware Code, is less than the computed per unit amount in Fiscal Year 2000, shall receive Equalization funding based on the Fiscal Year 2000 per unit amount. New units generated in Fiscal Year 2001 will be funded at the Fiscal Year 2001 amount.

Section 393. During Fiscal Year 2001, the Equalization Review Committee as established by §1707(i), Title 14, Delaware Code shall conduct a review of the existing equalization formula. This review shall include, but not be limited to, alternate measures of district wealth and options for bringing more districts onto the formula to ensure a more equitable distribution of resources.

Section 394. Provisions of §6102(r)(2) and (r)(3) Title 29, Delaware Code notwithstanding, during fiscal year 2001, the sum authorized to the Education Expense and Property Tax Relief Fund shall be allocated as follows:

District Allocation	Increase Support for Education	Offset Local Current Expense Taxes	Total
Appoquinimink	\$ 0	\$ 523,260	\$ 523,260
Appoquinimink ILC	18,468	0	18,468
Brandywine	0	2,158,200	2,158,200
Bush	16,350	0	16,350
AI Institute	6,298	0	6,298
Brandywine ILC	75,210	0	75,210
Christina	0	3,691,830	3,691,830
Autistic Program	135,407	0	135,407
REACH	53,533	0	53,533
Sterck	85,023	0	85,023
Christina ILC	170,040	0	170,040
Colonial	0	2,001,240	2,001,240
Leach	75,576	0	75,576
Colonial ILC	42,510	0	42,510
Red Clay	0	2,897,220	2,897,220
Meadowood	75,576	0	75,576
Red Clay ILC	122,811	0	122,811
Caesar Rodney	366,662	201,178	567,840
Caesar Rodney ILC	9,204	0	9,204

Charlton	47,554	0	47,554
Capital	0	728,495	728,495
Capital ILC	4,820	0	4,820
Kent Orthopedic	16,874	0	16,874
Lake Forest	279,383	132,847	412,230
Milford	78,709	505,952	584,661
Milford ILC	5,062	0	5,062
Smyrna	65,447	454,553	520,000
Smyrna ILC	5,000	0	5,000
Cape Henlopen	0	24,174	24,174
Delmar	125,000	0	125,000
Delmar ILC	1,303	0	1,303
Indian River	0	592,680	592,680
Laurel	323,853	34,461	358,314
Laurel ILC	5,874	0	5,874
Seaford	263,895	0	263,895
Seaford ILC	6,025	0	6,025
Woodbridge	125,000	0	125,000
New Castle Vo-Tech	0	834,485	834,485
New Castle Vo-Tech ILC	25,192	0	25,192
Polytech	0	125,000	125,000
Polytech ILC	12,272	0	12,272
Sussex Technical	0	0	0
Total	\$2,643,931	\$14,905,575	\$17,549,506

Section 395. Section 1 of this Act provides an appropriation of \$55,971.1 to School District Operations, Division Funding (95-02-01) for Division III – Equalization. Based on the finding from the 1998 audit of the New Castle County Vo-Tech School District, the Department of Education is authorized to withhold \$225,665 from the district's entitlement in Fiscal Years 2001 and 2002.

Section 396. Section 1 of this Act provides an appropriation of \$6,094.3 to Public Education, Block Grants and Pass Through Programs, Adult Education Work Force Training Block Grant (95-03-10). This appropriation shall be allocated by the Department of Education to the following programs/districts: Adult Trade Extension (statewide), Apprentice Program (statewide), James H. Groves High School (statewide), Adult Basic Education (statewide), New Castle County Learning Center (Christina School District), Delaware Skills Center (New Castle County Vocational Technical School District), Alternative Secondary Education Program (statewide), Communities in Schools of Delaware (Colonial, Brandywine, and Capital School Districts), Marine Mechanics Apprentice Program (Technical School District) and Interagency Council on Adult Literacy. For each program continued in Fiscal Year 2001, each program shall receive no less than the same allocation from this appropriation as its Fiscal Year 2000 allocation, except that the allocations for the following programs shall be increased by the amounts shown: Alternative Secondary Education, \$63.5; James H. Grove High School, \$287.2; Delaware Skills Center, \$41.2; Communities in Schools to expand the program to the Capital School District; \$30.0; and Interagency Council on Adult Literacy, \$150.0.

Section 397. Section 1 of this Act makes an appropriation of \$8,660.9 to Public Education, Block Grants and Pass Through Programs, Professional Accountability and Instructional Advancement Fund (95-03-10).

(a) The following allocations shall be provided:

- (1) \$225.0 for Alternative Routes programs. \$150.0 is provided for the Alternative Routes to Certification program, to be used to implement this project in FY 2001, based upon the recommendations of the Professional Standards Council. The remaining \$75.0 may be used for the Summer Institute program.
- (2) \$184.0 for National Certification Stipends, to be used to defray costs borne by teachers seeking National Board Certification through the National Board for Professional Teaching Standards.
- (3) \$2,866.5 shall be allocated by the Department of Education to districts for professional and curriculum development activities. Districts shall submit applications to the Department of Education

detailing the district's plan for the utilization of these funds. The Department of Education shall review and approve plans and allocate an amount not to exceed \$331.00 per certified employee, based on a district's personnel complement for the 1999-2000 school year. Grants are to be used for developing and implementing curriculum based on the content standards established by the Curriculum Frameworks Commission, as approved by the State Board of Education or for other professional development activities, including, but not limited to: Discipline, Special Education/Inclusion Collaboration/Consensus Building, Conflict Resolution, Shared Decision Making, local school board member training, and Educational Technology. Districts are encouraged 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, 2000. 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) \$800.0 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 district board, superintendent or state agency. Local school district boards of education are required to prioritize the allocation of the funds they receive to support the educational advancement efforts of regular education teachers taking special education and/or mainstreaming related courses and other educational priorities established by the local boards of education based on staff development goals or to ameliorate identified deficiencies. This allocation may be used by local school districts to defray the costs for teachers seeking application for National Board Certification from the National Board for Professional Teaching Standards.

Reimbursement for tuition may be made for courses taken during summer school or during the academic year for which a passing grade of B or better is obtained. No reimbursement shall be in excess of the tuition charged a Delaware resident taking a course with an equal number of credit hours at the University of Delaware. Of the total allocation made by Department of Education, a minimum of .75 percent shall be allocated to state agencies and the balance shall be allocated to the several school districts in amounts equal to each school district's proportion of Division I units to the total number of Division I units statewide on September 30, 2000. Any funds not expended by a school district or a state agency shall be transferred to other districts or agencies. In the event that any district's allocation is not sufficient to provide total reimbursement to all eligible employees, the district shall pro-rate the funds so that each eligible employee receives a share of the total district allocation equal to the individual employee's reimbursable expenditure divided by the total reimbursable expenditure of all employees in the district multiplied by the district allocation. Funding for each school district shall be divided into two equal parts. The first one-half shall be prorated as described above among eligible employees who complete their courses prior to February 1, 2001. The second one-half shall be prorated as described above among eligible employees who complete their courses prior to June 15, 2001. In the event that funds remain in either half year, the district shall be authorized to reallocate those funds to reimburse eligible employees in the other portion of the year who did not receive full reimbursement. This Section shall supersede collective bargaining agreements to the contrary.

- (7) \$628.4 for the Department of Education for the Teacher to Teacher Instructional Cadre which provides for the purchase of release time of exemplary teachers in the content areas in which the State Board of Education has adopted content standards, who will provide assistance to districts on a statewide basis in designing, demonstrating and implementing best teaching practices in the development of curriculum to meet the established standards. The Department of Education is authorized to transfer 50 percent of the estimated district grant amount on July 30, 2000. The remaining 50 percent shall be transferred within 30 days of the final approval of the district application for funding.
- (8) \$759.4 for the Summer School for Teachers Program. Of this appropriation, \$590.3 will be allocated to the University of Delaware and \$169.1 to Delaware State University to fund summer programs for the professional development of teachers. It is intended that curriculum of the summer classes offered through this program, to teachers and aides, be consistent with the curriculum standards which are currently under development or have previously been adopted by the State Board of Education. Both the University of Delaware and Delaware State University shall incorporate into their Summer School for Teachers course structure, the appropriate and necessary elements that will enable participants to develop relevant classroom curriculum as well as to gain additional exposure to best teaching practices in the standardized content areas. The Department of Education shall continue to make staff available to assist each institution in the preparation of the summer coursework. Future budget requests for this program will be made by the Department of Education in their annual budget request, following consultation with the University of Delaware and Delaware State University.
- (9) \$150.0 for the Delaware Center for Teacher Education to support professional and curriculum development activities in the content areas of reading and social studies. The Department of Education shall determine, in coordination with the agency (or agencies) performing such activities, the training goals and objectives, including how the objectives of Standards and Assessment will be furthered. The Department of Education, Controller General and the Budget Director shall ensure that the proposed development activities are cost efficient and meet the objectives outlined in this section

before agreeing to transfer the appropriation from the Department of Education to the operating agency.

- (10) \$100.0 for Delaware Academy of School Leadership 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. The Department of Education, 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.

(b) Any funds remaining subsequent to these allocations may be disbursed at the discretion of the Department of Education for professional accountability and instructional advancement activities.

Section 398. (a) Section 45 of this Act continues appropriations to Public Education, Block Grants and Pass Through Programs, Professional Accountability and Instructional Advancement Fund (95-03-10) for Shared Decision Making. Based on the current level of activity in the program, such funds are sufficient to meet the needs of the Shared Decision Making program in Fiscal Year 2001. The Governor and General Assembly recognize the importance of increased local board and school building level authority as a means toward improving student achievement and increasing accountability. This recognition is consistent with the requirements contained within the Federal Improve America's Schools Act (IASA) for any school receiving funds under said Act. Pursuant to Chapter 8, Title 14, Delaware Code, individual school buildings within local school districts that have adopted a district transition plan as specified in Section 803(d), Chapter 8, Title 14, Delaware Code, may apply for a school level grant to conduct structured conversations at the school building level, and subsequently develop a school transition plan. These grants shall be funded in the amount of \$7.5 per school building and shall be provided to the local school district. As stipulated in Chapter 8, Title 14, Delaware Code, one-third of the amount (\$2.5) shall be made available for the school level structured conversation, and the remaining two-thirds (\$5.0) will be used to design a transition plan at the school building level. Funding for these grants will be provided through a combination of prior year appropriations within the Professional Accountability and Instructional Advancement Fund (95-03-10) for this purpose, and Federal Goals 2000 funds, if a local district decides to prioritize its Goals 2000 application in favor of Shared Decision Making.

(b) Local School Districts that applied for a district level grant pursuant to Section 807(b), Chapter 8, Title 14, Delaware Code, by April 1, 2001, shall receive a district level grant from prior year funds. Districts are eligible for grants in the amount of \$20.0 per district, provided they meet the criteria established in the Delaware Code. Approximately one-third of that award (or \$6,667) shall be available for the district level conversations, and the remaining two-thirds (or \$13,333) will be used to design a transition plan at the district level.

(c) Local school districts shall address the district's progress or intentions pursuant to the provisions of Chapter 8, Title 14, Delaware Code in the IASA consolidated application in a format specified by the Department of Education. Local school districts that did not make application for the school level grants specified in Chapter 8, Title 14, Delaware Code, on or before May 1, 2001, shall prioritize the use of Goals 2000 funding based on the competitive criteria developed by the State of Delaware. Any local school district that opts to prioritize the use of Goals 2000 funding in a manner so as to use the funds for the purposes other than Shared Decision Making shall not be eligible for funds for the purposes described in this Section from any source during FY 2001. The Federal Goals 2000 funding for this purpose shall be made available at such time that a local school district meets the requirements contained in Chapter 8, Title 14, Delaware Code. Local school districts that do apply for school level grants as specified in Chapter 8, Title 14, Delaware Code shall make the full amount of the grants available to school buildings for the purposes specified in Chapter 8, Title 14, Delaware Code, regardless of the source of such funding, in the amounts specified in subsection (a) of this Section. Sufficient funding shall be made available to each local school district to provide for these grants and to cover indirect costs and audit fees. Pursuant to the Federal Goals 2000 requirements, each local school district must insure that 50 percent of the total district grant is provided to schools with special needs as defined

by the local district. Special needs may be indicated by a high number or percentage of students from low-income families, low student achievement, or other similar criteria developed by the local school district.

(d) It is anticipated that individual school buildings that are successful in developing a school transition plan, and subsequently desire to develop a school improvement plan as specified in Section 806, Chapter 8, Title 14, Delaware Code, will be provided school improvement grants pursuant to said Chapter. It is anticipated that these grants will be composed of the conversion of certain discretionary state resources.

Section 399. Section 1 of this Act makes an appropriation to the State Board of Education Block Grant and Pass Through Programs, Academic Excellence Block Grant (95-03-10). Of the amount appropriated, \$23,157.7 shall be used to fund units for academic excellence in the school districts in accordance with Section 1716, Title 14, Delaware Code. The balance of \$4,022.3 shall be allocated to school districts in proportion to the number of Division I Units each district enrolls on the last school day in September 2000. School districts may use the funds to: purchase computer hardware, software or services; calculators; library resources; fund homebound instruction costs; provide substitute teachers; provide additional nurses so long as the district is entitled to less than one nurse per school; provide a student work-study program; provide conflict resolution training; provide extended day or extended year programs for students performing below the standard level; provide stipends for professionals engaged in curriculum or professional development activities sponsored by a local school district or the Department of Education, outside of the regular school day. Included in this amount are sufficient funds to increase the daily rate for Class A Substitutes to \$104.00, Class B Substitutes to \$83.00 and Class C Substitutes to \$66.00. School districts may form consortia, utilizing homebound funds, to purchase or provide services. No homebound funds may be spent to provide services to students who have been suspended or expelled from school, except for special education students. The State Board of Education shall provide an annual summary of school district plans for use of Academic Excellence funds to the Budget Director and Controller General no later than December 1 of each year.

Section 400. Section 1 of this Act appropriates \$1,002.5 to Public Education, Block Grants and Pass Through Programs, Professional Development and Instructional Advancement Fund (95-03-10) for Reading Cadre.

This appropriation will provide each local school district with the state share of salaries in accordance with Title 14, Section 1305, Delaware Code for 1.0 11-month Reading Specialist. The purpose of this Specialist will be the creation of a Reading to Reading Cadre which will provide assistance to districts in designing, demonstrating and implementing best practices in reading instruction.

The balance of funding may be used by the Department of Education to support Cadre activities.

Section 401. For the fiscal year beginning July 1, 2000, any local school district that has had two consecutive failed current expense tax referendums during the time period July 1, 1998 to January 1, 2001, is authorized to exercise the cash option on Academic Excellence units up to the total number of units provided under that program. This provision will apply for Fiscal Year 2001 only. In addition, districts meeting this criteria are authorized to utilize funds derived from this cash option to pay local salary supplements. Any district that has had a successful current expense tax referendum subsequent to two consecutive failed current expense tax referendums is ineligible for the provisions of this section.

Section 402. Section 1 of this Act appropriates \$184.0 within Public Education, Block Grants and Pass Through Programs, Professional Accountability and Instructional Advancement Fund (95-03-10). This appropriation is to be used in Fiscal Year 2001 along with any local school district and privately donated funding, to defray costs for teachers seeking national board certification from the National Board for Professional Teaching Standards (NBPTS). Recognizing the effort involved in pursuing such certification as well as the value it will bring to Delaware teachers and students, a NBPTS certification obtained under this program by an individual paid under Title 14, Section 1305, Delaware Code, excluding superintendents, assistant superintendents, directors, and individuals employed in non-

instructional areas detailed in Section 1312(c), and employees at the Department of Education shall result in a salary supplement as specified in Title 14, section 1305(m), Delaware Code. The salary supplement shall be based upon the 10-month base state salary scale for teachers. The Department of Education shall report annually to the Budget Director and Controller General the number of NBPTS certificates obtained under this program. The NBPTS salary supplement shall be valid for a period not to exceed ten years.

Section 403. Section 1 of this Act provides an appropriation of \$9.9 to Public Education, Block Grants and Pass Through Programs, K-12 Pass Throughs (95-03-15) for the Delaware Nature Society. It is the intent that this money be used to provide summer programs including an eighth grade program in environmental heritage.

Section 404. Section 1 of this Act provides an appropriation of \$230.0 to Public Education, Block Grants and Pass Through Programs, K-12 Pass Throughs (95-03-15) for the READ-ALoud Delaware Program. READ-ALoud Delaware is to continue to develop and foster programs for the purpose of encouraging regular reading to preschool-aged children as an effective way to prepare them for learning. The monies passed through to READ-ALoud Delaware shall be used to provide programs in each county, focused on the more disadvantaged segment of the population of preschool-aged children.

Section 405. Section 1 of this Act provides an appropriation of \$97.2 to Public Education, Block Grants and Pass Through Programs, K-12 Pass Throughs (95-03-15) for Advanced Studies. The Department of Education shall transfer this appropriation to the University of Delaware to help fund a summer school program, for college credit, for gifted and talented students.

Section 406. Section 1 of this Act provides an appropriation of \$136.5 to Public Education, Block Grants and Pass Through Programs, K-12 Pass Throughs (95-03-15) for the Delaware Institute for Arts in Education. Of this appropriation, \$25.0 shall be used to implement a new Wolftrap program. The Department of Education shall transfer this appropriation to the University of Delaware, which acts as the fiscal agent for this statewide program.

Section 407. Section 1 of this Act provides an appropriation of \$201.2 to Public Education Block Grants and Pass-Through Programs, K-12 Pass Throughs (95-03-15) for the Center for Economic Education. Of this amount, \$30.0 is appropriated to develop a pilot program to test a professional development model for systematically training teachers in content and pedagogy and provide them with ongoing support in the classroom.

Section 408. In order that the children for whom the learning disability and socially or emotionally maladjusted units were devised shall be the sole beneficiaries of all funds available for such children, the State Board of Education shall require strict adherence to approved guidelines before release of any funds designated for such children. The State Board of Education shall particularly ascertain that no educable mentally handicapped are being classified as learning disabled; and that strict guidelines are developed to determine eligibility of socially or emotionally maladjusted children so that this category does not become a catch-all for low-achieving, unmotivated or disruptive pupils without serious physiological or neurological disorders. All pupils classified learning disabled or socially or emotionally maladjusted must be reevaluated at least every two years, except psychological evaluation shall be made at least every three years. The State Board shall report annually to the Budget Director and the Controller General on or before April 1 on the actions and results of actions required by this section.

Section 409. Section 1 of this Act makes an appropriation of \$670.9 ASF to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the Children's Services Cost Recovery Project (CSCR). All local school districts shall fully participate in the implementation and operation of the project for the fiscal year ending June 30, 2001. Local school district participation shall be on a district-wide basis.

The following resources are appropriated to operate the Children's Services Cost Recovery Project during the fiscal year ending June 30, 2001. No appropriation is made for the purchase of

additional state-owned vehicles pursuant to this section. The appropriated funds for supplies and in-state travel which, pursuant to this section, are passed through to the local school district shall be dedicated to implementing the Children's Services Cost Recovery Project.

In addition, 14.0 FTE staff positions are appropriated to support this project: 2.0 FTEs shall be located at the Department of Education. The Department of Education is hereby permitted to authorize the hiring of up to 12.0 FTEs in the local school districts for the sole purpose of implementing this section. The 12.0 FTEs in the local school districts shall be paid in accordance with the Financial Secretary Salary Schedules 1308 and 1309 including the local salary supplement in place at the employing school districts. At the discretion of the Department of Education, 1.0 FTE may be paid in accordance with the Administrative Secretary Salary Schedules 1308 and 1309 including the local salary supplement in place at the employing local school district.

All revenue generated through the cost recovery project from local school district sources will, after the deduction of all operational project costs, be divided between the State General Fund and the local school district's operating funds in a proportion that equals the original sharing of expenses. Any funds returned to a local school district that were generated through recovery on non-transportation services provided by a tuition-based special school must be made available to the special school for expenditure at the special school.

Audit exceptions, including any penalties and fees, will be covered from drawdowns on future recoveries on a similar basis as indicated above.

Section 410. For the purpose of participating in the Children's Services Cost Recovery Project, provisions of the Delaware Code to the contrary notwithstanding, school psychologists certified or otherwise licensed by the State Board of Education in accordance with the provisions of Title 14, Section 1092, Delaware Code, shall be considered in compliance with qualification standards equivalent to state licensure to practice psychology as set forth in Title 24, Section 3508, Delaware Code. Such equivalent state licensure status shall be limited to the delivery of services related to State Board of Education or local school district approved school programs conducted within the course of the regular school day at a State Board of Education or local school district approved school site or least restrictive environment location. The provisions of this Section shall in no way be construed as entitling a person not otherwise qualified to do so to represent himself to the public by any title or description of services incorporating the words "psychology," "psychological," and/or "psychologist" within the meaning of Title 24, Section 3502, Delaware Code, except as may be herein specifically provided.

Section 411. Section 1 of this Act provides an appropriation of \$2,479.6 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the operation of the Program for Children with Disabilities. The school districts, in which children reside who are to be provided the special services, are authorized to levy and collect local tuition tax to cover the local share of the program costs.

Section 412. Section 1 of this Act provides an appropriation of \$2,479.6 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the Program for Children with Disabilities (PCD).

The Interagency Resource Management Committee (IRMC) shall be composed of the following members (or their designee with full voting powers):

- Secretary of Education who shall be the chairperson of the IRMC;
- Secretary of the Department of Health and Social Services;
- Secretary of the Department of Services for Children, Youth and Their Families;
- Budget Director;
- Controller General.

The affirmative vote of a majority of all members shall be required to take action.

The IRMC shall periodically review eligibility criteria for services under PCD and make recommendations as appropriate.

The IRMC was created to promote interagency collaboration in the service of those eligible for the PCD, to promote the cost-effective use of existing resources -- federal and state, public and private, and to promote the opportunity for coordination with programs for other exceptional children. To accomplish these goals, the IRMC shall do the following:

1. Allocate all funds provided by the State, obtained by it, or under its control, which are designated for the service of children eligible for the PCD.
2. Coordinate resources to support family-centered services for eligible children and their families, as appropriate.
3. Seek to develop collaborative approaches with the institutions of higher education for the service of those eligible for the PCD. Special emphasis shall be placed on the use of existing preschool educator training and child care provider training programs.
4. At its discretion, hire a full-time coordinator who shall report to the IRMC. The coordinator shall serve as liaison to the Department of 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 (CCCD) will provide regular program updates regarding ISIS. The IRMC will also serve as the venue through which additional funding request and/or program needs of ISIS may be presented. An active partnership with the private sector participants of ISIS shall be maintained, with related activities included in the status reports to the IRMC.

Section 413. Section 1 of this Act appropriates \$4,196.8 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the Early Childhood Assistance Program. Funds are to be used to provide early childhood programs for four-year olds in accordance with Title 14, Chapter 30. It is anticipated that for Fiscal Year 2001, approximately 843 four-year-old children will be served via this funding. The Interagency Resource Management Committee (IRMC) has administrative responsibility, which includes reviewing and disbursing grant awards; ensuring program compliance; and providing an annual report to the Legislature and Family Services Cabinet Council regarding the activities of the program. The IRMC shall issue a Request for Proposal (RFP) for prospective providers for all classrooms on an annual basis. The Department of Education shall assist with the implementation and ongoing administration of this program. The IRMC shall report to the Budget Director and the Controller General on or before January 1 each fiscal year on the status of the program.

Section 414. Section 1 of this Act provides an appropriation of \$145.0 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the expanded responsibilities of the Interagency Resource Management Committee (IRMC) to foster an interagency approach in coordinating the delivery of early care and education services in Delaware, and for the establishment and operation of the Office of Early Childhood.

The IRMC will coordinate the implementation of the recommendations of the October 1999 report: "Early Success: Creating a Quality Early Care and Education System for Delaware's Children", where feasible, and, if applicable, subject to an annual appropriation. 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 experiences 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 IRMC may, at its discretion, apply for grant funds that will further any of the purposes of this section.

The Budget Director and the Controller General are hereby authorized to transfer funds 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. Such transfers shall be intended to further the purposes of this Section. The IRMC shall be staffed by the Office of Early Childhood in the Department of Education. Such Office shall be composed of a director, an assistant director and a clerical support position. Funding shall be provided by the Department of Health and Social Services and the Department of Services for Children, Youth and Their Families no later than July of each fiscal year to support the operational costs associated with the assistant director and clerical support positions. Funds allocated in the Section are to be used to support the work of the Office and to continue the interagency evaluation process for Delaware's early childhood programs.

Section 415. Section 1 of this Act makes an appropriation of \$14,221.4 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for Student Discipline Programs.

(a) A total of \$3,420.0 is allocated for the statewide implementation of programs for severe discipline cases. Of that 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 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 and Sussex Counties must be utilized for transitional services. The remaining \$1,020.0 will be disbursed on a competitive basis among the existing school district consortiums or to individual school districts. Of the \$1,020.0, \$820.0 will be utilized for improvement of academic programs and \$200.0 will be utilized for extended year opportunities. If funds provided under this section are used for costs associated with teachers and aides, as provided for in Title 14, Section 1305, Delaware Code, the funds can only be used for costs associated with the state share. Programs receiving funds under this section may utilize no more than \$200.0 in total from Pupil Transportation (95-04-01) for transportation expenses.

(b) A total of \$6,736.4 is authorized for disruptive students at the school and district levels. The base incentive grants shall be provided to all school districts in the State as follows:

Schools grades K-6:	\$30.0
Schools grades 7-12:	\$40.0

If funds provided under this section are used for costs associated with teachers and aides, as provided for in Title 14, Section 1305, Delaware Code, the funds can only be used for costs associated with the state share.

Under Title 14, Chapter 16 of the Delaware Code, local school districts are eligible to receive a supplemental grant, equal to double the base award, for grades 7, 8, 9 and 10, upon approval of the Department of Education and certification in the district's grant application that the school is in compliance with the provisions of the Delaware Code requiring the establishment of school site-based committees to govern discipline matters.

Each school shall receive no less than the amount received in the Fiscal Year ending June 30, 2000. In order to provide districts with grants in a timely manner, all applications for base grants must be submitted for review by the Department of Education no later than November 15 of each year.

(c) For the purpose of facilitating the continuation of services, districts receiving an allocation under the provisions of subsections (a) and (b) of this section, may receive 50 percent of the prior year's base grant allocation at the outset of each Fiscal Year. These districts are required to present program proposals to the Department of Education no later than November 15 each year. Upon Department of Education approval, adjustments to program allocations will be made.

(d) The Department of Education shall determine common data definitions and data collection methodologies for each program in this section. Districts shall use such definitions and methodologies and shall complete a full evaluation of each program within 60 days of the close of the school year. Reports shall include, at a minimum, the number of students served, reasons for service, measures of behavioral improvement, measures of academic improvement as appropriate, rates of recidivism within programs, and number and types of referrals for additional services. Such reports will be used to determine needs for program improvement and will be required as a condition of ensuing funding.

(e) A total of \$3,565.0 is authorized for prevention components administered by the Family Services Cabinet Council (FSCC) in conjunction with the Department of Education and the Department of Services for Children, Youth and Their Families. Funding shall be provided as follows:

- (i) \$450.0 for the FSCC to identify three communities in which to develop comprehensive plans for delivering services through a community-based, interagency collaborative effort. The FSCC in conjunction with the Department of Education and the Department of Services for Children, Youth and Their Families shall assist selective communities in developing appropriate pilot projects and may use the funds for any project(s) which they deem likely to demonstrate effective and coordinated prevention strategies.
- (ii) \$3,015.0 to provide early intervention services through the Department of Services for Children, Youth and Their Families, Family Crisis Therapist Program. Services are intended for grades K-3 and shall address but not be limited to, problems such as Early Onset Conduct Disorder. The Department of Services for Children, Youth and Their Families may enter into contractual agreements, may employ casual/seasonal personnel, or may create the necessary positions with the approval of the Delaware State Clearinghouse Committee and maintain an ASF or NSF account with sufficient spending authority to operate the program.
- (iii) For purposes of implementing (i) and (ii) above, the FSCC with the Department of Education and the Department of Services for Children, Youth and Their Families acting as lead agencies shall administer a competitive Request for Proposal (RFP) process to determine grant awards to local districts. Grant awards shall be for a period of 12 months. Factors that may be utilized in the evaluation of proposals can be, but are not limited to, the following: links to Part II discipline funding or other district resources; the use of collaborative partnerships; the relative need of the local school district community; and the recognition within a proposal of the need to provide services to meet the presenting problems of both the child and the family. To the extent possible, the Department of Services for Children, Youth and Their Families is authorized to pursue Medicaid cost recovery for eligible services provide to Medicaid eligible children. Funds resulting from these efforts may be used to expand these services with prior approval of the Budget Director and the Controller General.

(f) Based on the recommendations that resulted from House Joint Resolution 25 of the 139th General Assembly, a total of \$525.0 shall be allocated for the implementation of a three-year pilot alternative school program. The program shall be developed utilizing research based best-practice models as described in "Comprehensive Programs Which Improve Student Discipline, Final Report, April 1999". The program shall provide year-round services to no more than 100 students. This program shall be considered a special school for the purposes of charging tuition payments to be made by school districts of residence under the statutory provisions of Title 14, Chapter 6, Delaware Code, such that the districts shall fund at least 30 percent of the total cost of the program. The Department of Education and the Department of Services for Children, Youth and Their Families, in collaboration with the New Castle County Consortium, shall oversee administration of the program. Such oversight shall include an annual evaluation of the program. The Department of Services for Children, Youth and Their Families may enter into contractual arrangements to operate the program.

Section 416. Section 1 of this Act provides an appropriation of \$6,890.0 GF and \$1,961.7ASF to Public Education, Block Grants and Pass Through Programs, Special Needs Programs, Unique Educational Alternatives (95-03-20) to implement Title 14, Section 3124, Delaware Code. For the fiscal year ending June 30, 2001, any placement made pursuant to this Section shall be considered a special program placement and shall be eligible for inclusion in local school district tuition tax rate setting. Districts shall contribute 15 percent of the total cost associated with the placement of any district student in such a program. The provisions of the Delaware Code to the contrary notwithstanding, for the fiscal year ending June 30, 2001, the Department of Education is authorized to continue utilizing funds appropriated in Section 1 of this Act to develop unique educational alternatives, in lieu of private placement, for persons who have been, or who would otherwise be, identified as "complex or rare" and unable to benefit from the regularly offered free, appropriate public educational programs and students in present education programs within this State whose individual education plan requires services not presently available within the present unit funding system. Unique educational alternatives shall be defined and approved by the Department of Education and may include, but not be limited to, related and supportive services.

Section 417. Section 1 of this Act makes an appropriation of \$6,890.0 GF and \$1,961.7 ASF to the Public Education, Block Grants and Pass Through Programs, Special Needs Programs, Unique Educational Alternatives (95-03-20). Before the Department of Education can authorize expenditures for new placements from this appropriation, the case must be reviewed by the Interagency Collaborative Team (ICT).

The ICT shall consist of:

- Division Director, Division of Child Mental Health Services of DSCYF;
- Division Director, Family Services of DSCYF;
- Division Director, Division of Youth Rehabilitation Services of DSCYF;
- Division Director, Division of Mental Retardation of DHSS;
- Division Director, Division of Alcoholism, Drug Abuse and Mental Health of DHSS;
- Director of the Office of the Budget or designee;
- The Controller General or designee;
- Director, Exceptional Children's Group, DOE, who will serve as Chair;
- Associate Secretary, Curriculum and Instructional Improvement, DOE.

A Director assigned to the ICT may designate staff to represent them on the ICT only if these designated representatives are empowered to act on behalf of the Division Director including commitment of division resources for a full fiscal year.

The ICT shall invite to its meetings:

- A representative of a responsible school district for the case under consideration;
- The parents of the child;
- Other persons the team believes can contribute to their deliberations.

The ICT shall:

- Review existing assessments of new referrals;
- Prescribe, if required, additional assessments for new referrals;
- Review proposed treatment plans of new referrals;
- Recommend alternatives for treatment plans of new referrals;
- Coordinate interagency delivery of services;
- Review at least annually, current Unique Educational Alternatives for the appropriateness of treatment plans and transition planning;
- If appropriate, designate a Primary Case Manager for the purpose of coordination of services agencies;
- If appropriate, designate agencies to be involved in collaborative monitoring of individual cases.

The ICT will ensure that state costs incurred as the result of a Team recommendation or assessment of a child currently funded from the Unique Educational Alternatives appropriation for this purpose in Section 1 of this Act will be covered from the existing appropriation. New referrals will be

Chapter 395

Vol. 72

assessed in the inter-agency manner described above. The ICT may accept and review cases initiated by other agencies, but in all cases the school district of residence must be involved in the review.

Cases reviewed by the ICT will employ Unique Educational Alternatives funding to cover state costs to the extent determined appropriate by the Interagency Collaborative Team. Other agencies may recognize a portion of the responsibility for the treatment of these children if determined appropriate by the Team. Funds may be transferred upon the approval of the Budget Director and the Controller General.

The ICT shall report on its activities to the Governor, Budget Director, President Pro-Tempore, Speaker of the House and the Controller General by February 15 of each year. The report shall address the status of items addressed in the previous February ICT Annual Report.

Section 418. Section 1 of this Act provides an appropriation of \$6,890.0 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs, Unique Alternatives (95-03-20). Funds may only be allocated to the Sussex ICT to provide direct services and supports to interagency students that would be referred to the ICT. The local share of payment shall continue to be subject to the same criteria as all other ICT decisions. This authorization is based on the signed Memorandum of Agreement between the school districts and other ICT agencies.

Section 419. Any placement made pursuant to Section §3124, Title 14, Delaware Code in which the individual involved is a ward of the State shall be funded fully from the State appropriation made for this purpose.

Section 420. Section 1 of this Act provides an appropriation of \$629.4 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for Exceptional Student Unit - Vocational. This appropriation shall be used to continue the program of vocational education for handicapped students. The funds appropriated shall provide for Divisions I, II, and III funding for a maximum of six units in a single program. The unit shall be based upon 13,500 pupil minutes per week of instruction or major fraction thereof after the first full unit and shall be in addition to the funding otherwise provided under Title 14, Subsection 1703(d), Delaware Code. The deduct contained in Title 14, Subsection 1703 (i), Delaware Code, shall not apply to the units authorized by this Section.

Section 421. (a) Section 1 of this Act provides an appropriation of \$10,428.0 to Public Education, Block Grant and Pass Through Programs, Special Needs Program (95-03-20) for Extra Time for Students in Grades K-12. The allocations shall be used exclusively to provide extra instructional time for low achieving students in order that they may improve their academic performance in the four primary content areas (mathematics, science, English language arts, and social studies) as measured against the state standards of such subjects. The only exceptions to this requirement are that up to 15 percent of a district's allocation may be used for Extended School Year (ESY) requirements, pursuant to the Administrative Manual for Exceptional Children (AMPEC) and up to 10 percent of a district's allocation may be used to provide services to Limited English Proficient (LEP) students. Of the amount set aside for LEP services, up to 50 percent may be used within the normal school day provided the services are in the form of specialized instruction designed to help LEP students succeed in regular classroom settings. Of the amount appropriated, \$400.0 may be used for the Early Intervention Reading Program as specified in this section. The Department of Education is authorized to transfer 25% of the estimated district grant amount on July 30, 2000. The remaining amount shall be transferred within 30 days of the final approval of the district application for funding.

(b) The following criteria shall apply to each of the components of the Extra Time for Students Program.

- (1) In order to qualify for an allocation, each district shall submit an application to the Department of Education as part of the districts' consolidated application. The application must show evidence of building level staff involvement in the development of the district proposal.
- (2) The application provided to the Department of Education shall indicate the student populations to be served, the type of program(s) proposed, the levels of academic

improvement the additional services are intended to achieve, and the measurement and/or evaluation process the district will use to determine program effectiveness. Associated transportation costs shall also be included in the district application.

- (3) Funding for this component shall only be used for academic instruction or remediation programs that are offered to a targeted population of low achieving students. These programs must be provided at a time that is in addition to the regularly scheduled six and one-half hour school day and/or the 180 day school year, sufficient to improve student performance. The Department of Education shall promote the use of "Best Practices" in this area through all available means.
- (4) Funds appropriated pursuant to this Section may not be used for curriculum development or staff training functions, but may be used for the purchase of supplies and materials necessary to operate extra time programs. To the extent that these funds are used to pay salary expenses of district instructional staff, these funds may only be used for costs associated with the State share of salaries, as provided under Title 14, Section 1305, Delaware Code.
- (5) In order to maximize resources provided under this program, local school districts are encouraged to match their allocation, on a 70/30 state/local basis pursuant to the provisions of Title 14, Chapter 1902(b), Delaware Code.
- (6) Local school districts may use funds appropriated pursuant to this Section to contract with private or non-profit instruction or tutoring services provided that there is evidence of building level conversations regarding contracted services.
- (7) If, after the applications are received by the Department of Education, a local district does not choose to utilize the full amount to which they are entitled, the Department of Education may allocate any remaining amount through a competitive RFP process.
- (8) Funds appropriated pursuant to this Section shall be appropriated on a 15 month basis and shall not be subject to reversion until September 30, 2001. Program expenses, however, may not be incurred subsequent to the start of the 2001-2002 regular school year.

(c) The following criteria shall apply to the component of the program that serves students in any grade levels:

- (1) Allocations for this component shall be provided in proportion to the total Division I units in each school district, multiplied by the state portion of the average teacher salary in the district in the immediately preceding fiscal year.

(d) The following criteria shall apply to the Early Intervention Reading Program for which \$400.0 is to be utilized.

- (1) This funding shall serve students in kindergarten through grade 3 who are identified during their kindergarten and first grade years as being inadequately prepared to succeed in reading or are performing below grade level.
- (2) This funding shall be utilized exclusively to provide supplemental services or teaching methods designed to improve the reading abilities of students with the goal being that they achieve and maintain their appropriate grade level reading ability. These services shall utilize intensive systematic multi-sensory phonics as the instructional methodology. The school districts are strongly encouraged to use programs including, but not limited to, Reading Assist and other research based multi-sensory programs.
- (3) The funding for this component may provide services outside of the normal school operation timeframe as specified in subsections (c) and (d) of this Section, or may be used during the regular school day, provided however that the services being offered are supplemental to the reading instruction the student would otherwise normally receive.

(e) On or before January 30, May 30, and August 30 of each year, all districts shall submit a report to the Department of Education on Extra Time programs. The report shall include but not be limited to the following: state identification number for each student served, total number of program contact hours per student, content area(s) addressed, and evidence of academic improvement. The Department of Education shall provide a format for such reporting. The Department of Education shall provide an annual report to the Budget Director and Controller General no later than October 15.

Section 422. Section 1 of this Act appropriates funds to provide Extra Time for Students. Local school districts are encouraged to provide the corresponding local match to such appropriations and to provide additional resources to make Extra Time for Students provisions available to any K-3 student who is identified by his or her teacher as functioning below grade level in reading or mathematics. The goal of this provision of resources shall be to have the child function at grade level and to avoid the need for state-mandated academic improvement activities. The Department of Education shall survey local school districts to determine their level of local support for these purposes and their use of state Extra Time for Students funding to help K-3 students function at grade level.

Section 423. Pursuant to appropriations in the Department of Correction (38-04-00) and the Department of Education (95-03-00) in Section 1 of this Act, the Department of Correction and the Department of Education shall enter into an agreement for the operation of prison education services. Under any such agreement the Department of Education shall be responsible for the operation of prison education services. These educational services shall include, but not be limited to, programs provided to juvenile inmates in the Young Criminal Offender Program and inmates between the ages of 18 and 21, including those requiring special educational services. Students served under this program shall not be included in the calculation for unit count purposes as defined in Chapter 17, Title 14, Delaware Code. The Budget Director and Controller General may transfer funds between lines and Departments to pay for this program.

Section 1 of this Act appropriates 32.9 new FTEs, of which up to 4.0 shall be authorized as teachers/supervisors, 24.9 authorized as teachers, 3.0 authorized as secretaries for the Department of Education, and 1.0 education associate to implement the Prison Education Program. The qualification of employees for the prison education program shall be the same as the qualification for employees in the public high schools. Teachers/supervisors shall have teaching responsibilities as defined by job responsibilities and duties developed by the Department of Education.

Salary for employees in the prison education program when paid from funds of this State, shall be in accordance with the regularly adopted salary schedules set forth in Title 14, Chapter 13, Delaware Code. The salary so computed shall be multiplied by 1.2 then divided by .7 as to account for 12-month employment and supplements normally provided by local school districts. Employees whose primary job location is onsite within the institution shall also receive hazardous duty supplements as provided in the Merit System. Teachers/supervisors shall receive an administrative supplement of 4%-8% to be determined by the Department of Education with the approval of the Co-Chairs of the Joint Finance Committee.

Upon written request to the Department of Education, existing unit funded Sussex County Technical School District teachers who were assigned to the Sussex Correctional Institution as of May 1, 2000 may be transferred to the Department of Education.

Section 424. Any provisions of the Delaware Code to the contrary notwithstanding, the Department of Education is authorized and directed to provide aides for the purpose of providing mainstreaming services to deaf students as follows: four in the Capital School District, three in the Lake Forest School District, two each for the Seaford School District and the Woodbridge School District, and one in the Brandywine School District, the Caesar Rodney School District, and the Milford School District.

Section 425. Section 1 of this Act makes an appropriation of \$409.7 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20), for Tech Prep 2+2. A Delaware Tech Prep Consortium is formed to provide for overall program development and management, coordination and technical assistance. The Consortium will review and provide technical assistance and in-service training for each proposal submitted to the Department of Education by any partnership initiating or operating a Tech Prep Program. The Consortium will adopt rules and regulations consistent with state regulations and federal legislation.

The Consortium Board of Directors shall include: the President or designee of the Delaware Technical and Community College; the Superintendents of New Castle County Vocational-Technical

School District, Kent County Polytech School District and the Sussex County Technical School District; the State Director of Vocational Education, Department of Education, (Ex-Officio); the Executive Director of Delaware Advisory Council on Career and Vocational Education; President or Designee, Delaware State University and Wilmington College and one representative of business and industry. The Superintendent or designee of two comprehensive local school districts will also be appointed consistent with the rules and regulations of the Consortium. Programs will be conducted in all three counties, on all campuses of Delaware Technical and Community College and other postsecondary institutions as specified by the Consortium consistent with federal legislation. All secondary schools are eligible.

Kent County Polytech School District will act as financial agent for the Consortium and an annual financial and program report will be submitted to the co-chairpersons of the Delaware Legislative Joint Finance Committee.

The Consortium may select another member to serve as the financial agent in a subsequent year consistent with the rules and procedures it adopts.

Section 426. Section 1 of this Act makes an appropriation to the State Board of Education, Block Grants and Pass Through Programs, Special Needs Program (95-03-20). Of the amount appropriated, \$1,000.0 shall be used to provide services to Limited English Proficient (LEP) students.

The Department of Education shall administer an application process to determine grant awards to local districts.

If funds provided under this section are used for costs associated with teachers and aides, funds can only be used for costs associated with the state share as provided in Title 14, Chapter 13, Sections 1305 and 1324, Delaware Code.

Section 427. (a) Section 1 of this Act provides an appropriation of \$3,300.0 to Public Education, Pupil Transportation (95-04-01) for Non-Public School Transportation Reimbursements. This appropriation shall be allocated for qualifying non-public, non-profit schools, based on the procedure adopted by the Joint Finance Committee on April 16, 1981.

(b) Transportation funds for public school districts during the fiscal year ending June 30, 2001, shall be allocated and shall not exceed \$49,941.6 (of which \$600.0 is designated as a transportation contingency for the Charter and Choice initiatives), according to bus contract or district transportation formula, as adopted by the State Board of Education on July 23, 1987, subject to the following amendments and procedural modifications:

- (1) The per gallon price used to calculate the gasoline allowance shall be based on the state contract bid price for unleaded gasoline plus \$.07 per gallon for districts and plus \$.28 per gallon for contractors. For districts and contractors north of the Chesapeake and Delaware Canal, the per gallon price shall be based on delivery to a large-sized tank (5,000 or more gallons). In the case of contractors located south of the Chesapeake and Delaware Canal, the per gallon price shall be based on delivery to a small-sized tank (275 - 1,900 gallons). Upon determination by the Department of Education that a contractor located North of the Chesapeake and Delaware Canal and operating five or fewer buses does not have existing storage capacity in the large tank range, the per gallon price shall be based on the smaller tank size.
- (2) The Fiscal Year 2001 operating allowance will be adjusted for inflation by a rate of three percent.
- (3) For the fiscal year ending June 30, 2001, the allowable cost of a new bus purchased by a contractor shall be the Fiscal Year 2000 state bid price for new buses minus two percent for salvage value, plus eleven percent to account for dealer charges and profits not reflected in the state bid price due to the higher number of buses being purchased and the lag time between the ordering and delivery. The Department of Education shall continue to utilize the procedures developed in Fiscal Year 1989 for determining the allowable cost for any size bus that it did not bid in Fiscal Year 2000. In addition to the procedure for establishing the allowable cost of a new bus specified above, the Department of Education is requested to structure its bids for buses in the fiscal year

ending June 30, 2001, in such a manner that public school bus contractors will be permitted to purchase buses from the successful lower bidder at the same price as the State of Delaware. If a contractor elects to purchase a bus at the bid price, that bid price minus two percent for salvage value will be the allowable cost in subsequent reimbursements to the contractor.

- (4) The formula rate for reimbursing public school bus contractors for the cost of liability insurance shall be determined by the Department of Education in consultation with the Insurance Commissioner based on the data available on April 30 of the previous fiscal year.

(c) The Department of Education shall amend its transportation formula to permit replacement of a vehicle which has operated 100,000 school-related miles and is seven model-years old or a vehicle which has operated 150,000 school-related miles regardless of the age of the vehicle.

(d) The Department of Education is authorized to amend its formula to allow the purchase of diesel-powered buses as the minimum standard in those sizes where gasoline-powered buses are no longer available.

(e) Except as specified in this Section, or for changes in the price of gasoline, or for the adjustments of those items changed by state or federal laws, the Department of Education shall not change the transportation formula unless the change has been authorized by the General Assembly and an appropriation therefore has been made by the General Assembly.

(f) The 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 428. (a) During the fiscal year ending June 30, 2001, 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.

- (10) Students attending Smyrna Middle School who reside in the Sunnyside Acres area between Sunnyside Road and U.S. 13 and who would otherwise be required to walk along U.S. 13 in order to reach school.
- (11) Students attending the Concord High School who live south of Naamans Road in the Talleybrook-Chalfonte, Brandywood, Brandon and Beacon Hill areas who must walk along Grubb and/or Naamans Road with a constant threat of injury.
- (12) Students attending Richardson Park School and Conrad Junior High School who live on Brookside Drive.
- (13) Students attending the Laurel Elementary Schools in Grades K-6 who live in the Town of Laurel and the surrounding areas.
- (14) Students attending Dover High School who live in Old Sherwood, south of Waples Avenue.
- (15) Students attending the Mt. Pleasant Elementary School, who would be forced to walk along Bellevue Road.
- (16) Students attending the Mt. Pleasant Elementary School, who would be forced to cross over and/or walk along River Road between Lore and Bellevue.
- (17) Students attending the Douglas Kindergarten Center, who would be forced to walk along Route 2 (Union Street) or through Canby Park via the paths, with a constant threat of injury.
- (18) K-3 - New Todd Estates Development to Jeannie Smith - because of hazards of Route 4 at Pierson Drive intersection.
- (19) Children living in West Wilmington Manor who walk to Wilmington Manor Elementary School.
- (20) Woodbridge Elementary School students living in the town of Greenwood, west of the railroad tracks.
- (21) Woodbridge Jr./Sr. High School students living on Route 13A from Route 13 north of Bridgeville to Bridgeville north of town limits including streets with access to that part of Route 13A.
- (22) Talley Jr. High School students who reside in the Ashburn Hills, Greentree, Stoney Brook areas, students who reside in the Woodacre Apartments and students who live along Peachtree Road.
- (23) Springer Middle School students residing in Eden Ridge III, Tavistock, Sharpley and Eden Ridge who must cross Concord Pike.
- (24) Indian River High School students who live east of Bedford Street.
- (25) Smyrna Elementary School students who reside in the proximity of 4272 Judith Road.
- (26) Students attending Eisenberg Elementary School who reside in the Castle Hills residential area.
- (27) Students attending Castle Hill Elementary School who reside in the Swanwyck area.
- (28) Lombardy Elementary School students who must cross Foulk Road.
- (29) Central Middle School students who reside in the vicinity of 1508 Dinahs Corner Road.
- (30) Students attending the Colwyck Elementary School who live in the Landers Park and Swanwyck Gardens residential areas.
- (31) Students attending Central Middle School, living in the area south of Kent General Hospital, to include students living along and south of Westview Terrace, Dover Street, Hope Street and Sackarackin Avenue.
- (32) Students of the Appoquinimink School District who reside in Odessa Heights.
- (33) Students attending Brandywine High School who live in Concord Manor and are forced to walk along Shellpot Drive and Windley Hill.
- (34) Students attending Clayton Elementary, North Elementary or the Bassett Middle School in the Smyrna School District who live on Buresch Drive.

The transportation of the students specified herein shall continue until the funds requested are appropriated and construction is completed. Spur routes shall continue to be served as at present.

Section 429. During the fiscal year ending June 30, 2001, the Department of Education will continue and broaden implementation of the computerized routing system for school bus transportation. During this implementation, the Department is directed to continue to provide bus transportation services to any residential area which has received transportation services since October 1, 1977.

Section 430. The National Highway Traffic Safety Administration (NHTSA) is conducting a two-year research program to consider alternative methods of potentially improving federal school bus passenger crash protection requirements. Based upon NHTSA's report, the Department of Education will recommend changes to the Delaware school bus specifications so that all school buses will continue to be in compliance with federal safety standards.

Section 431. During the fiscal year ending June 30, 2001, the Department of Education is hereby directed that students attending the Woodbridge School District, who live in the Canterbury Apartments in Bridgeville, will embark and disembark in the parking lot of the apartment complex in lieu of the bus stop area along the heavily traveled U.S. 13.

Section 432. Section 1 of this Act appropriates \$53,241.6 to Pupil Transportation (95-04-00) for Public School Transportation. Notwithstanding the provisions of Title 21, Chapter 43, Section 4366, Delaware Code, the following reimbursement methodology is in effect:

- (a) For those school districts or private contractors who are operating school buses equipped with cellular phone technology or have no radio or telephonic communication equipment, the Department of 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 433. During Fiscal Year 2001 per the provisions of House Bill No. 442 of the 140th General Assembly, school bus contractors will be compensated at a rate determined by the Department of Education for flashing white lights installed on new buses that will operate on public school contracts. Commencing in Fiscal Year 2002, these school bus contractors will be compensated through the school transportation formula. If this bill or similar legislation is not enacted, this section shall become null and void.

Section 434. Section 1 of this Act appropriates \$1,000.0 to the Department of Education - Delaware Center for Educational Technology (DCET) for a Technology Block Grant. DCET shall administer a non-competitive application process to determine grant awards to local school districts and charter schools. Funds provided by this Act shall be used in the following priority order: (1) Supporting the maintenance of existing equipment in the schools either through the use of a full time technology position or contractually, (2) replacement of existing equipment, or (3) such other technology needs as may arise which could improve or enhance the technology capabilities of the district. Such funding distribution shall be calculated on a \$20.00 per/pupil cost of technology maintenance. Notwithstanding the funding formula provided herein, each district shall be guaranteed a minimum level of block grant support. The formula developed shall be approved by the co-chairs of the Joint Finance Committee. It shall be the responsibility of the Department of Education to receive and disburse these funds. The Department shall also be charged with the authority to verify the use of the funds and shall require each school district to annually report on expenditures of the funds.

Section 435. Section 1 of this Act appropriates \$2,139.4 to the Delaware Center for Education Technology (DCET). It is the intent of the General Assembly that DCET be responsible for an engage in activities related to total project needs and budgets for statewide education technology projects, the establishment of cost-sharing policies, the initiation, procurement and maintenance of statewide education technology contracts, implementation on an on-going basis of professional training programs related to statewide education technology and providing technical assistance to the Department of Education for the initiation of system-wide applications including administrative and curriculum development.

Section 436. Consistent with the provisions of Title 14, Section 509(b), Delaware Code 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 437. Section 1 of this Act makes an appropriation to the Delaware Higher Education Commission (95-08-01) in the amount of \$2,208.1 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; \$200.0 shall be used for the FAME Scholarship Program; \$30.0 shall be used for the MERIT Scholarship Program; \$50.0 shall be used for the Professional Librarian/Archives Incentive Program; \$40.0 for the Legislative Essay Scholarship; and \$50.0 for Critical Teacher Scholarships. 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.

Section 438. The Delaware Higher Education Commission (DHEC) in the initial award cycle of the SCIP program shall not exceed 120 percent of the annual SCIP appropriation. Funds unused in any given fiscal year may be carried over into a reserve account to be utilized for SCIP awards in the subsequent year with approval of the Department of Education.

Section 439. Section 1 of this Act makes an appropriation to the Delaware Higher Education Commission (95-08-01) in the amount of \$2,208.1 for scholarships and grants. Of that amount, \$9.7 shall be used for the Charles L. Hebner Scholarship Program per the provisions of House Bill No. 109 of the 140th General Assembly or similar legislation. If this bill or similar legislation is not enacted, the appropriation shall revert to the General Fund of the State of Delaware.

Section 440. Section 1 of this Act makes an appropriation to the Delaware Higher Education Commission (95-08-01) in the amount of \$2,208.1 for scholarships and grants. Of this amount, \$40.0 shall be used for Legislative Essay Scholarship per the provisions of House Bill No. 545 of the 140th General Assembly or similar legislation. If this bill or similar legislation is not enacted, the appropriation shall revert to the General Fund of the State of Delaware.

Section 441. The Delaware Higher Education Commission (DHEC) and the Department of Education (DOE) shall develop a comprehensive staff integration plan and submit the plan to the Budget Director and Controller General no later than January 1, 2001. The plan shall include but is not limited to recommendations regarding updating the Delaware Code regarding scholarships, the role and responsibility of the Commission, and the role and responsibility of the Department and the State Board of Education with respect to DHEC and staff integration issues. DOE with the approval of the Budget Director and Controller General may implement changes on or after January 1, 2001.

Section 442. Section 1 of this Act appropriates \$600.0 to the Department of Education, Delaware Higher Education Commission (95-08-01) for Delaware Student Testing Program Scholarships, to be named the Michael C. Ferguson Achievement Awards. This scholarship program, required by the Education Accountability Act of 1998, will recognize students who demonstrate superior performance on the assessments administered pursuant to 29 Del C. §151(b) and (c). A total of 600 scholarships at \$1,000 each will be awarded to students annually in the following manner: the students with the 150 highest scores on DSTP without reference to any other indicators of performances and the students with the 150 highest scores on DSTP who participate in free and reduced lunch programs in grades eight and ten. The Department of Education will promulgate rules and regulations to implement this program.

Section 443. During the fiscal year ending June 30, 2001, the Department of Education, with the approval of the State Board of Education, is authorized to establish and maintain procedures, by

Chapter 395

Vol. 72

regulation pursuant to Section 3110 (c) of Title 14, Delaware Code, for the conduct of expedited due process hearings which shall be available to children with disabilities and their parents where required by federal or state law, and/or Departmental regulation. For the purposes of such expedited due process hearings, during the fiscal year ending June 30, 2001 the Department of Education is authorized to engage the professional services of a cadre of single hearing officers to preside over such hearings.

Section 444. The Department of Education is authorized to operate a donated leave program beginning in the fiscal year ending June 30, 2000. Such donated leave program shall conform, to the extent practicable, to the provisions of Section 5956, Title 29, Delaware Code.

Section 445. Charter schools for which Fiscal Year 2000 or 2001 shall be their first year of operation shall be eligible to receive an amount equal to \$597.96 per full-time professional employee as determined by the September 30 unit count. The funds shall come from the General Contingency and be used in a manner consistent with the funds provided to local school districts for Technology for Staff and Students by the FY 1999 Capital Improvement Act.

Section 446. The Department of Education is exempt from the provisions of Title 29, Chapter 69, Delaware Code, for purposes of contracting with the University of Delaware, Delaware State University, and Delaware Technical Community College.

Section 447. Alternative schools yet to open as of July 1, 2000 shall not be located within 1,000 feet of licensed day care facilities, nursing homes or housing facilities restricted for the use of senior citizens.

CHAPTER 396

FORMERLY

SENATE BILL NO. 421

AN ACT MAKING APPROPRIATIONS FOR CERTAIN GRANTS-IN-AID FOR THE FISCAL YEAR ENDING JUNE 30, 2001; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AMENDING THE FISCAL YEAR 2001 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:

<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
	<u>Dept. of Health & Social Services</u>	
(35-01-10)	Office of Secretary Adolescent Program	\$ 667,167
(35-05-30)	Emergency Medical Services Paramedic Program Operations	\$ 8,489,000

<u>Accounting 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	\$ 172,760
	Brandywine Senior Center	194,915
	Bridgeville Senior Center	106,611
	Cape Henlopen Senior Center	168,104
	Chesapeake and Delaware Senior Center	115,359
	Clarence Fraim Senior Center of Delaware, Inc.	163,353
	Claymore Senior Center	200,473
	Cornerstone Senior & Elder Care Center, Inc.	89,530
	DeLaWarr Senior Center	195,915
	Frederica Adult Center, Inc.	156,294
	Georgetown CHEER Center	66,296
	Graham Senior Center, Inc.	106,381
	Greenwood CHEER Senior Center	77,087
	Harrington Senior Center, Inc.	90,887
	Harvest Years Senior Center, Inc.	78,863
	Howard J. Weston Community & Senior Center, Inc.	319,606
	Huling Cove CHEER Center	148,088
	Indian River Senior Center, Inc.	129,704
	Jewish Community Center, Senior Center	99,426
	Jimmy Jenkins Senior Center	85,757
	Laurel Senior Center, Inc.	187,876
	Lewes Senior Citizens Center, Inc.	67,879
	Lillian Smith Senior Center	61,181
	Los Abuelos Center	49,234
	M.O.T. Senior Citizen Center, Inc.	194,048
	Mamie A. Warren Maturity Center, Inc.	154,337
	Mid-County Senior Center, Inc.	195,781
	Milford Senior Center, Inc.	139,040
	The Modern Maturity Center, Inc.	327,639
	Nanticoke Senior Center, Inc.	161,881
	New Castle Senior Center	117,832
	Newark Senior Center, Inc.	256,877
	Northeast Senior Center, Inc.	81,278
	Oak Grove Senior Center, Inc.	192,051
	Oak Orchard CHEER Center	104,843
	Ocean View Leisure Center	73,715
	Peoples Settlement - Senior Citizens Program	73,401
	Roxana CHEER Senior Center	77,087
	St. Anthony's Senior Center	126,370
	St. Patrick's Center, Inc.	134,704
	St. Peter's Adult Center, Inc.	105,924
	St. Thomas Senior Center, Inc.	119,759
	The Salvation Army Senior Center	78,126
	Sellers Senior Center, Inc.	127,792
	Slaughter Neck CHEER Center	77,087
	South Wilmington Senior Adult Center	41,843

Chapter 396
Vol.72

Senior Center (continued)

West Center City Adult Center, Inc.	\$ 91,522	
Wilmington Senior Center, Inc.	<u>169,645</u>	
Total - Senior Centers		\$ <u>6,354,161</u>

Department of Public Safety

(45-01-01)	Office of Secretary - Administration		
	Local Police Coordination	\$ 64,480	
	Aid to Local Law Enforcement	<u>675,000</u>	
	TOTAL - Section 1		\$ <u>16,249,808</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>	
Aid to Local Law Enforcement	\$ 1,400,000
Korean War Veterans	11,756
Darley Society	6,000
Health Care Commission - DIDER	100,000
SODAT	40,000
Fairfax Civic Association - 50 th Anniversary	1,000
Economic Impact Study - Office of the Controller General	5,000

Arts/Historical/Cultural/Tourism

African Festival and Parade Committee, Ltd.	\$ 8,600
Afro-American Historical Society of Delaware, Inc.	29,500
Associated Community Talents, Inc.	21,000
Challenge Program - Kalmar Nyckel	10,000
Delaware Academy of Science, Inc. - Iron Hill Museum	18,500
Delaware Agricultural Museum Assoc., Inc.	48,000
Delaware Center for Horticulture, Inc.	34,000
Delaware Children's Museum	10,000
Delaware City Day Committee	30,000
Delaware Greenways, Inc.	28,500
Delaware Humanities Council, Inc.	58,000
Delaware Museum of Natural History	14,500
Delaware Nature Society, Inc.	42,000
Delaware Seashore Preservation Foundation	5,000
Delaware Sports Museum and Hall of Fame	10,000
Delaware State Fair, Inc.	157,500
Delaware State Police Museum, Inc.	25,000
Duck Creek Historical Society, Inc.	10,000
First Night Dover, Inc.	8,500
First Night Wilmington, Inc.	11,000
Fort Delaware Society	12,500
Friends of the Claymont Stone School	10,000
Friends of John Dickinson Mansion	7,500
Friends of Wilmington Parks	17,000

Arts/Historical/Cultural/Tourism (continued)

Georgetown Historical Society	\$	18,200
Greater Harrington Historical Society		20,510
Harrington Parks & Recreation Commission		8,000
Historic Red Clay Valley, Inc.		
Wilmington & Western Railroad		21,000
Historical Society of Delaware		86,100
Kalmar Nyckel Foundation		25,000
Milford Historical Society		5,000
Millsboro Historical Society		2,500
Milton Historical Society		1,500
Miss Delaware Scholarship Pageant, Inc.		8,500
Nanticoke Indian Association, Inc.		16,000
New Castle Historical Society		8,000
New Castle - Separation Day		22,000
New Sweden Center - Kalmar Nyckel Foundation		10,000
Old Brandywine Village		10,000
Preservation Delaware		28,000
Quaker Hill Historical Preservation Foundation		4,500
Seaford Historical Society, Inc./Seaford Museum		4,500
Sister Cities of Wilmington		7,500
Smyrna-Clayton Heritage Association		6,600
Sussex County Return Day, Inc.		12,000
WHYY, Inc.		583,000
Wilmingtonians, Inc.		10,500
WSCL FM Salisbury State University		20,000

Aging - Other

Boys & Girls Clubs of Delaware, Inc.	\$	84,000
Catholic Charities, Inc./Support Services for Seniors		47,775
Creative Grandparenting, Inc.		30,000
Creative Grandparenting, Inc. - Summer of Respect - Year Round		105,000
Delaware Senior Olympics		35,000
Generations Home Care, Inc. - Geriatrics		178,500
Georgetown CHEER Senior Services - Homebound Meals		7,350
Graham Senior Center - Fit for Life		15,000
Greenwood CHEER Senior Services - Homebound Meals		7,350
Harvest Years Senior Center		12,600
Meals on Wheels Delaware		5,250
Meals on Wheels of Lewes and Rehoboth, Inc.		57,750
Modern Maturity Center, Inc. - Meals on Wheels		35,000
Nanticoke Senior Center - Homebound Meals		7,350
Nanticoke Senior Center - Physical Fitness		5,513
Newark Senior Center		12,600
Oak Orchard CHEER Senior Services - Homebound Meals		12,600
Roxana CHEER Senior Services - Homebound Meals		12,600
Slaughter Neck CHEER Senior Services - Homebound Meals		12,600
St. Anthony's Community Center		35,000
St. Patrick's Center - Grocery Distribution		9,300

Chapter 396

Vol. 72

Aging - Other (continued)

Sussex County Senior Services, Inc.	\$	57,750
Sussex County Senior Services - Cheermobile Mini Market		13,808
Sussex County Senior Services - Fitness		15,000
William "Hicks" Anderson Community Center		
- Senior Physical Fitness Program		8,925

Handicapped/Health/Labor

Adult Special Education Program, Inc.	\$	63,145
AHEDD, Inc. - Dover/Wilmington		62,180
AIDS Delaware		14,500
Alliance for the Mentally Ill in Delaware		72,765
American Cancer Society, DE., Division, Inc.		43,000
American Diabetes Assoc. - Delaware Affiliate, Inc.		14,000
American Heart Association, PA/DE Affiliate, Inc.		5,000
Arthritis Foundation, Delaware Chapter		26,000
Association for the Rights of Citizens		
with Mental Retardation in Delaware		14,000
Brain Injury Association of Delaware, Inc.		8,915
Career Exploration Program, Inc.		48,510
Center for Community Education		6,615
Connections CSP, Inc.		5,315
Delaware Association for Blind Athletes		8,105
Delaware Association for the Blind		62,845
Delaware Association for Rehabilitation Facilities		3,000
Delaware Breast Cancer Coalition		13,780
Delaware Breast Cancer Coalition - Y Me. Affiliation		5,000
Delaware Cancer Pain Initiative, Inc.		5,460
Delaware Chapter Alzheimer's Association		16,540
Delaware Elwyn, Inc.		27,780
Delaware Foundation for Retarded Children		10,000
Delaware HIV Consortium, Inc.		4,200
Delaware Hospice, Inc.		215,000
Delaware/Maryland Paralyzed Veterans Assoc., Inc.		45,000
Delaware Mental Health Consumer Coalition, Inc.		6,300
Delaware Special Olympics		29,000
Easter Seals Delaware & Maryland's Eastern Shore		116,000
Epilepsy Foundation of Delaware		26,000
First State Project with Industry		2,900
Goodwill Industries of Delaware & Delaware Co., Inc.		9,450
Independent Resources, Inc.		2,750
Institute for Development of Human Resources		24,000
Jobs for Delaware Graduates, Inc.		250,000
Kent/Sussex Industries, Inc.		87,000
Mancus Foundation		47,000
Mary Campbell Center, Inc.		141,000
Mental Health Association in Delaware, Inc.		26,700
Ministry of Caring, Inc. - Dental Office		5,000
National Multiple Sclerosis Society		15,450
Opportunity Center, Inc.		18,200

Handicapped/Health/Labor (continued)

Parent Information Center of Delaware, Inc.	\$	8,930
Perinatal Association, Inc.		24,255
Planned Parenthood of Delaware		4,000
Ronald McDonald House of Delaware		38,000
St. Francis Foundation		5,000
Tobin (W.E.) Foundation for the Visually Impaired		5,500
Tressler Centers of Delaware		5,500
Wellness Community - Delaware		13,230
Westside Health, Inc. - De. Nursing Centers		33,075
Westside Health, Inc. - Dental Health		5,500
Wilmington Employment Corps		5,500

Family and Youth Services

Residential Treatment

Aid-in-Dover, Inc.	\$	65,600
Children's Home, Inc.		62,927
Diamond State Youth, Inc.		129,465
Home for Aged Women - Minquedale Home, Inc.		26,000
Independent Living of DE./CareLink Community Support Services, Inc.		121,900
Independent Living of DE./CareLink Comm. Support Serv. - Outpatient		5,000
Shepherd Place, Inc.		43,000

Other

Because We Care, Inc.	\$	60,000
Because We Care, Inc. - Residential Facility		5,000
Big Brothers/Big Sisters of Delaware, Inc.		63,525
Boy Scouts of America, DE-Mar-Va Council, Inc.		6,000
Boys & Girls Clubs of Delaware, Inc.		118,000
Boys & Girls Clubs of Delaware, Inc. - Building Safer Communities		275,000
Bridgeville Community Action, Inc.		3,308
Camp Barnes, Inc.		35,616
Catholic Youth Organization, Inc.		22,932
Child, Inc.		111,925
Children & Families First		522,000
Christina Educational Endowment		5,000
Community Outreach & Prevention Education		5,250
Dave Tiberi Youth Center		5,000
Delaware Children's Trust Fund		17,199
Delaware Ecumenical Council on Children & Families		4,000
Delaware Futures, Inc.		2,000
Delaware Guidance Services for Children & Youth, Inc.		220,000
Delaware Law Related Education Center, Inc.		18,000
Delaware Parents Association, Inc.		21,945
Delaware Volunteer Legal Services, Inc.		45,000
Diamond State Classic		20,000
Dover Community Branch of YMCA of DE.		34,729
Family & Workplace Connection		170,000
Grassroots Citizens for Children		10,000

Chapter 396

Vol. 72

Family and Youth Services (continued)Other (continued)

Harrison House Community Programs, Inc.	\$	13,000
Interfaith Housing Delaware, Inc.		20,000
Jewish Family Service of Delaware, Inc.		54,447
Lenape Indian Tribe of DE., Inc.		10,000
LPGA Urban Youth Golf Program		66,500
Lutheran Community Services, Inc.		14,222
Lutheran Community Services, Inc. - Life Food Pantries		5,000
National Council on Agricultural Life and Labor Research Fund, Inc.		46,725
New Hope Recreation and Development Center		18,433
Northern Delaware Youth for Christ, Inc.		13,781
PAL of Delaware		60,000
People's Place II, Inc.		129,000
Prevent Child Abuse Delaware		51,345
"Slam Dunk to the Beach" Basketball Invitational		75,000
SOAR, Inc.		20,000
Stormin's Classic		105,000
Supporting K.I.D.D.S.		18,729
United Cerebral Palsy of Delaware, Inc.		88,463
Volunteers for Adolescent Pregnancy Prevention		15,000
Young Life Campaign		3,000

Alcohol/Drug Abuse

1212 Corporation	\$	39,748
Addictions Coalition of Del., Inc.		35,000
ANKH, Inc.		35,690
Brandywine Counseling, Inc.		20,000
Catholic Charities - Substance Abuse Services	50,290	
City of Dover Police Dept. - Substance Abuse Services		28,119
Delaware Association for Children of Alcoholics		50,000
God's Way to Recovery, Inc.		2,500
Hogar Crea International, Inc.		5,000
House of Pride		25,000
Kent County Counseling Services		12,000
Limen House, Inc.		57,400
New Castle County Community Partnership, Inc.		6,000
Open Door, Inc.		179,529
Peoples Settlement Association		34,608
Sojourners' Place, Inc.		43,000
YMCA Resource Center of Delaware		69,300

Neighborhood/Community Services

American Chemical Society - SEEDelaware	\$	5,408
American Red Cross in DE. - Emergency/Disaster Services		54,075
American Red Cross in DE. - Health & Safety		11,897
American Red Cross in DE. - Military/Social Services		12,500
American Red Cross in DE. - Transportation		17,304

Neighborhood/Community Services (continued)

Better Homes of Seaford, Inc.	\$ 25,000
Brandywine Community Resource Council, Inc.	332,021
Browntown Community Center	6,000
Cab Calloway Foundation	17,510
Casa San Francisco	75,000
Churches Take A Corner	2,500
Civil Air Patrol, Delaware Wing	22,660
Claymont Community Center - Knollwood	32,085
Community Design Center	22,712
Community Legal Aid Society, Inc.	36,000
CONTACT Delaware, Inc.	96,254
Delaware Aerospace Education Foundation	15,000
Delaware Center for Justice	13,000
Delaware Chapter - People to People International	4,350
Delaware City - Riverfront Youth Center	27,500
Delaware Coalition for Literacy	6,000
Delaware Community Reinvestment Action Council, Inc.	7,000
Delaware Crime Stoppers, Inc.	20,000
DE. Foundation for Science & Mathematics Education	5,000
Delaware Housing Coalition	33,500
Delaware Humane Association, Inc.	14,600
Delaware Mentor Program	19,500
Delaware Partners of the Alliance	7,000
Delaware Rural Water Association	14,000
Delaware Safe Kids Coalition	8,700
Delaware Safety Council, Inc.	50,000
Delaware Wrestling Alliance, Inc.	25,000
Delmarva Clergy United in Social Action, Inc.	8,200
Delmarva Rural Ministries, Inc.	39,100
Dover Housing Development Corp.	6,100
Eastlawn Area Human Services, Inc.	75,200
Eastside Citizens, Inc.	29,600
Edgemoor Community Center, Inc.	259,000
Elizabeth W. Murphy School, Inc.	16,300
Elsmere Recreation, Inc.	198,500
First State Community Action Agency, Inc.	59,100
First State Community Loan Fund	6,000
First State Resource Conservation & Dev. Council, Inc.	35,000
Food Bank of Delaware	195,000
Food Bank of Delaware - Kent & Sussex Counties	30,000
Girl Scouts of the Chesapeake Bay, Inc.	47,000
Girls Inc. of Delaware - Youth Development Center	155,000
Girl's Inc. - Junip Start	42,000
Girl's Inc. - Project Pride	55,000
Gumboro Community Center, Inc.	15,000
Hilltop Lutheran Neighborhood Center, Inc.	100,000
Hockessin Community Center, Inc.	110,000
Home of the Brave Foundation	7,151
Home of Divine Providence, Inc./Bayard House	59,500
Homeward Bound, Inc.	76,300
Housing Opportunities of Northern Delaware, Inc.	6,000

Neighborhood/Community Services (continued)

Ingleside Homes, Inc. - Care Center	\$	18,000
Ingleside Homes, Inc. - Care Van		38,000
Interfaith Mission of Sussex County		25,000
Inter-Neighborhood Foundation		5,000
Jewish Community Center		17,000
Junior Achievement of Delaware		45,000
Kingswood Community Center		8,000
La Esperanza, Inc.		5,000
Latin American Community Center, Inc.		65,000
Literacy Volunteers of America - Wilmington Library		7,000
Methodist Action Program		52,530
Milford Housing Development Corporation		20,600
Ministry of Caring, Inc. - Emmanuel Dining Room		83,430
Ministry of Caring, Inc. - House of Joseph		51,191
Ministry of Caring, Inc. - House of Joseph II		23,381
Ministry of Caring, Inc. - Job Placement Center		32,239
Ministry of Caring, Inc. - Phase I		85,902
Ministry of Caring, Inc. - Phases II and III		84,563
Neighborhood House, Inc.		89,610
Neighborhood House, Inc. - Southern New Castle County		92,000
New Castle County Crisis Pregnancy Center		38,625
O. A. Herring Community Services		100,168
Project Reachout		8,000
Reading ASSIST Institute		17,000
Richardson Park Community Action Program, Inc.		35,000
Rose Hill Community Center, Inc.		220,000
Salvation Army, Inc. - Booth Social Service Center		131,250
Salvation Army, Inc. - Kent Co. Crisis Alleviation		43,407
Salvation Army, Inc. - Sussex Co. Crisis Alleviation		8,000
Salvation Army, Inc. - Supported Employment Program		13,000
SBM Housing, Inc./Gateway House		5,000
Science Alliance, Inc.		26,775
Seaford Revival Center Mission		5,000
Seamen's Center of Wilmington, Inc.		9,750
Slaughter Neck Community Action Agency, Inc.		50,000
Southbridge Medical Advisory Council, Inc. (HJMCR)		129,285
Southern Delaware Horse Retirement Assoc., Inc.		3,500
Southwest Wilmington Community Center, Inc.		122,055
STEHM, Inc.		21,000
Sussex Community Crisis Housing Services, Inc.		34,020
Sussex Family YMCA		30,643
Tri-State Bird Rescue and Research, Inc.		40,000
Urban Environmental Center, Inc.		4,000
USO Delaware, Inc.		10,700
West End Neighborhood House, Inc.		59,000
Whatcoat Social Service Agency		85,000
Wildlife Habitat, Inc.		5,700
YWCA of New Castle County, Delaware		<u>305,000</u>
TOTAL - Section 2	\$	<u>14,663,583</u>

Section 2. (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

Acta Hose, Hook and Ladder Co.	Newark	\$	23,162
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Belvedere Volunteer Fire Company
Brandywine Hundred Fire Co. No. 1
Christiana Fire Co.
Claymont Fire Co.
Cranston Heights Fire Co.
Delaware City Fire Co.
Elsmere Fire Co.
Five Points Fire Co. No. 1
Goodwill Fire Co. No. 1
Hockessin Fire Co.
Holloway Terrace Fire Co.
Mill Creek Fire Co.
Minquadales Fire Co.
Minquas Fire Co. No. 1
Odessa Fire Co., Inc.
Port Penn Volunteer Fire Co., Inc.
Talleville Fire Co., Inc.
Townsend Fire Co., Inc.
Volunteer Hose Co., Inc.
Wilmington Manor Volunteer Fire Co., Inc.

Belvedere 23,162
Bellefonte 23,162
Christiana 23,162
Claymont 23,162
Cranston Heights 23,162
Delaware City 23,162
Elsmere 23,162
Richardson Park 23,162
New Castle 23,162
Hockessin 23,162
Holloway Terrace 23,162
Marshallton 23,162
Minquadales 23,162
Newport 23,162
Odessa 23,162
Port Penn 23,162
Talleville 23,162
Townsend 23,162
Middletown 23,162
Wilmington Manor 23,162

Kent County

Bowers Volunteer Fire Co., Inc.
Camden-Wyoming Fire Co.
Carlisle Fire Co.
Cheswold Volunteer Fire Co.
Citizens' Hose Co. No. 1, Inc.
Clayton Fire Co.
Farmington Volunteer Fire Co.
Felton Community Fire Co.
Frederica Volunteer Fire Co.
Harrington Fire Co.
Hartly Volunteer Fire Co.
Houston Volunteer Fire Co.
Leipsic Volunteer Fire Co.
Little Creek Volunteer Fire Co.
Magnolia Volunteer Fire Co.
Marydel Volunteer Fire Co., Inc.
Robbins Hose Co. (Dover Fire Dept.)
South Bowers Fire Co.

Bowers \$ 23,162
Camden 23,162
Milford 23,162
Cheswold 23,162
Smyrna 23,162
Clayton 23,162
Farmington 23,162
Felton 23,162
Frederica \$ 23,162
Harrington 23,162
Hartly 23,162
Houston 23,162
Leipsic 23,162
Little Creek 23,162
Magnolia 23,162
Marydel 23,162
Dover 23,162
South Bowers 23,162

Sussex County

Bethany Beach Volunteer Fire Co.
Blades Volunteer Fire Co., Inc.
Bridgeville Volunteer Fire Co.
Dagsboro Volunteer Fire Co.
Delmar Fire Department
Ellendale Volunteer Fire Co.
Frankford Volunteer Fire Co.
Georgetown Fire Co., Inc.
Greenwood Volunteer Fire Co.
Gumboro Volunteer Fire Co., Inc.
Indian River Volunteer Fire Co.
Laurel Fire Department, Inc.
Lewes Fire Department, Inc.
Millsboro Fire Co.

Bethany Beach \$ 23,162
Blades 23,162
Bridgeville 23,162
Dagsboro \$ 23,162
Delmar 23,162
Ellendale 23,162
Frankford 23,162
Georgetown 23,162
Greenwood 23,162
Gumboro 23,162
Indian River 23,162
Laurel 23,162
Lewes 23,162
Millsboro 23,162

Chapter 396

Vol.72

Millville Volunteer Fire Co.	Millville	23,162
Milton Volunteer Fire Co.	Milton	23,162
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	23,162
Roxana Volunteer Fire Co.	Roxana	23,162
Seaford Volunteer Fire Dept., Inc.	Seaford	23,162
Selbyville Volunteer Fire Co., Inc.	Selbyville	23,162
Slaughter Beach Memorial Fire Co.	Slaughter Beach	23,162

TOTAL \$ 1,389,720

(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	\$ 3,173
Blades Volunteer Fire Co., Inc.	Blades	3,173
Bridgeville Volunteer Fire Co.	Bridgeville	3,173
Bowers Volunteer Fire Co., Inc.	Bowers	3,173
Brandywine Hundred Fire Co., No. 1	Bellefonte	3,173
Camden-Wyoming Fire Co.	Camden	3,173
Carlisle Fire Co.	Milford	3,173
Cheswold Volunteer Fire Co.	Cheswold	3,173
Christiana Fire Co.	Christiana	3,173
Claymont Fire Co.	Claymont	3,173
Cranston Heights Fire Co.	Cranston Heights	3,173
Dagsboro Volunteer Fire Co.	Dagsboro	3,173
Delaware City Fire Co.	Delaware City	3,173
Delmar Fire Department	Delmar	3,173
Ellendale Volunteer Fire Co.	Ellendale	3,173
Elsmere Fire Co.	Elsmere	3,173
Felton Community Fire Co.	Felton	3,173
Five Points Fire Co. No. 1	Richardson Park	3,173
Frankford Volunteer Fire Co. No. 1	Frankford	3,173
Frederica Volunteer Fire Co.	Frederica	3,173
Goodwill Fire Co. No. 1	New Castle	3,173
Greenwood Volunteer Fire Co.	Greenwood	3,173
Gumboro Volunteer Fire Co., Inc.	Gumboro	3,173
Harrington Fire Co.	Harrington	3,173
Hartly Volunteer Fire Co., Inc.	Hartly	3,173
Hockessin Fire Co.	Hockessin	3,173
Holloway Terrace Fire Co.	Holloway Terrace	3,173
Laurel Fire Department, Inc.	Laurel	3,173
Leipsic Volunteer Fire Co.	Leipsic	3,173
Lewes Fire Department, Inc.	Lewes	3,173
Magnolia Volunteer Fire Co.	Magnolia	3,173
Mill Creek Fire Co.	Marshallton	3,173
Millsboro Fire Co.	Millsboro	3,173
Millville Volunteer Fire Co., Inc.	Millville	3,173
Milton Volunteer Fire Co.	Milton	3,173
Minquedale Fire Co.	Minquedale	3,173
Minquas Fire Co. No. 1	Newport	3,173
Odessa Fire Co., Inc.	Odessa	3,173
Port Penn Volunteer Fire Co.	Port Penn	3,173
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	3,173
Roxana Volunteer Fire Co.	Roxana	3,173
Seaford Volunteer Fire Co., Inc.	Seaford	3,173
Selbyville Volunteer Fire Co., Inc.	Selbyville	3,173
Slaughter Beach Memorial Fire Co.	Slaughter Beach	3,173
Talleyville Fire Co., Inc.	Talleyville	3,173
Townsend Fire Company, Inc.	Townsend	3,173

Volunteer Hose Co., Inc.	Middletown	3,173
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	<u>3,173</u>

TOTAL \$ 152,304

(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	\$ 3,173
Bethany Beach Volunteer Fire Co.	Bethany Beach	3,173
Blades Volunteer Fire Co.	Blades	3,173
Bowers Volunteer Fire Co., Inc.	Bowers	3,173
Brandywine Hundred Fire Co. No. 1	Bellefonte	3,173
Bridgeville Volunteer Fire Co.	Bridgeville	3,173
Camden-Wyoming Fire Co.	Camden	3,173
Carlisle Fire Co.	Milford	3,173
Cheswold Volunteer Fire Co.	Cheswold	3,173
Christiana Fire Co.	Christiana	3,173
Citizens' Hose Co. No. 1, Inc.	Smyrna	3,173
Claymont Fire Co.	Claymont	3,173
Clayton Fire Co.	Clayton	3,173
Cranston Heights Fire Co.	Cranston Heights	3,173
Dagsboro Volunteer Fire Co.	Dagsboro	3,173
Delaware City Fire Co.	Delaware City	3,173
Delmar Fire Department	Delmar	3,173
Robbins Hose Co. (Dover Fire Dept.)	Dover	3,173
Ellendale Volunteer Fire Co.	Ellendale	3,173
Elsmere Fire Co.	Elsmere	3,173
Farmington Volunteer Fire Co.	Farmington	3,173
Felton Community Fire Co.	Felton	3,173
Five Points Fire Co. No. 1	Richardson Park	3,173
Frederica Volunteer Fire Co.	Frederica	3,173
Georgetown Fire Co.	Georgetown	3,173
Goodwill Fire Co. No. 1	New Castle	3,173
Greenwood Fire Co. No. 1	Greenwood	3,173
Gumboro Volunteer Fire Co., Inc.	Gumboro	3,173
Harrington Fire Co.	Harrington	3,173
Hartly Volunteer Fire Co., Inc.	Hartly	3,173
Hockessin Fire Co.	Hockessin	3,173
Holloway Terrace Fire Co.	Holloway Terrace	3,173
Houston Volunteer Fire Co.	Houston	3,173
Indian River Volunteer Fire Co.	Indian River	3,173
Laurel Fire Dept., Inc.	Laurel	3,173
Leipsic Volunteer Fire Co.	Leipsic	3,173
Lewes Fire Department, Inc.	Lewes	3,173
Little Creek Volunteer Fire Co.	Little Creek	3,173
Magnolia Volunteer Fire Co.	Magnolia	3,173
Marydel Volunteer Fire Co.	Marydel	3,173
Mill Creek Fire Co.	Marshallton	3,173
Millsboro Fire Co.	Millsboro	3,173
Millville Volunteer Fire Co., Inc.	Millville	3,173
Milton Volunteer Fire Co.	Milton	3,173
Minquadales Fire Co.	Minquadales	3,173
Minquas Fire Co. No. 1	Newport	3,173
Odessa Fire Co., Inc.	Odessa	3,173
Port Penn Volunteer Fire Co., Inc.	Port Penn	3,173
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	3,173
Roxana Volunteer Fire Co.	Roxana	3,173

Chapter 396

Vol. 72

Seaford Volunteer Fire Department, Inc.	Seaford	3,173
Selbyville Fire Co., Inc.	Selbyville	3,173
Slaughter Beach Memorial Fire Co.	Slaughter Beach	3,173
South Bowers Fire Co.	South Bowers	3,173
Talleyville Fire Co., Inc.	Talleyville	3,173
Townsend Fire Co., Inc.	Townsend	3,173
Volunteer Hose Co., Inc.	Middletown	3,173
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	3,173

TOTAL \$ 184,034

(d) There is appropriated to the listed fire companies the following sums to be used for the maintenance of aerial or platform trucks and for the training of personnel in the techniques of extinguishing high-rise fires throughout Delaware:

New Castle County

Actna Hose, Hook and Ladder Co.	Newark	\$ 4,730
Brandywine Hundred Fire Co., No. 1	Bellefonte	4,730
Christiana Fire Co.	Christiana	4,730
Claymont Fire Co.	Claymont	4,730
Delaware City Fire Co.	Delaware City	4,730
Elsmere Fire Co.	Elsmere	4,730
Five Points Fire Co. No. 1	Richardson Park	4,730
Goodwill Fire Co. No. 1	New Castle	4,730
Hockessin Fire Co.	Hockessin	4,730
Mill Creek Fire Co.	Marshallton	4,730
Talleyville Fire Co., Inc.	Talleyville	4,730
Volunteer Hose Co., Inc.	Middletown	4,730
Wilmington Manor Volunteer Fire Co.	Wilmington Manor	4,730

Kent County

Carlisle Fire Co.	Milford	\$	4,730
Citizens' Hose Co., No. 1, Inc.	Smyrna		4,730
Hartly Volunteer Fire Co., Inc.	Hartly		4,730
Robbins Hose Co., (Dover Fire Dept.)	Dover		4,730

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$	4,730
Delmar Fire Department, Inc.	Delmar		4,730
Georgetown Fire Co., Inc.	Georgetown		4,730
Lewes Fire Department, Inc.	Lewes		4,730
Millsboro Fire Co.	Millsboro		4,730
Millville Volunteer Fire Co.	Millville		4,730
Milton Volunteer Fire Co., Inc.	Milton		4,730
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach		4,730
Seaford Volunteer Fire Co., Inc.	Seaford		4,730
Selbyville Volunteer Fire Co., Inc.	Selbyville		4,730

TOTAL \$ 127,710

(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	\$	2,867
Blades Volunteer Fire Co., Inc.	Blades		2,867
Delaware City Fire Co.	Delaware City		2,867
Goodwill Fire Co. No. 1	New Castle		2,867
Holloway Terrace Fire Co.	Holloway Terrace		2,867
Indian River Volunteer Fire Co.	Indian River		2,867
Leipsic Volunteer Fire Co.	Leipsic		2,867
Lewes Fire Department, Inc.	Lewes		2,867
Little Creek Volunteer Fire Co.	Little Creek		2,867
Millville Volunteer Fire Co.	Millville		2,867
Milton Volunteer Fire Co.	Milton		2,867
Port Penn Volunteer Fire Co., Inc.	Port Penn		2,867
Rehoboth Volunteer Fire Co., Inc.	Rehoboth		2,867
Roxana Volunteer Fire Co.	Roxana		2,867
Seaford Volunteer Fire Co., Inc.	Seaford		2,867
South Bowers Fire Co.	South Bowers		2,867

TOTAL \$ 45,872

(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. \$162,134
- (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. \$ 9,461
- (iii) The maintenance and operation of rescue boats in the public service. \$ 2,867

TOTAL \$174,462

(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	\$	30,377
Blades Volunteer Fire Co., Inc.	Blades		30,377

Chapter 396

Vol.72

Bowers Volunteer Fire Co., Inc.	Bowers	30,377
Bridgeville Volunteer Fire Co.	Bridgeville	30,377
Camden-Wyoming Fire Co.	Camden	30,377
Carlisle Fire Co.	Millford	30,377
Cheswold Volunteer Fire Co.	Cheswold	30,377
Citizens' Hose Co. No. 1, Inc.	Smyrna	30,377
Clayton Fire Co.	Clayton	30,377
Dagsboro Volunteer Fire Co.	Dagsboro	30,377
Delmar Fire Department	Delmar	30,377
Ellendale Volunteer Fire Co.	Ellendale	30,377
Farmington Volunteer Fire Co.	Farmington	30,377
Felton Community Fire Co.	Felton	30,377
Frankford Volunteer Fire Co.	Frankford	30,377
Frederica Volunteer Fire Co.	Frederica	30,377
Georgetown Fire Co., Inc.	Georgetown	30,377
Greenwood Volunteer Fire Co.	Greenwood	30,377
Gumboro Volunteer Fire Co., Inc.	Gumboro	30,377
Harrington Fire Co.	Harrington	30,377
Hartly Volunteer Fire Co.	Hartly	30,377
Houston Volunteer Fire Co.	Houston	30,377
Indian River Volunteer Fire Co.	Indian River	30,377
Laurel Fire Department, Inc.	Laurel	30,377
Leipsic Volunteer Fire Co.	Leipsic	30,377
Lewes Fire Department, Inc.	Lewes	30,377
Little Creek Volunteer Fire Co.	Little Creek	30,377
Magnolia Volunteer Fire Co.	Magnolia	30,377
Marydel Volunteer Fire Co., Inc.	Marydel	30,377
Millsboro Fire Co.	Millsboro	30,377
Millville Volunteer Fire Co.	Millville	30,377
Milton Volunteer Fire Co.	Milton	30,377
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	30,377
Robbins Hose Co., (Dover Fire Dept.)	Dover	30,377
Roxana Volunteer Fire Co.	Roxana	30,377

Chapter 396

Vol.72

Seaford Volunteer Fire Dept., Inc.
 Selbyville Volunteer Fire Co., Inc.
 Slaughter Beach Memorial Fire Co.
 South Bowers Fire Co.

Seaford
 Selbyville
 Slaughter Beach
 South Bowers

\$ 30,377
 30,377
 30,377
 30,377

TOTAL

\$ 1,184,703

(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.
 Camden-Wyoming Fire Co.
 Carlisle Fire Co.
 Cheswold Volunteer Fire Co.
 Citizens' Hose Co. No. 1, Inc.
 Clayton Fire Co.
 Farmington Volunteer Fire Co.
 Felton Community Fire Co.
 Frederica Volunteer Fire Co.
 Harrington Fire Co.
 Hartly Volunteer Fire Co.
 Houston Volunteer Fire Co.
 Leipsic Volunteer Fire Co.
 Little Creek Volunteer Fire Co.
 Magnolia Volunteer Fire Co.
 Marydel Volunteer Fire Co., Inc.
 Robbins Hose Co. (Dover Fire Dept.)
 South Bowers Fire Co.

Bowers \$ 22,401
 Camden 22,401
 Milford 22,401
 Cheswold 22,401
 Smyrna 22,401
 Clayton 22,401
 Farmington 22,401
 Felton 22,401
 Frederica 22,401
 Harrington 22,401
 Hartly 22,401
 Houston 22,401
 Leipsic 22,401
 Little Creek 22,401
 Magnolia 22,401
 Marydel 22,401
 Dover 22,401
 South Bowers 22,401

Sussex County

Bethany Beach Volunteer Fire Co.
 Blades Volunteer Fire Co., Inc.
 Bridgeville Volunteer Fire Co.
 Dagsboro Volunteer Fire Co.
 Delmar Fire Department
 Ellendale Volunteer Fire Co.
 Frankford Volunteer Fire Co.
 Georgetown Fire Co., Inc.
 Greenwood Volunteer Fire Co.
 Gumboro Volunteer Fire Co., Inc.
 Indian River Volunteer Fire Co.
 Laurel Fire Department, Inc.
 Lewes Fire Department, Inc.
 Millsboro Fire Co.
 Millville Volunteer Fire Co.
 Milton Volunteer Fire Co.
 Rehoboth Beach Volunteer Fire Co.
 Roxana Volunteer Fire Co.
 Seaford Volunteer Fire Dept., Inc.
 Selbyville Volunteer Fire Co., Inc.
 Slaughter Beach Memorial Fire Co.

Bethany Beach \$ 22,401
 Blades 22,401
 Bridgeville 22,401
 Dagsboro 22,401
 Delmar 22,401
 Ellendale 22,401
 Frankford 22,401
 Georgetown 22,401
 Greenwood 22,401
 Gumboro 22,401
 Indian River 22,401
 Laurel 22,401
 Lewes 22,401
 Millsboro 22,401
 Millville 22,401
 Milton 22,401
 Rehoboth Beach 22,401
 Roxana 22,401
 Seaford 22,401
 Selbyville 22,401
 Slaughter Beach 22,401

TOTAL

\$ 873,639

Chapter 396
Vol.72

(2) For Fiscal Year 2001 a calculation was made to determine the increase that the New Castle County Volunteer Fire Companies received for the insurance premium tax in FY 1999 vs FY 1998. 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	\$	22,050
Christiana Fire Co.	Christiana		22,050
Claymont Fire Co.	Claymont		11,025
Mill Creek Fire Department	Marshallton		11,025
Odessa Fire Co., Inc.	Odessa		11,025
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor		11,025

Kent County

Robbins Hose Co. (Dover Fire Dept.)	Dover	\$	11,025
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Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$	11,025
Indian River Fire Co.	Indian River		11,025
Lewes Fire Department, Inc.	Lewes		11,025
Rehoboth Fire Volunteer Fire Co.	Rehoboth Beach		11,025
Roxana Volunteer Fire Co.	Roxana		11,025

TOTAL	\$	154,350
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(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	\$	3,173
American Legion, Sussex Post #8	Georgetown		3,173
Mid-Sussex Rescue Squad, Inc.	Millsboro		3,173
TOTAL		\$	9,519

TOTAL - Section 3	\$	4,296,313
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Section 450. (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	\$39,706
American Veterans (AMVETS)	20,000
Disabled American Veterans, Department of Delaware	33,082
Paralyzed Veterans of America, Department of Delaware	33,082
Veterans of Foreign Wars, Department of Delaware	39,706
Vietnam Veterans of America, Department of Delaware	33,082

(b) Funds are hereby appropriated to the following grants-in-aid in the amounts listed for operations expenses:

AMVETS	\$ 8,509
American Legion, Department of Delaware	9,655
Delaware Veterans of World War I	4,128
Disabled American Veterans, Department of Delaware	9,655

Jewish War Veterans of the U.S., Department of Delaware	5,528
Paralyzed Veterans of America, Department of Delaware	8,278
Veterans of Foreign Wars, Department of Delaware	9,655
Vietnam Veterans of America	9,655

(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 \$7,804 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 \$7,804 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 \$3,117 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

\$ 282,446

Section 451. Section 2 of this Act appropriates \$157,500 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 2001. Of the remaining \$57,500, \$5,000 shall be used for purses on Governor's Day and the remaining \$52,500 shall be paid in quarterly allotments, as provided in Chapter 65, Section 6505 of Title 29, Delaware Code.

Section 452. 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 453. 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 454. 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 455. (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 456. The Controller General may from time to time contract for or conduct performance and/or financial audits of any non-state agency for which funds are appropriated in this Act.

Section 457. 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 2001 and 2002 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 458. Paragraph (d), Chapter 65, Title 29, Delaware Code, provides that monies appropriated for grants-in-aid in Fiscal Year 2001 shall be paid in quarterly installments. For Fiscal Year 2001, 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;
- (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 459. (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 2002:

- (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 2002.
- (f) For Fiscal Year 2001, 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, 2000. 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 460. 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 by the State Treasurer as of June 30, 2001, shall revert to the General Fund of the State of Delaware.

Section 461. (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 2001 for the agencies as follows:

Association for the Rights of Citizens with Mental
Retardation in Delaware
City of New Castle - Separation Day
Delaware Academy of Science, Inc. - Iron Hill Museum
Delaware Association for Blind Athletes
Camp Barnes, Inc.
Delaware City Day Committee
Harrison House Community Programs, Inc.
Miss Delaware Scholarship Pageant, Inc.
National Multiple Sclerosis Society
New Castle Historical Society
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 2001 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 2001.

(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 2001.

Section 462. (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, 2001, 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, 2001, 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 463. 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

Chapter 396

Vol. 72

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 464. For Fiscal Year 2001, the remaining balance in the Fiscal Year 2000 account (35-05-30-09-77) shall remain as a continuing appropriation and shall not be subject to reversion until June 30, 2001.

Section 465. 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 466. For Fiscal Year 2001, direct paramedic initial training, recertification training and testing for the Statewide paramedic program shall be offered at a single site.

Section 467. 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 468. 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 469. 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 470. For Fiscal Year 2001, the Bridgeville Senior Center shall submit to the Joint Finance Committee on September 15, 2000, December 15, 2000, and March 15, 2001, a report reflecting income and expenditures for the Fiscal Year 2001, and average daily attendance at the senior center or senior center activities.

Section 471. Section 2 of this Act makes a one-time appropriation of \$100,000 to the Delaware Health Care Commission (10-05-03) to support loan repayment and/or the recruitment for dentists.

Section 472. Section 2 of this Act appropriates \$198,500 to the Elsmere Recreation, Inc. Of this amount, \$15,000 shall be used to support the Elsmere Boxing Club.

Section 473. Section 2 of this Act appropriates \$75,000 to "Slam Dunk to the Beach" - National Holiday Basketball Invitation. Of that amount, \$500 in scholarships shall be made available to each team participating in the annual tournament. A separate account shall be maintained for scholarship funds.

Section 2 of this Act appropriates \$5,000 to the Office of the Controller General (01-08-02) as a one-time item for "Slam Dunk to the Beach". Funds shall be used to provide for an economic impact study relating to the economic impact attributed to the annual basketball tournament. This study shall include recommendations concerning future funding mechanisms to support this program in terms of economic development.

Section 474. Slam Dunk to the Beach shall submit a plan outlining its proposed scholarship program for FY 2001, the amount of anticipated scholarship awards, and funding sources for said scholarships. This information shall be provided to the Co-Chairs of the Joint Finance Committee and Controller General by December 1, 2000. Slam Dunk to the Beach shall also submit actual scholarships provided during FY 2001 by March 1, 2001 to the Co-Chairs of the Joint Finance Committee and the Controller General.

Section 475. Section 45 of the Fiscal Year 2001 Appropriations Act (Senate Bill 420 of the 140th General Assembly) provides a continuing appropriation to the State Fire Prevention Commission for the reimbursement of full 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, 2001.

Section 476. Amend Senate Bill 420 of the 140th General Assembly by inserting a General Fund appropriation and General fund positions to the Office of the Budget, Contingencies and One-Time Items (10-02-04).

(2.0) Alcoholic Beverage Control \$200.0

Further amend Senate Bill 420 of the 140th General assembly by adjusting all sub-totals, totals and grand totals to include said positions and appropriation.

Section 477. Amend Section 379 of the Fiscal Year 2001 Appropriations Act (Senate Bill No. 420 of the 140th General Assembly) by deleting the phrase "serving as substitute teachers" and inserting in lieu thereof the phrase:

"serving as teachers or substitute teachers".

Section 478. Amend Section 355 of the Fiscal Year 2001 Appropriations Act (Senate Bill No. 420 of the 140th General Assembly) by deleting the words "and paraprofessionals" as they appear on line 2.

Further amend Section 355 by deleting lines 4 and 5 in their entirety and inserting in lieu thereof the following:

"187 Days x 7.5 Hours = 1,402.50 hours"

Section 479. Amend Senate Bill No. 420 of the 140th General Assembly (FY 2001 Appropriations Act) by replacing all account code references to the Statistical Analysis Center from "10-02-07" to "10-02-08".

Section 480. Amend Section 157 of Senate Bill 420 of the 140th General Assembly (FY 2001 Appropriations Act), by deleting the words "divided equally by the House and the Senate" and inserting in lieu thereof the following: "as determined by the Speaker of the House and the President Pro Tem of the Senate."

Section 481. Amend Section 1 of the Fiscal Year 2001 Appropriations Act (Senate Bill 420 of the 140th General Assembly) by adding 2.0 GF positions to the Department of Health and Social Services, Division of Long Term Care Residents Protection (35-09-01) to the General Fund position compliment.

Further amend Section 1 of the Fiscal Year 2001 Appropriations Act (Senate Bill 420 of the 140th General Assembly) by adding 2.0 ASF positions to the Department of Public Safety, Division of State Police, State Bureau of Investigation (45-06-08) to the Appropriated Special Fund position compliment. Also, increase the Appropriated Special Fund Contractual Services line by \$55.0 and the Appropriated Special Fund Personnel Costs line by \$67.5

All totals and subtotals shall be adjusted accordingly.

Approved July 01, 2000

CHAPTER 397

FORMERLY

SENATE BILL NO. 313

AN ACT TO AMEND CHAPTER 5, TITLE 25 OF THE DELAWARE CODE RELATING TO THE RULE
AGAINST PERPETUITIES AND POWERS OF APPOINTMENT.

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

Section 1. Amend Subsection (c) of Section 503 of Title 25, Delaware Code, by adding the following sentence at the end thereof:

"Notwithstanding the foregoing, in the case of a power of appointment described in §504 of this title as a "first power," trusts created by the exercise of the power of appointment, whether by will, deed or other instrument, shall be deemed to have become irrevocable by the trustor or testator on the date on which the first power was created."

Section 2. Amend Title 25, Delaware Code, by adding a new section 504 to read as follows:

"§504. Certain Powers of Appointment.

Notwithstanding any other provision of this chapter, in the case of a power of appointment over property held in trust (the "first power"), if the trust is not subject to, or has an inclusion ratio of zero for purposes of, the tax on generation-skipping transfers imposed pursuant to chapter 13 of the Internal Revenue Code [26 U.S.C. Ch. 13] or any successor provision thereto and the first power may not be exercised in favor of the donee, the donee's creditors, the donee's estate, or the creditors of the donee's estate, then every estate or interest in property, real or personal, created through the exercise, by will, deed or other instrument, of the first power, irrespective of:

- (1) The manner in which the first power was created or may be exercised, or
- (2) Whether the first power was created before or after the passage of this section,

shall, for the purpose of any rule of law against perpetuities, remoteness in vesting, restraint upon the power of alienation or accumulations now in effect or hereafter enacted, be deemed to have been created at the time of the creation of, and not at the time of the exercise of, the first power. For purposes of applying the foregoing rule, if any part of an estate or interest in property created through the exercise of the first power includes another power of appointment (the "second power"), then the second power of appointment and any estate or interest in property (including additional powers of appointment) created through the exercise of the second power shall be deemed to have been created at the time of the creation of the first power."

Section 3. This Act shall apply to wills, deeds, and other instruments exercising powers of appointment that are executed after the date on which this Act is enacted into law without regard to when any power of appointment so exercised was created.

Approved July 06, 2000

CHAPTER 398

FORMERLY

SENATE BILL NO. 342

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

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 to read:

"§315. State star.

The official State star is Delaware Diamond, located in the constellation of Ursa Major (Great Bear), with coordinates of right ascension 9^h40^m44^s and declination 48°14'2"."

Approved June 30, 2000

CHAPTER 399

FORMERLY

SENATE BILL NO. 346

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 (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend §2320(d), Title 19 of the Delaware Code by adding the following at the end thereof:

"The Board may impose a fine not to exceed \$500.00 for each use of the term "Independent Medical Exam" or "IME" in violation of this subsection."

Section 2. Amend §2343(a), Title 19 of the Delaware Code by adding the following at the end thereof:

"The Board may impose a fine not to exceed \$500.00 for each use of the term "Independent Medical Exam" or "IME" in violation of this subsection."

Section 3. Amend §2346, Title 19 of the Delaware Code by adding the following at the end thereof:

"The Board may impose a fine not to exceed \$500.00 for each use of the term "Independent Medical Exam" or "IME" in violation of this section."

Approved July 07, 2000

CHAPTER 400

FORMERLY

SENATE BILL NO. 352

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO THE REHABILITATION AND LIQUIDATION OF INSURERS.

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

Section 1. Amend Title 18 Del. C. Chapter 59, Section 5918, subsection (e) by striking subsection (e) in its entirety and substituting in lieu thereof:

"(e) The priority of distribution of claims from the insurer's general assets shall be in accordance with the order in which each class of claims is herein set forth. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class shall receive any payment. No subclasses shall be established within any class. No claim by a shareholder, policyholder or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies. The order of distribution shall be:

(1) Class I. The costs and expenses of administration expressly approved by the receiver, including but not limited to the following:

- (a) The receiver's actual and necessary costs of taking possession of the insurer, preserving or recovering the assets of the insurer, and otherwise complying with this chapter;
- (b) Reasonable compensation for all services rendered at the request of and on behalf of the receiver, or his or her appointed deputy receiver(s), in the liquidation by the receivership's employees and its retained attorneys, accountants, actuaries, claims adjusters, expert witnesses, and other consultants; and
- (c) All expenses incurred by the Department in supervising the receivership proceedings of the insurer;

(2) Class II. The reasonable and necessary administrative expenses of the Delaware Insurance Guaranty Association, the Delaware Life and Health Insurance Guaranty Association, as the case may be, and any similar organization in another state. If the receiver determines that the assets of the estate will be sufficient to pay all Class I claims in full, Class II claims shall be paid currently, provided that the receiver shall secure from each of the associations receiving disbursements pursuant to this section an agreement to return to the receiver such disbursement, together with investment income actually earned on such disbursement, as may be required to pay Class I claims.

(3) Class III. Claims by policyholders, beneficiaries and insureds, including the federal or any state or local government if such government is a named policyholder, beneficiary or insured under the policy, arising from and within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company; liability claims, including liability claims of the federal or any state or local government, against insureds which claims are within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, including claims for reasonable attorney's fees incurred by the policyholder to defend against the liability claim if such attorney's fees are covered under the policy, but only to the extent covered; policyholder's claims for refunds of unearned premium; and claims of the Delaware Insurance Guaranty Association, the Delaware Life and Health Insurance Guaranty Association, as the case may be, and any similar organization in another state for coverage of policy benefits as required by statute; provided, however, that this paragraph (3) shall not apply to the following claims:

- (a) claims arising under reinsurance contracts, including any claims for reinsurance premium due;
- (b) claims of insurers, insurance pools or underwriting associations for contribution, indemnity or subrogation, equitable or otherwise.

Interest shall not be allowed or paid on Class III claims, except that the value assigned to Class III claims arising from valid pre-liquidation judgments, other than judgments by default or collusion, may include pre-judgment and post-judgment interest up to the date of liquidation if such interest is required by law or contract.

(4) Class IV. Taxes owed to the United States and other debts owed to the United States, which by the laws of the United States are entitled to priority over the claims in Classes V through IX below, and which claims of the United States are not already included in Class III above.

(5) Class V. Claims of employees, other than officers or directors, of the insurer for compensation actually owing to such employees for services rendered to the insurer within 3 months prior to the commencement of a proceeding against the insurer under this chapter but not exceeding \$1,000 for each employee. Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of such employees.

(6) Class VI. Claims of general creditors including, but not limited to, claims of ceding and assuming insurers in their capacity as such, and claims of insurers, insurance pools or underwriting

associations for contribution, indemnity or subrogation, equitable or otherwise. This class shall include any claims of the guaranty associations, federal or any state or local government to the extent such claims are not otherwise included in Class II, Class III, Class IV, or Class V in paragraphs (2) through (5) above.

(7) Class VII. Claims which would otherwise qualify for classification under the classes enumerated above, but which are not filed with the receiver on or before the bar date and which are not excused from such bar date by the liquidation court.

(8) Class VIII. Surplus or contribution notes, or similar obligations.

(9) Class IX. The claims of shareholders or other owners arising out of such capacity."

Section 2. Amend Title 18 Del. C. Chapter 59, Section 5926, by striking section 5926 in its entirety.

Section 3. Amend Title 18 Del. C. Chapter 42, Section 4211, subsection (b) by striking subsection (b) in its entirety and substituting in lieu thereof:

"(b) The receiver, liquidator or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the Association or a similar organization in another state. The court having jurisdiction shall grant such claims priority equal to that to which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer."

Section 4. The amendments in this act shall apply to and govern all pending and future claims in any proceeding to liquidate an insurer that is pending on the effective date of this act, and to all claims filed in any proceeding to liquidate an insurer that is commenced on or after the effective date of this act, notwithstanding any other provision of the Delaware Code. The liquidator shall make a determination with respect to all claims which remain pending on the effective date of this act and all claims filed on or after the effective date of this act in accordance with section 5918 of Title 18 of the Delaware Code as amended by this act.

Approved July 06, 2000

CHAPTER 401

FORMERLY

SENATE BILL NO. 369

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE UNIFORM COMMERCIAL CODE.

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

Section 1. Amend Article 9, Subtitle I, Title 6 of the Delaware Code by striking said Article in its entirety and substituting in lieu thereof the following:

"REVISED ARTICLE 9.

SECURED TRANSACTIONS

PART I

GENERAL PROVISIONS

SUBPART I. SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

§ 9-101. Short Title.

This Article may be cited as Uniform Commercial Code-Secured Transactions.

§ 9-102. Definitions and Index of Definitions.

(a) Article 9 definitions. In this Article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account", except as used in "account for", means (i) a right to payment of a monetary obligation, whether or not earned by performance, (A) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (B) for services rendered or to be rendered, (C) for a policy of insurance issued or to be issued, (D) for a secondary obligation incurred or to be incurred, (E) for energy provided or to be provided, (F) for the use or hire of a vessel under a charter or other contract, (G) arising out of the use of a credit or charge card or information contained on or for use with the card, or (H) as winnings in a lottery or other game of chance operated or sponsored by a State, governmental unit of a State, or person licensed or authorized to operate the game by a State or governmental unit of a State or (ii) any credit device account. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of (A) the use of a credit or charge card or information contained on or for use with the card or (B) a credit device account.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting", except as used in "accounting for", means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) which secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction:
and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

(B) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

associations for contribution, indemnity or subrogation, equitable or otherwise. This class shall include any claims of the guaranty associations, federal or any state or local government to the extent such claims are not otherwise included in Class II, Class III, Class IV, or Class V in paragraphs (2) through (5) above.

(7) Class VII. Claims which would otherwise qualify for classification under the classes enumerated above, but which are not filed with the receiver on or before the bar date and which are not excused from such bar date by the liquidation court.

(8) Class VIII. Surplus or contribution notes, or similar obligations.

(9) Class IX. The claims of shareholders or other owners arising out of such capacity."

Section 2. Amend Title 18 Del. C. Chapter 59, Section 5926, by striking section 5926 in its entirety.

Section 3. Amend Title 18 Del. C. Chapter 42, Section 4211, subsection (b) by striking subsection (b) in its entirety and substituting in lieu thereof:

"(b) The receiver, liquidator or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the Association or a similar organization in another state. The court having jurisdiction shall grant such claims priority equal to that to which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer."

Section 4. The amendments in this act shall apply to and govern all pending and future claims in any proceeding to liquidate an insurer that is pending on the effective date of this act, and to all claims filed in any proceeding to liquidate an insurer that is commenced on or after the effective date of this act, notwithstanding any other provision of the Delaware Code. The liquidator shall make a determination with respect to all claims which remain pending on the effective date of this act and all claims filed on or after the effective date of this act in accordance with section 5918 of Title 18 of the Delaware Code as amended by this act.

Approved July 06, 2000

CHAPTER 401

FORMERLY

SENATE BILL NO. 369

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE UNIFORM COMMERCIAL CODE.

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

Section 1. Amend Article 9, Subtitle I, Title 6 of the Delaware Code by striking said Article in its entirety and substituting in lieu thereof the following:

"REVISED ARTICLE 9.

SECURED TRANSACTIONS

PART I

GENERAL PROVISIONS

SUBPART I. SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

§ 9-101. Short Title.

This Article may be cited as Uniform Commercial Code—Secured Transactions.

§ 9-102. Definitions and Index of Definitions.

(a) Article 9 definitions. In this Article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account", except as used in "account for", means (i) a right to payment of a monetary obligation, whether or not earned by performance, (A) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (B) for services rendered or to be rendered, (C) for a policy of insurance issued or to be issued, (D) for a secondary obligation incurred or to be incurred, (E) for energy provided or to be provided, (F) for the use or hire of a vessel under a charter or other contract, (G) arising out of the use of a credit or charge card or information contained on or for use with the card, or (H) as winnings in a lottery or other game of chance operated or sponsored by a State, governmental unit of a State, or person licensed or authorized to operate the game by a State or governmental unit of a State or (ii) any credit device account. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of (A) the use of a credit or charge card or information contained on or for use with the card or (B) a credit device account.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting", except as used in "accounting for", means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) which secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

(B) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card, credit device account, or information contained on or for use with the card or credit device account. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

- (A) proceeds to which a security interest attaches;
- (B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and
- (C) goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

- (A) the claimant is an organization; or
- (B) the claimant is an individual and the claim:
 - (i) arose in the course of the claimant's business or profession; and
 - (ii) does not include damages arising out of personal injury to or the death of an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

- (A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or
- (B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

- (A) is registered as a futures commission merchant under federal commodities law; or
- (B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means:

- (A) to send a written or other tangible record;

- (B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or
- (C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.
- (19) "Consignee" means a merchant to which goods are delivered in a consignment.
- (20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:
 - (A) the merchant:
 - (i) deals in goods of that kind under a name other than the name of the person making delivery;
 - (ii) is not an auctioneer; and
 - (iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;
 - (B) with respect to each delivery, the aggregate value of the goods is \$1,000 or more at the time of delivery;
 - (C) the goods are not consumer goods immediately before delivery; and
 - (D) the transaction does not create a security interest that secures an obligation.
- (21) "Consignor" means a person that delivers goods to a consignee in a consignment.
- (22) "Consumer debtor" means a debtor in a consumer transaction.
- (23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.
- (24) "Consumer-goods transaction" means a consumer transaction in which:
 - (A) an individual incurs an obligation primarily for personal, family, or household purposes; and
 - (B) a security interest in consumer goods secures the obligation.
- (25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.
- (26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.
- (27) "Continuation statement" means an amendment of a financing statement which:
 - (A) identifies, by its file number, the initial financing statement to which it relates; and
 - (B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.
- (27A) "Credit device account" means any right to payment for money due or to become due under any agreement or plan relating to a credit card, charge card or other similar system, pursuant to which access is provided by a card, check, identification code or other means of identification or access contemplated by such agreement or plan.
- (28) "Debtor" means:
 - (A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
 - (B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or
 - (C) a consignee.

- (29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.
- (30) "Document" means a document of title or a receipt of the type described in Section 7-201(2).
- (31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.
- (32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.
- (33) "Equipment" means goods other than inventory, farm products, or consumer goods.
- (34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:
- (A) crops grown, growing, or to be grown, including:
 - (i) crops produced on trees, vines, and bushes; and
 - (ii) aquatic goods produced in aquacultural operations;
 - (B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;
 - (C) supplies used or produced in a farming operation; or
 - (D) products of crops or livestock in their unmanufactured states.
- (35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.
- (36) "File number" means the number assigned to an initial financing statement pursuant to Section 9-519(a).
- (37) "Filing office" means an office designated in Section 9-501 as the place to file a financing statement.
- (38) "Filing-office rule" means a rule adopted pursuant to Section 9-526.
- (39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.
- (40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying Section 9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.
- (41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.
- (42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.
- (43) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.
- (44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a

computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a State, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, which:

- (A) are leased by a person as lessor;
- (B) are held by a person for sale or lease or to be furnished under a contract of service;
- (C) are furnished by a person under a contract of service; or
- (D) consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

- (A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;
- (B) an assignee for benefit of creditors from the time of assignment;
- (C) a trustee in bankruptcy from the date of the filing of the petition; or
- (D) a receiver in equity from the time of appointment.

(53) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(54) "Manufactured-home transaction" means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under Section 9-203(d) by a security agreement previously entered into by another person.

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor", except as used in Section 9-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under Section 9-203(d).

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to", with respect to an individual, means:

(A) the spouse of the individual;

(B) a brother, brother-in-law, sister, or sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse; or

(D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) "Person related to", with respect to an organization, means:

(A) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) an officer or director of, or a person performing similar functions with respect to, the organization;

(C) an officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A);

(D) the spouse of an individual described in subparagraph (A), (B), or (C); or

(E) an individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C), or (D) and shares the same home with the individual.

(64) "Proceeds", except as used in Section 9-609(b), means the following property:

(A) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) whatever is collected on, or distributed on account of, collateral;

(C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to Sections 9-620, 9-621, and 9-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least 20 years; and

(C) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a State or a governmental unit of a State.

(68) "Pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(69) "Record", except as used in "for record", "of record", "record or legal title", and "record owner", means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(70) "Registered organization" means an organization organized solely under the law of a single State or the United States and as to which the State or the United States must maintain a public record showing the organization to have been organized.

(71) "Secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) "Secured party" means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under Section 2-401, 2-505, 2-711(3), 2A-508(5), 4-210, or 5-118.

(73) "Security agreement" means an agreement that creates or provides for a security interest.

(74) "Send", in connection with a record or notification, means:

(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A).

(75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(76) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(77) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(78) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(79) "Termination statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(80) "Transmitting utility" means a person primarily engaged in the business of:

(A) operating a railroad, subway, street railway, or trolley bus;

(B) transmitting communications electrically, electromagnetically, or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) **Definitions in other Articles.** The following definitions in other Articles apply to this Article:

"Applicant"	Section 5-102
"Beneficiary"	Section 5-102
"Broker"	Section 8-102
"Certificated security"	Section 8-102
"Check"	Section 3-104
"Clearing corporation"	Section 8-102
"Contract for sale"	Section 2-106
"Customer"	Section 4-104
"Entitlement holder"	Section 8-102
"Financial asset"	Section 8-102
"Holder in due course"	Section 3-302
"Issuer" (with respect to a letter of credit or letter-of-credit right)	Section 5-102
"Issuer" (with respect to a security)	Section 8-201
"Lease"	Section 2A-103
"Lease agreement"	Section 2A-103
"Lease contract"	Section 2A-103
"Leasehold interest"	Section 2A-103
"Lessee"	Section 2A-103

"Lessee in ordinary course of business"	Section 2A-103
"Lessor"	Section 2A-103
"Lessor's residual interest"	Section 2A-103
"Letter of credit"	Section 5-102
"Merchant"	Section 2-104
"Negotiable instrument"	Section 3-104
"Nominated person"	Section 5-102
"Note"	Section 3-104
"Proceeds of a letter of credit"	Section 5-114
"Prove"	Section 3-103
"Sale"	Section 2-106
"Securities account"	Section 8-501
"Securities intermediary"	Section 8-102
"Security"	Section 8-102
"Security certificate"	Section 8-102
"Security entitlement"	Section 8-102
"Uncertificated security"	Section 8-102

(c) **Article 1 definitions and principles.** Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

§ 9-103. Purchase-Money Security Interest; Application of Payments; Burden of Establishing.

(a) **Definitions.** In this section:

(1) "purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral; and

(2) "purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(b) **Purchase-money security interest in goods.** A security interest in goods is a purchase-money security interest:

(1) to the extent that the goods are purchase-money collateral with respect to that security interest;

(2) if the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(3) also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(c) **Purchase-money security interest in software.** A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(1) the debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

(2) the debtor acquired its interest in the software for the principal purpose of using the software in the goods.

(d) **Consignor's inventory purchase-money security interest.** The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(e) **Application of payment in non-consumer-goods transaction.** In a transaction other than a consumer-goods transaction, if the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

- (1) in accordance with any reasonable method of application to which the parties agree;
- (2) in the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or
- (3) in the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

(A) to obligations that are not secured; and

(B) if more than one obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(f) **No loss of status of purchase-money security interest in non-consumer-goods transaction.** In a transaction other than a consumer-goods transaction, a purchase-money security interest does not lose its status as such, even if:

- (1) the purchase-money collateral also secures an obligation that is not a purchase-money obligation;
- (2) collateral that is not purchase-money collateral also secures the purchase-money obligation; or
- (3) the purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(g) **Burden of proof in non-consumer-goods transaction.** In a transaction other than a consumer-goods transaction, a secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

(h) **Non-consumer-goods transactions; no inference.** The limitation of the rules in subsections (e), (f), and (g) to transactions other than consumer-goods transactions is intended to leave to the court the determination of the proper rules in consumer-goods transactions. The court may not infer from that limitation the nature of the proper rule in consumer-goods transactions and may continue to apply established approaches.

§ 9-104. Control of Deposit Account.

(a) **Requirements for control.** A secured party has control of a deposit account if:

- (1) the secured party is the bank with which the deposit account is maintained;
- (2) the debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the account without further consent by the debtor; or
- (3) the secured party becomes the bank's customer with respect to the deposit account.

(b) **Debtor's right to direct disposition.** A secured party that has satisfied subsection (a) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

§ 9-105. Control of Electronic Chattel Paper.

A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

- (1) a single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;
- (2) the authoritative copy identifies the secured party as the assignee of the record or records;

(3) the authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

§ 9-106. Control of Investment Property.

(a) **Control under Section 8-106.** A person has control of a certificated security, uncertificated security, or security entitlement as provided in Section 8-106.

(b) **Control of commodity contract.** A secured party has control of a commodity contract if:

(1) the secured party is the commodity intermediary with which the commodity contract is carried; or

(2) the commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(c) **Effect of control of securities account or commodity account.** A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

§ 9-107. Control of Letter-of-Credit Right.

A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under Section 5-114(c) or otherwise applicable law or practice.

§ 9-108. Sufficiency of Description.

(a) **Sufficiency of description.** Except as otherwise provided in subsections (c), (d), and (e), a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(b) **Examples of reasonable identification.** Except as otherwise provided in subsection (d), a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(1) specific listing;

(2) category;

(3) except as otherwise provided in subsection (e), a type of collateral defined in the Uniform Commercial Code;

(4) quantity;

(5) computational or allocational formula or procedure; or

(6) except as otherwise provided in subsection (c), any other method, if the identity of the collateral is objectively determinable.

(c) **Supergeneric description not sufficient.** A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral.

(d) **Investment property.** Except as otherwise provided in subsection (e), a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(1) the collateral by those terms or as investment property; or

(2) the underlying financial asset or commodity contract.

(e) **When description by type insufficient.** A description only by type of collateral defined in the Uniform Commercial Code is an insufficient description of:

- (1) a commercial tort claim; or
- (2) in a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

SUBPART 2. APPLICABILITY OF ARTICLE

§ 9-109. Scope.

(a) **General scope of Article.** Except as otherwise provided in subsections (c) and (d), this Article applies to:

- (1) a transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
- (2) an agricultural lien;
- (3) a sale of accounts, chattel paper, payment intangibles, or promissory notes;
- (4) a consignment;
- (5) a security interest arising under Section 2-401, 2-505, 2-711(3), or 2A-508(5), as provided in Section 9-110; and
- (6) a security interest arising under Section 4-210 or 5-118.

(b) **Security interest in secured obligation.** The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

(c) **Extent to which Article does not apply.** This Article does not apply to the extent that:

- (1) a statute, regulation, or treaty of the United States preempts this Article;
- (2) another statute of this State expressly governs the creation, perfection, priority, or enforcement of a security interest created by this State or a governmental unit of this State;
- (3) a statute of another State, a foreign country, or a governmental unit of another State or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the State, country, or governmental unit; or
- (4) the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under Section 5-114.

(d) **Inapplicability of Article.** This Article does not apply to:

- (1) a landlord's lien, other than an agricultural lien;
- (2) a lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but Section 9-333 applies with respect to priority of the lien;
- (3) an assignment of a claim for wages, salary, or other compensation of an employee;
- (4) a sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;
- (5) an assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;
- (6) an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;
- (7) an assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;
- (8) a transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any

subsequent assignment of the right to payment, but Sections 9-315 and 9-322 apply with respect to proceeds and priorities in proceeds;

(9) an assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) a right of recoupment or set-off, but:

(A) Section 9-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(B) Section 9-404 applies with respect to defenses or claims of an account debtor;

(11) the creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

(A) liens on real property in Sections 9-203 and 9-308;

(B) fixtures in Section 9-334;

(C) fixture filings in Sections 9-501, 9-502, 9-512, 9-516, and 9-519; and

(D) security agreements covering personal and real property in Section 9-604;

(12) an assignment of a claim arising in tort, other than a commercial tort claim, but Sections 9-315 and 9-322 apply with respect to proceeds and priorities in proceeds; or

(13) an assignment of a deposit account in a consumer transaction, but Sections 9-315 and 9-322 apply with respect to proceeds and priorities in proceeds.

§ 9-110. Security Interests Arising Under Article 2 or 2A.

A security interest arising under Section 2-401, 2-505, 2-711(3), or 2A-508(5) is subject to this Article. However, until the debtor obtains possession of the goods:

(1) the security interest is enforceable, even if Section 9-203(b)(3) has not been satisfied;

(2) filing is not required to perfect the security interest;

(3) the rights of the secured party after default by the debtor are governed by Article 2 or 2A; and

(4) the security interest has priority over a conflicting security interest created by the debtor.

PART 2

EFFECTIVENESS OF SECURITY AGREEMENT; ATTACHMENT OF SECURITY INTEREST; RIGHTS OF PARTIES TO SECURITY AGREEMENT

SUBPART 1. EFFECTIVENESS AND ATTACHMENT

§ 9-201. General Effectiveness of Security Agreement.

(a) **General effectiveness.** Except as otherwise provided in the Uniform Commercial Code, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) **Applicable consumer laws and other law.** A transaction subject to this Article is subject to any applicable rule of law which establishes a different rule for consumers, to any other statute or regulation of this State that regulates the rates, charges, agreements and practices for loans, credit sales, or other extensions of credit, and to any consumer-protection statute or regulation of this State.

(c) **Other applicable law controls.** In case of conflict between this Article and a rule of law, statute, or regulation described in subsection (b), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (b) has only the effect the statute or regulation specifies.

(d) **Further deference to other applicable law.** This Article does not:

(1) validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (b); or

(2) extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

§ 9-202. Title to Collateral Immaterial.

Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this Article with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

§ 9-203. Attachment And Enforceability Of Security Interest; Proceeds; Supporting Obligations; Formal Requisites.

(a) **Attachment.** A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) **Enforceability.** Except as otherwise provided in subsections (c) through (i), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(1) value has been given;

(2) the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(3) one of the following conditions is met:

(A) the debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(B) the collateral is not a certificated security and is in the possession of the secured party under Section 9-313 pursuant to the debtor's security agreement;

(C) the collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under Section 8-301 pursuant to the debtor's security agreement; or

(D) the collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under Section 9-104, 9-105, 9-106, or 9-107 pursuant to the debtor's security agreement.

(c) **Other UCC provisions.** Subsection (b) is subject to Section 4-210 on the security interest of a collecting bank, Section 5-118 on the security interest of a letter-of-credit issuer or nominated person, Section 9-110 on a security interest arising under Article 2 or 2A, and Section 9-206 on security interests in investment property.

(d) **When person becomes bound by another person's security agreement.** A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this Article or by contract:

(1) the security agreement becomes effective to create a security interest in the person's property; or

(2) the person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) **Effect of new debtor becoming bound.** If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) the agreement satisfies subsection (b)(3) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(2) another agreement is not necessary to make a security interest in the property enforceable.

(f) **Proceeds and supporting obligations.** The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by Section 9-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) **Lien securing right to payment.** The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) **Security entitlement carried in securities account.** The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) **Commodity contracts carried in commodity account.** The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

§ 9-204. After-Acquired Property; Future Advances.

(a) **After-acquired collateral.** Except as otherwise provided in subsection (b), a security agreement may create or provide for a security interest in after-acquired collateral.

(b) **When after-acquired property clause not effective.** A security interest does not attach under a term constituting an after-acquired property clause to:

(1) consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within 10 days after the secured party gives value; or

(2) a commercial tort claim.

(c) **Future advances and other value.** A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

§ 9-205. Use Or Disposition of Collateral Permissible.

(a) **When security interest not invalid or fraudulent.** A security interest is not invalid or fraudulent against creditors solely because:

(1) the debtor has the right or ability to:

(A) use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

(B) collect, compromise, enforce, or otherwise deal with collateral;

- (C) accept the return of collateral or make repossessions; or
- (D) use, commingle, or dispose of proceeds; or

(2) the secured party fails to require the debtor to account for proceeds or replace collateral.

(b) **Requirements of possession not relaxed.** This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

§ 9-206. Security Interest Arising In Purchase Or Delivery Of Financial Asset.

(a) **Security interest when person buys through securities intermediary.** A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

- (1) the person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and
- (2) the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(b) **Security interest secures obligation to pay for financial asset.** The security interest described in subsection (a) secures the person's obligation to pay for the financial asset.

(c) **Security interest in payment against delivery transaction.** A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

- (1) the security or other financial asset:
 - (A) in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment; and
 - (B) is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and
- (2) the agreement calls for delivery against payment.

(d) **Security interest secures obligation to pay for delivery.** The security interest described in subsection (c) secures the obligation to make payment for the delivery.

SUBPART 2. RIGHTS AND DUTIES

§ 9-207. Rights And Duties Of Secured Party Having Possession Or Control Of Collateral.

(a) **Duty of care when secured party in possession.** Except as otherwise provided in subsection (d), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) **Expenses, risks, duties, and rights when secured party in possession.** Except as otherwise provided in subsection (d), if a secured party has possession of collateral:

- (1) reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;
- (2) the risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;
- (3) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and
- (4) the secured party may use or operate the collateral:
 - (A) for the purpose of preserving the collateral or its value;
 - (B) as permitted by an order of a court having competent jurisdiction; or

(C) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) **Duties and rights when secured party in possession or control.** Except as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under Section 9-104, 9-105, 9-106, or 9-107:

(1) may hold as additional security any proceeds, except money or funds, received from the collateral;

(2) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) may create a security interest in the collateral.

(d) **Buyer of certain rights to payment.** If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(1) subsection (a) does not apply unless the secured party is entitled under an agreement:

(A) to charge back uncollected collateral; or

(B) otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) subsections (b) and (c) do not apply.

§ 9-208. Additional Duties of Secured Party Having Control Of Collateral.

(a) **Applicability of section.** This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) **Duties of secured party after receiving demand from debtor.** Within 10 days after receiving an authenticated demand by the debtor:

(1) a secured party having control of a deposit account under Section 9-104(a)(2) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) a secured party having control of a deposit account under Section 9-104(a)(3) shall:

(A) pay the debtor the balance on deposit in the deposit account; or

(B) transfer the balance on deposit into a deposit account in the debtor's name;

(3) a secured party, other than a buyer, having control of electronic chattel paper under Section 9-105 shall:

(A) communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

(B) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(4) a secured party having control of investment property under Section 8-106(d)(2) or 9-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(5) a secured party having control of a letter-of-credit right under Section 9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

§ 9-209. Duties Of Secured Party If Account Debtor Has Been Notified Of Assignment.

(a) **Applicability of section.** Except as otherwise provided in subsection (c), this section applies if:

- (1) there is no outstanding secured obligation; and
- (2) the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) **Duties of secured party after receiving demand from debtor.** Within 10 days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under Section 9-406(a) an authenticated record that releases the account debtor from any further obligation to the secured party.

(c) **Inapplicability to sales.** This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

§ 9-210. Request For Accounting; Request Regarding List Of Collateral Or Statement Of Account.

(a) **Definitions.** In this section:

- (1) "Request" means a record of a type described in paragraph (2), (3), or (4).
- (2) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.
- (3) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.
- (4) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(b) **Duty to respond to requests.** Subject to subsections (c), (d), (e), and (f), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within 14 days after receipt:

- (1) in the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and
- (2) in the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(c) **Request regarding list of collateral; statement concerning type of collateral.** A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within 14 days after receipt.

(d) **Request regarding list of collateral; no interest claimed.** A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

- (1) disclaiming any interest in the collateral; and
- (2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(c) **Request for accounting or regarding statement of account; no interest in obligation claimed.** A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

- (1) disclaiming any interest in the obligations; and
- (2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(f) **Charges for responses.** A debtor is entitled without charge to one response to a request under this section during any six-month period. The secured party may require payment of a charge not exceeding \$25 for each additional response.

PART 3

PERFECTION AND PRIORITY

SUBPART 1. LAW GOVERNING PERFECTION AND PRIORITY

§ 9-301. Law Governing Perfection and Priority of Security Interests.

Except as otherwise provided in Sections 9-303 through 9-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in paragraph (4), while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

- (A) perfection of a security interest in the goods by filing a fixture filing;
- (B) perfection of a security interest in timber to be cut; and
- (C) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

§ 9-302. Law Governing Perfection and Priority of Agricultural Liens.

While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

§ 9-303. Law Governing Perfection and Priority of Security Interests in Goods Covered by a Certificate of Title.

(a) **Applicability of section.** This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(b) **When goods covered by certificate of title.** Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(c) **Applicable law.** The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods

covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

§ 9-304. Law Governing Perfection And Priority of Security Interests in Deposit Accounts.

(a) **Law of bank's jurisdiction governs.** The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(b) **Bank's jurisdiction.** The following rules determine a bank's jurisdiction for purposes of this part:

(1) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this Article, or the Uniform Commercial Code, that jurisdiction is the bank's jurisdiction.

(2) If paragraph (1) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(3) If neither paragraph (1) nor paragraph (2) applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(4) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(5) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

§ 9-305. Law Governing Perfection And Priority of Security Interests in Investment Property.

(a) **Governing law: general rules.** Except as otherwise provided in subsection (c), the following rules apply:

(1) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(2) The local law of the issuer's jurisdiction as specified in Section 8-110(d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of the securities intermediary's jurisdiction as specified in Section 8-110(e) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(4) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(b) **Commodity intermediary's jurisdiction.** The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this Article, or the Uniform Commercial Code, that jurisdiction is the commodity intermediary's jurisdiction.

(2) If paragraph (1) does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(3) If neither paragraph (1) nor paragraph (2) applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly

provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(4) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(5) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) **When perfection governed by law of jurisdiction where debtor located.** The local law of the jurisdiction in which the debtor is located governs:

- (1) perfection of a security interest in investment property by filing;
- (2) automatic perfection of a security interest in investment property created by a broker or securities intermediary; and
- (3) automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

§ 9-306. Law Governing Perfection And Priority of Security Interests in Letter-of-Credit Rights.

(a) **Governing law: Issuer's or nominated person's jurisdiction.** Subject to subsection (c), the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a State.

(b) **Issuer's or nominated person's jurisdiction.** For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in Section 5-116.

(c) **When section not applicable.** This section does not apply to a security interest that is perfected only under Section 9-308(d).

§ 9-307. Location of Debtor.

(a) **"Place of business."** In this section, "place of business" means a place where a debtor conducts its affairs.

(b) **Debtor's location: general rules.** Except as otherwise provided in this section, the following rules determine a debtor's location:

- (1) A debtor who is an individual is located at the individual's principal residence.
- (2) A debtor that is an organization and has only one place of business is located at its place of business.
- (3) A debtor that is an organization and has more than one place of business is located at its chief executive office.

(c) **Limitation of applicability of subsection (b).** Subsection (b) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (b) does not apply, the debtor is located in the District of Columbia.

(d) **Continuation of location: cessation of existence, etc.** A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (b) and (c).

(e) **Location of registered organization organized under State law.** A registered organization that is organized under the law of a State is located in that State.

(f) **Location of registered organization organized under federal law; bank branches and agencies.** Except as otherwise provided in subsection (i), a registered organization that is organized under the law

of the United States and a branch or agency of a bank that is not organized under the law of the United States or a State are located:

- (1) in the State that the law of the United States designates, if the law designates a State of location;
- (2) in the State that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its State of location; or
- (3) in the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

For purposes of paragraph (2) above, if a registered organization designates a main office, a home office, or other comparable office in accordance with the law of the United States, such registered organization is located in the State that such main office, home office, or other comparable office is located.

(g) **Continuation of location: change in status of registered organization.** A registered organization continues to be located in the jurisdiction specified by subsection (e) or (f) notwithstanding:

- (1) the suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or
- (2) the dissolution, winding up, or cancellation of the existence of the registered organization.

(h) **Location of United States.** The United States is located in the District of Columbia.

(i) **Location of foreign bank branch or agency if licensed in only one State.** A branch or agency of a bank that is not organized under the law of the United States or a State is located in the State in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one State.

(j) **Location of foreign air carrier.** A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(k) **Section applies only to this part.** This section applies only for purposes of this part.

SUBPART 2. PERFECTION

§ 9-308. When Security Interest or Agricultural Lien Is Perfected; Continuity of Perfection.

(a) **Perfection of security interest.** Except as otherwise provided

in this section and Section 9-309, a security interest is perfected if it has attached and all of the applicable requirements for perfection in Sections 9-310 through 9-316 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(b) **Perfection of agricultural lien.** An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in Section 9-310 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(c) **Continuous perfection; perfection by different methods.** A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under this Article and is later perfected by another method under this Article, without an intermediate period when it was unperfected.

(d) **Supporting obligation.** Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(e) **Lien securing right to payment.** Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(f) **Security entitlement carried in securities account.** Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(g) **Commodity contract carried in commodity account.** Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

§ 9-309. Security Interest Perfected Upon Attachment.

The following security interests are perfected when they attach:

- (1) a purchase-money security interest in consumer goods, except as otherwise provided in Section 9-311(b) with respect to consumer goods that are subject to a statute or treaty described in Section 9-311(a);
- (2) an assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;
- (3) a sale of a payment intangible;
- (4) a sale of a promissory note;
- (5) a security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;
- (6) a security interest arising under Section 2-401, 2-505, 2-711(3), or 2A-508(5), until the debtor obtains possession of the collateral;
- (7) a security interest of a collecting bank arising under Section 4-210;
- (8) a security interest of an issuer or nominated person arising under Section 5-118;
- (9) a security interest arising in the delivery of a financial asset under Section 9-206(c);
- (10) a security interest in investment property created by a broker or securities intermediary;
- (11) a security interest in a commodity contract or a commodity account created by a commodity intermediary;
- (12) an assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and
- (13) a security interest created by an assignment of a beneficial interest in a decedent's estate.

§ 9-310. When Filing Required to Perfect Security Interest or Agricultural Lien; Security Interests And Agricultural Liens to Which Filing Provisions Do Not Apply.

(a) **General rule: perfection by filing.** Except as otherwise provided in subsection (b) and Section 9-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) **Exceptions: filing not necessary.** The filing of a financing statement is not necessary to perfect a security interest:

- (1) that is perfected under Section 9-308(d), (e), (f), or (g);
- (2) that is perfected under Section 9-309 when it attaches;
- (3) in property subject to a statute, regulation, or treaty described in Section 9-311(a);
- (4) in goods in possession of a bailee which is perfected under Section 9-312(d)(1) or (2);
- (5) in certificated securities, documents, goods, or instruments which is perfected without filing or possession under Section 9-312(e), (f), or (g);
- (6) in collateral in the secured party's possession under Section 9-313;
- (7) in a certificated security which is perfected by delivery of the security certificate to the secured party under Section 9-313;
- (8) in deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under Section 9-314;
- (9) in proceeds which is perfected under Section 9-315; or
- (10) that is perfected under Section 9-316.

(c) **Assignment of perfected security interest.** If a secured party assigns a perfected security interest or agricultural lien, a filing under this Article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

§ 9-311. Perfection of Security Interests in Property Subject to Certain Statutes, Regulations, And Treaties.

(a) **Security interest subject to other law.** Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt Section 9-310(a);

(2) Subchapter II of Chapter 23 of Title 21, relating to the notation of liens and encumbrances on certificates of title for motor vehicles; or

(3) a certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) **Compliance with other law.** Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this Article. Except as otherwise provided in subsection (d) and Sections 9-313 and 9-316(d) and (e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) **Duration and renewal of perfection.** Except as otherwise provided in subsection (d) and Section 9-316(d) and (e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this Article.

(d) **Inapplicability to certain inventory.** During any period in which collateral subject to a statute specified in subsection (a)(2) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

§ 9-312. Perfection of Security Interests in Chattel Paper, Deposit Accounts, Documents, Goods Covered by Documents, Instruments, Investment Property, Letter-of-Credit Rights, And Money; Perfection by Permissive Filing; Temporary Perfection Without Filing or Transfer of Possession.

(a) **Perfection by filing permitted.** A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(b) **Control or possession of certain collateral.** Except as otherwise provided in Section 9-315(c) and (d) for proceeds:

(1) a security interest in a deposit account may be perfected only by control under Section 9-314;

(2) and except as otherwise provided in Section 9-308(d), a security interest in a letter-of-credit right may be perfected only by control under Section 9-314; and

(3) a security interest in money may be perfected only by the secured party's taking possession under Section 9-313.

(c) **Goods covered by negotiable document.** While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) a security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) a security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) **Goods covered by nonnegotiable document.** While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

- (1) issuance of a document in the name of the secured party;
- (2) the bailee's receipt of notification of the secured party's interest; or
- (3) filing as to the goods.

(e) **Temporary perfection: new value.** A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) **Temporary perfection: goods or documents made available to debtor.** A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

- (1) ultimate sale or exchange; or
- (2) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) **Temporary perfection: delivery of security certificate or instrument to debtor.** A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

- (1) ultimate sale or exchange; or
- (2) presentation, collection, enforcement, renewal, or registration of transfer.

(h) **Expiration of temporary perfection.** After the 20-day period specified in subsection (e), (f), or (g) expires, perfection depends upon compliance with this Article.

§ 9-313. When Possession by or Delivery to Secured Party Perfects Security Interest Without Filing.

(a) **Perfection by possession or delivery.** Except as otherwise provided in subsection (b), a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under Section 8-301.

(b) **Goods covered by certificate of title.** With respect to goods covered by a certificate of title issued by this State, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in Section 9-316(d).

(c) **Collateral in possession of person other than debtor.** With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

- (1) the person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or
- (2) the person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

(d) **Time of perfection by possession; continuation of perfection.** If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) **Time of perfection by delivery; continuation of perfection.** A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under Section 8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) **Acknowledgment not required.** A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) **Effectiveness of acknowledgment; no duties or confirmation.** If a person acknowledges that it holds possession for the secured party's benefit:

- (1) the acknowledgment is effective under subsection (c) or Section 8-301(a), even if the acknowledgment violates the rights of a debtor; and
- (2) unless the person otherwise agrees or law other than this Article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) **Secured party's delivery to person other than debtor.** A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

- (1) to hold possession of the collateral for the secured party's benefit; or
- (2) to redeliver the collateral to the secured party.

(i) **Effect of delivery under subsection (h); no duties or confirmation.** A secured party does not relinquish possession, even if a delivery under subsection (h) violates the rights of a debtor. A person to which collateral is delivered under subsection (h) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this Article otherwise provides.

§ 9-314. Perfection by Control.

(a) **Perfection by control.** A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under Section 9-104, 9-105, 9-106, or 9-107.

(b) **Specified collateral: time of perfection by control; continuation of perfection.** A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under Section 9-104, 9-105, or 9-107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) **Investment property: time of perfection by control; continuation of perfection.** A security interest in investment property is perfected by control under Section 9-106 from the time the secured party obtains control and remains perfected by control until:

- (1) the secured party does not have control; and
- (2) one of the following occurs:
 - (A) if the collateral is a certificated security, the debtor has or acquires possession of the security certificate;
 - (B) if the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or
 - (C) if the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

§ 9-315. Secured Party's Rights on Disposition of Collateral and in Proceeds.

(a) **Disposition of collateral: continuation of security interest or agricultural lien; proceeds.** Except as otherwise provided in this Article and in Section 2-403(2):

- (1) a security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and
- (2) a security interest attaches to any identifiable proceeds of collateral.

(b) **When commingled proceeds identifiable.** Proceeds that are commingled with other property are identifiable proceeds:

- (1) if the proceeds are goods, to the extent provided by Section 9-336; and

(2) if the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this Article with respect to commingled property of the type involved.

(c) **Perfection of security interest in proceeds.** A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(d) **Continuation of perfection.** A perfected security interest in proceeds becomes unperfected on the 21st day after the security interest attaches to the proceeds unless:

(1) the following conditions are satisfied:

(A) a filed financing statement covers the original collateral;

(B) the proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

(C) the proceeds are not acquired with cash proceeds;

(2) the proceeds are identifiable cash proceeds; or

(3) the security interest in the proceeds is perfected other than under subsection (c) when the security interest attaches to the proceeds or within 20 days thereafter.

(e) **When perfected security interest in proceeds becomes unperfected.** If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subsection (d)(1) becomes unperfected at the later of:

(1) when the effectiveness of the filed financing statement lapses under Section 9-515 or is terminated under Section 9-513; or

(2) the 21st day after the security interest attaches to the proceeds.

§ 9-316. Continued Perfection of Security Interest Following Change in Governing Law.

(a) **General rule: effect on perfection of change in governing law.** A security interest perfected pursuant to the law of the jurisdiction designated in Section 9-301(1) or 9-305(c) remains perfected until the earliest of:

(1) the time perfection would have ceased under the law of that jurisdiction;

(2) the expiration of four months after a change of the debtor's location to another jurisdiction; or

(3) the expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) **Security interest perfected or unperfected under law of new jurisdiction.** If a security interest described in subsection (a) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) **Possessory security interest in collateral moved to new jurisdiction.** A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(1) the collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) thereafter the collateral is brought into another jurisdiction; and

(3) upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) **Goods covered by certificate of title from this State.** Except as otherwise provided in subsection (e), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this State remains

perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(c) **When subsection (d) security interests becomes unperfected against purchasers.** A security interest described in subsection (d) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under Section 9-311(b) or 9-313 are not satisfied before the earlier of:

- (1) the time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this State; or
- (2) the expiration of four months after the goods had become so covered.

(f) **Change in jurisdiction of bank, issuer, nominated person, securities intermediary, or commodity intermediary.** A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

- (1) the time the security interest would have become unperfected under the law of that jurisdiction; or
- (2) the expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

(g) **Subsection (f) security interest perfected or unperfected under law of new jurisdiction.** If a security interest described in subsection (f) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

SUBPART 3. PRIORITY

9-317. Interests That Take Priority Over or Take Free of Security Interest or Agricultural Lien.

(a) **Conflicting security interests and rights of lien creditors.** A security interest or agricultural lien is subordinate to the rights of:

- (1) a person entitled to priority under Section 9-322; and
- (2) except as otherwise provided in subsection (e), a person that becomes a lien creditor before the earlier of the time:
 - (A) the security interest or agricultural lien is perfected; or
 - (B) one of the conditions specified in Section 9-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) **Buyers that receive delivery.** Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) **Lessees that receive delivery.** Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) **Licensees and buyers of certain collateral.** A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) **Purchase-money security interest.** Except as otherwise provided in Sections 9-320 and 9-321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

Chapter 401

Vol. 72

§ 9-318. No Interest Retained in Right to Payment That Is Sold; Rights and Title of Seller of Account or Chattel Paper with Respect to Creditors and Purchasers.

(a) **Seller retains no interest.** A debtor that has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(b) **Deemed rights of debtor if buyer's security interest unperfected.** For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

§ 9-319. Rights and Title of Consignee with Respect to Creditors and Purchasers.

(a) **Consignee has consignor's rights.** Except as otherwise provided in subsection (b), for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(b) **Applicability of other law.** For purposes of determining the rights of a creditor of a consignee, law other than this Article determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

§ 9-320. Buyer of Goods.

(a) **Buyer in ordinary course of business.** Except as otherwise provided in subsection (c), a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(b) **Buyer of consumer goods.** Except as otherwise provided in subsection (c), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

- (1) without knowledge of the security interest;
- (2) for value;
- (3) primarily for the buyer's personal, family, or household purposes; and
- (4) before the filing of a financing statement covering the goods.

(c) **Effectiveness of filing for subsection (b).** To the extent that it affects the priority of a security interest over a buyer of goods under subsection (b), the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by Section 9-316(a) and (b).

(d) **Buyer in ordinary course of business at wellhead or minehead.** A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(e) **Possessory security interest not affected.** Subsections (a) and (b) do not affect a security interest in goods in the possession of the secured party under Section 9-313.

§ 9-321. Licensee of General Intangible and Lessee of Goods in Ordinary Course of Business.

(a) **"Licensee in ordinary course of business."** In this section, "licensee in ordinary course of business" means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(b) **Rights of licensee in ordinary course of business.** A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(c) **Rights of lessee in ordinary course of business.** A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

§ 9-322. Priorities among Conflicting Security Interests in and Agricultural Liens on Same Collateral.

(a) **General priority rules.** Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(1) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.

(2) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(3) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(b) **Time of perfection: proceeds and supporting obligations.** For the purposes of subsection (a)(1):

(1) the time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(2) the time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(c) **Special priority rules: proceeds and supporting obligations.** Except as otherwise provided in subsection (f), a security interest in collateral which qualifies for priority over a conflicting security interest under Section 9-327, 9-328, 9-329, 9-330, or 9-331 also has priority over a conflicting security interest in:

(1) any supporting obligation for the collateral; and

(2) proceeds of the collateral if:

(A) the security interest in proceeds is perfected;

(B) the proceeds are cash proceeds or of the same type as the collateral; and

(C) in the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(d) **First-to-file priority rule for certain collateral.** Subject to subsection (e) and except as otherwise provided in subsection (f), if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(e) **Applicability of subsection (d).** Subsection (d) applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(f) **Limitations on subsections (a) through (e).** Subsections (a) through (e) are subject to:

(1) subsection (g) and the other provisions of this part;

(2) Section 4-210 with respect to a security interest of a collecting bank;

(3) Section 5-118 with respect to a security interest of an issuer or nominated person:

and

(4) Section 9-110 with respect to a security interest arising under Article 2 or 2A.

(g) **Priority under agricultural lien statute.** A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

(a) **When priority based on time of advance.** Except as otherwise provided in subsection (c), for purposes of determining the priority of a perfected security interest under Section 9-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) is made while the security interest is perfected only:

(A) under Section 9-309 when it attaches; or

(B) temporarily under Section 9-312(e), (f), or (g); and

(2) is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under Section 9-309 or 9-312(e), (f), or (g).

(b) **Lien creditor.** Except as otherwise provided in subsection (c), a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than 45 days after the person becomes a lien creditor unless the advance is made:

(1) without knowledge of the lien; or

(2) pursuant to a commitment entered into without knowledge of the lien.

(c) **Buyer of receivables.** Subsections (a) and (b) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(d) **Buyer of goods.** Except as otherwise provided in subsection (e), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(1) the time the secured party acquires knowledge of the buyer's purchase; or

(2) 45 days after the purchase.

(e) **Advances made pursuant to commitment: priority of buyer of goods.** Subsection (d) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45-day period.

(f) **Lessee of goods.** Except as otherwise provided in subsection (g), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(1) the time the secured party acquires knowledge of the lease; or

(2) 45 days after the lease contract becomes enforceable.

(g) **Advances made pursuant to commitment: priority of lessee of goods.** Subsection (f) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

§ 9-324. **Priority of Purchase-Money Security Interests.**

(a) **General rule: purchase-money priority.** Except as otherwise provided in subsection (g), a perfected purchase-money security interest in goods other than inventory or livestock that are farm products has priority over a conflicting security interest in the same goods, and, except as otherwise provided in Section 9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within 20 days thereafter.

(b) **Inventory purchase-money priority.** Subject to subsection (c) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in Section 9-330, and, except as otherwise provided in Section 9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the inventory;

(2) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) **Holders of conflicting inventory security interests to be notified.** Subsections (b)(2) through (4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under Section 9-312(e) or (f), before the beginning of the 20-day period thereunder.

(d) **Livestock purchase-money priority.** Subject to subsection (e) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in Section 9-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the livestock;

(2) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(e) **Holders of conflicting livestock security interests to be notified.** Subsections (d)(2) through (4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under Section 9-312(e) or (f), before the beginning of the 20-day period thereunder.

(f) **Software purchase-money priority.** Except as otherwise provided in subsection (g), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral. and, except as otherwise provided in Section 9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) **Conflicting purchase-money security interests.** If more than one security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f):

(1) a security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) in all other cases, Section 9-322(a) applies to the qualifying security interests.

§ 9-325. Priority of Security Interests in Transferred Collateral.

(a) **Subordination of security interest in transferred collateral.** Except as otherwise provided in subsection (b), a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

- (1) the debtor acquired the collateral subject to the security interest created by the other person;
- (2) the security interest created by the other person was perfected when the debtor acquired the collateral; and
- (3) there is no period thereafter when the security interest is unperfected.

(b) **Limitation of subsection (a) subordination.** Subsection (a) subordinates a security interest only if the security interest:

- (1) otherwise would have priority solely under Section 9-322(a) or 9-324; or
- (2) arose solely under Section 2-711(3) or 2A-508(5).

§ 9-326. Priority of Security Interests Created by New Debtor.

(a) **Subordination of security interest created by new debtor.** Subject to subsection (b), a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under Section 9-508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under Section 9-508.

(b) **Priority under other provisions; multiple original debtors.** The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under Section 9-508. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

§ 9-327. Priority of Security Interests in Deposit Account.

The following rules govern priority among conflicting security interests in the same deposit account:

- (1) A security interest held by a secured party having control of the deposit account under Section 9-104 has priority over a conflicting security interest held by a secured party that does not have control.
- (2) Except as otherwise provided in paragraphs (3) and (4), security interests perfected by control under Section 9-314 rank according to priority in time of obtaining control.
- (3) Except as otherwise provided in paragraph (4), a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.
- (4) A security interest perfected by control under Section 9-104(a)(3) has priority over a security interest held by the bank with which the deposit account is maintained.

§ 9-328. Priority of Security Interests in Investment Property.

The following rules govern priority among conflicting security interests in the same investment property:

- (1) A security interest held by a secured party having control of investment property under Section 9-106 has priority over a security interest held by a secured party that does not have control of the investment property.
- (2) Except as otherwise provided in paragraphs (3) and (4), conflicting security interests held by secured parties each of which has control under Section 9-106 rank according to priority in time of:
 - (A) if the collateral is a security, obtaining control;
 - (B) if the collateral is a security entitlement carried in a securities account and:
 - (i) if the secured party obtained control under Section 8-106(d)(1), the secured party's becoming the person for which the securities account is maintained;

(ii) if the secured party obtained control under Section 8-106(d)(2), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

(iii) if the secured party obtained control through another person under Section 8-106(d)(3), the time on which priority would be based under this paragraph if the other person were the secured party; or

(C) if the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in Section 9-106(b)(2) with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under Section 9-313(a) and not by control under Section 9-314 has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under Section 9-106 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by Sections 9-322 and 9-323.

§ 9-329. Priority of Security Interests in Letter-of-Credit Right.

The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under Section 9-107 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under Section 9-314 rank according to priority in time of obtaining control.

§ 9-330. Priority of Purchaser of Chattel Paper or Instrument.

(a) **Purchaser's priority: security interest claimed merely as proceeds.** A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) in good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under Section 9-105; and

(2) the chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(b) **Purchaser's priority: other security interests.** A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under Section 9-105 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(c) **Chattel paper purchaser's priority in proceeds.** Except as otherwise provided in Section 9-327, a purchaser having priority in chattel paper under subsection (a) or (b) also has priority in proceeds of the chattel paper to the extent that:

(1) Section 9-322 provides for priority in the proceeds; or

(2) the proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(d) **Instrument purchaser's priority.** Except as otherwise provided in Section 9-331(a), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(e) **Holder of purchase-money security interest gives new value.** For purposes of subsections (a) and (b), the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(f) **Indication of assignment gives knowledge.** For purposes of subsections (b) and (d), if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

§ 9-331. Priority of Rights of Purchasers of Instruments, Documents, and Securities under Other Articles; Priority of Interests in Financial Assets and Security Entitlements under Article 8.

(a) **Rights under Articles 3, 7, and 8 not limited.** This Article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, and 8.

(b) **Protection under Article 8.** This Article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of an adverse claim under Article 8.

(c) **Filing not notice.** Filing under this Article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (a) and (b).

§ 9-332. Transfer of Money; Transfer of Funds from Deposit Account.

(a) **Transferee of money.** A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(b) **Transferee of funds from deposit account.** A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

§ 9-333. Priority of Certain Liens Arising by Operation of Law.

(a) **"Possessory lien."** In this section, "possessory lien" means an interest, other than a security interest or an agricultural lien:

- (1) which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;
- (2) which is created by statute or rule of law in favor of the person; and
- (3) whose effectiveness depends on the person's possession of the goods.

(b) **Priority of possessory lien.** A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

§ 9-334. Priority of Security Interests in Fixtures and Crops.

(a) **Security interest in fixtures under this Article.** A security interest under this Article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this Article in ordinary building materials incorporated into an improvement on land.

(b) **Security interest in fixtures under real property law.** This Article does not prevent creation of an encumbrance upon fixtures under real property law.

(c) **General rule: subordination of security interest in fixtures.** In cases not governed by subsections (d) through (h), a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) **Fixtures purchase-money priority.** Except as otherwise provided in subsection (h), a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

- (1) the security interest is a purchase-money security interest;
 - (2) the interest of the encumbrancer or owner arises before the goods become fixtures;
- and
- (3) the security interest is perfected by a fixture filing before the goods become fixtures or within 20 days thereafter.

(e) **Priority of security interest in fixtures over interests in real property.** A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

- (1) the debtor has an interest of record in the real property or is in possession of the real property and the security interest:
 - (A) is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and
 - (B) has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;
- (2) before the goods become fixtures, the security interest is perfected by any method permitted by this Article and the fixtures are readily removable:
 - (A) factory or office machines;
 - (B) equipment that is not primarily used or leased for use in the operation of the real property; or
 - (C) replacements of domestic appliances that are consumer goods;
- (3) the conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this Article; or
- (4) the security interest is:
 - (A) created in a manufactured home in a manufactured-home transaction; and
 - (B) perfected pursuant to a statute described in Section 9-311(a)(2).

(f) **Priority based on consent, disclaimer, or right to remove.** A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

- (1) the encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or
- (2) the debtor has a right to remove the goods as against the encumbrancer or owner.

(g) **Continuation of subsection (f) priority.** The priority of the security interest under subsection (f) continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) **Priority of construction mortgage.** A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (e) and (f), a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(i) **Priority of security interest in crops.** A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

§ 9-335. Accessions.

(a) **Creation of security interest in accession.** A security interest may be created in an accession and continues in collateral that becomes an accession.

(b) **Perfection of security interest.** If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(c) **Priority of security interest.** Except as otherwise provided in subsection (d), the other provisions of this part determine the priority of a security interest in an accession.

(d) **Compliance with certificate-of-title statute.** A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under Section 9-311(b).

(e) **Removal of accession after default.** After default, subject to Part 6, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(f) **Reimbursement following removal.** A secured party that removes an accession from other goods under subsection (e) shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

§ 9-336. Commingled Goods.

(a) **"Commingled goods."** In this section, "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(b) **No security interest in commingled goods as such.** A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(c) **Attachment of security interest to product or mass.** If collateral becomes commingled goods, a security interest attaches to the product or mass.

(d) **Perfection of security interest.** If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (c) is perfected.

(e) **Priority of security interest.** Except as otherwise provided in subsection (f), the other provisions of this part determine the priority of a security interest that attaches to the product or mass under subsection (c).

(f) **Conflicting security interests in product or mass.** If more than one security interest attaches to the product or mass under subsection (c), the following rules determine priority:

(1) A security interest that is perfected under subsection (d) has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(2) If more than one security interest is perfected under subsection (d), the security interests rank equally in proportion to value of the collateral at the time it became commingled goods.

§ 9-337. Priority of Security Interests in Goods Covered by Certificate of Title.

If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this State issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) a buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) the security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under Section 9-311(b), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

§ 9-338. Priority of Security Interest or Agricultural Lien Perfected by Filed Financing Statement Providing Certain Incorrect Information.

If a security interest or agricultural lien is perfected by a filed financing statement providing information described in Section 9-516(b)(5) which is incorrect at the time the financing statement is filed:

(1) the security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) a purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

§ 9-339. Priority Subject to Subordination.

This Article does not preclude subordination by agreement by a person entitled to priority.

SUBPART 4. RIGHTS OF BANK

§ 9-340. Effectiveness of Right of Recoupment or Set-off Against Deposit Account.

(a) **Exercise of recoupment or set-off.** Except as otherwise provided in subsection (c), a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against the deposit account notwithstanding that a secured party holds a security interest in the deposit account.

(b) **Recoupment or setoff not affected by security interest.** Except as otherwise provided in subsection (c), the application of this Article to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(c) **When set-off ineffective.** The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under Section 9-104(a)(3), if the set-off is based on a claim against the debtor.

(d) **No creation of set-off or recoupment right and no overriding of limitations or restrictions of other law.** This section neither creates a right of set-off or recoupment nor is it intended to override any limitations or restrictions that other law imposes on the exercise of those rights.

§ 9-341. Bank's Rights and Duties with Respect to Deposit Account.

Except as otherwise provided in Section 9-340(c), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

- (1) the creation, attachment, or perfection of a security interest in the deposit account;
- (2) the bank's knowledge of the security interest; or
- (3) the bank's receipt of instructions from the secured party.

§ 9-342. Bank's Right to Refuse to Enter into or Disclose Existence of Control Agreement.

This Article does not require a bank to enter into an agreement of the kind described in Section 9-104(a)(2), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

PART 4

RIGHTS OF THIRD PARTIES

§ 9-401. Alienability of Debtor's Rights.

(a) **Other law governs alienability; exceptions.** Except as otherwise provided in subsection (b) and Sections 9-406, 9-407, 9-408, and 9-409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this Article.

(b) **Agreement does not prevent transfer.** An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

§ 9-402. Secured Party Not Obligated on Contract of Debtor or in Tort.

The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract, tort or otherwise for the debtor's acts or omissions.

§ 9-403. Agreement Not to Assert Defenses Against Assignee.

(a) **"Value."** In this section, "value" has the meaning provided in Section 3-303(a).

(b) **Agreement not to assert claim or defense.** Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

- (1) for value;
 - (2) in good faith;
 - (3) without notice of a claim of a property or possessory right to the property assigned;
- and
- (4) without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under Section 3-305(a).

(c) **When subsection (b) not applicable.** Subsection (b) does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under Section 3-305(b).

(d) **Omission of required statement in consumer transaction.** In a consumer transaction, if (i) a record evidences the account debtor's obligation, (ii) law other than this Article requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and (iii) the record does not include such a statement:

- (1) the record has the same effect as if the record included such a statement; and
- (2) the account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(e) **Rule for individual under other law.** This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(f) **Other law not displaced.** Except as otherwise provided in subsection (d), this section does not displace law other than this Article which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

§ 9-404. Rights Acquired by Assignee; Claims and Defenses Against Assignee.

(a) **Assignee's rights subject to terms, claims, and defenses; exceptions.** Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (b) through (e), the rights of an assignee are subject to:

- (1) all terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and
- (2) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(b) **Account debtor's claim reduces amount owed to assignee.** Subject to subsection (c) and except as otherwise provided in subsection (d), the claim of an account debtor against an assignor may be asserted against an assignee under subsection (a) only to reduce the amount the account debtor owes.

(c) **Rule for individual under other law.** This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) **Omission of required statement in consumer transaction.** In a consumer transaction, if a record evidences the account debtor's obligation, law other than this Article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(e) **Inapplicability to health-care-insurance receivable.** This section does not apply to an assignment of a health-care-insurance receivable.

§ 9-405. Modification of Assigned Contract.

(a) **Effect of modification on assignee.** A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (b) through (d).

(b) **Applicability of subsection (a).** Subsection (a) applies to the extent that:

(1) the right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(2) the right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under Section 9-406(a).

(c) **Rule for individual under other law.** This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) **Inapplicability to health-care-insurance receivable.** This section does not apply to an assignment of a health-care-insurance receivable.

§ 9-406. Discharge of Account Debtor; Notification of Assignment; Identification And Proof of Assignment; Restrictions on Assignment of Accounts, Chattel Paper, Payment Intangibles, And Promissory Notes Ineffective.

(a) **Discharge of account debtor; effect of notification.** Subject to subsections (b) through (i), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) **When notification ineffective.** Subject to subsection (h), notification is ineffective under subsection (a):

(1) if it does not reasonably identify the rights assigned;

(2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this Article; or

(3) at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

(B) a portion has been assigned to another assignee; or

(C) the account debtor knows that the assignment to that assignee is limited.

(c) **Proof of assignment.** Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) **Term restricting assignment generally ineffective.** Except as otherwise provided in subsection (e) and Sections 2A-303 and 9-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) **Inapplicability of subsection (d) to certain sales.** Subsection (d) does not apply to the sale of a payment intangible or promissory note.

(f) **Legal restrictions on assignment generally ineffective.** Except as otherwise provided in Sections 2A-303 and 9-407 and subject to subsections (h) and (i), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) **Subsection (b)(3) not waivable.** Subject to subsection (h), an account debtor may not waive or vary its option under subsection (b)(3).

(h) **Rule for individual under other law.** This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) **Inapplicability.** This section does not apply to:

(1) an assignment of a health-care-insurance receivable;

(2) a claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. §104(a)(1) or (2), as amended from time to time; or

(3) a claim or right to receive benefits under a special needs trust as described in 42 U.S.C. §1396p(d)(4), as amended from time to time.

Subsection (f) does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of, a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes, to the extent that the statute is inconsistent with subsection (f): Section 9011 of Title 11 (prohibiting assignment of victim awards and recoveries); Section 2728 of Title 18 (restricting transferability of benefits, rights, privileges or options accruing under certain annuity contracts); Section 6863 of Title 18 (prohibiting assignment of medical negligence compensation claims); Section 2355 of Title 19 (prohibiting assignment of workers' compensation claims or payment for compensation due or to become due); and Section 4808 of Title 29 (prohibiting assignment of lottery prizes).

(j) **Section prevails over inconsistent law.** Except as otherwise provided in subsection (i), this section prevails over any inconsistent provision of an existing or future statute, rule or regulation of this State unless the provision is contained in a statute of this State, refers expressly to this section and states that the provision prevails over this section.

§ 9-407. Restrictions on Creation or Enforcement of Security Interest in Leasehold Interest or in Lessor's Residual Interest.

(a) **Term restricting assignment generally ineffective.** Except as otherwise provided in subsection (b), a term in a lease agreement is ineffective to the extent that it:

(1) prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(b) **Effectiveness of certain terms.** Except as otherwise provided in Section 2A-303(7), a term described in subsection (a)(2) is effective to the extent that there is:

(1) a transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(2) a delegation of a material performance of either party to the lease contract in violation of the term.

(c) **Security interest not material impairment.** The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of Section 2A-303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

§ 9-408. Restrictions on Assignment of Promissory Notes, Health-Care-Insurance Receivables, and Certain General Intangibles Ineffective.

(a) **Term restricting assignment generally ineffective.** Except as otherwise provided in subsection (b), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) **Applicability of subsection (a) to sales of certain rights to payment.** Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(c) **Legal restrictions on assignment generally ineffective.** A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) **Limitation on ineffectiveness under subsections (a) and (c).** To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective

Chapter 401
Vol.72

under law other than this Article but is ineffective under subsection (a) or (c), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

- (1) is not enforceable against the person obligated on the promissory note or the account debtor;
- (2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;
- (3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;
- (4) does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;
- (5) does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and
- (6) does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) **Inapplicability.** This section does not apply to:

- (1) a claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. §104(a)(1) or (2), as amended from time to time; or
- (2) a claim or right to receive benefits under a special needs trust as described in 42 U.S.C. §1396p(d)(4), as amended from time to time.

Subsection (c) does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes, to the extent that the statute is inconsistent with subsection (c): Section 9011 of Title 11 (prohibiting assignment of victim awards and recoveries); Section 2728 of Title 18 (restricting transferability of benefits, rights, privileges or options accruing under certain annuity contracts); Section 6863 of Title 18 (prohibiting assignment of medical negligence compensation claims); Section 2355 of Title 19 (prohibiting assignment of workers' compensation claims or payment for compensation due or to become due); and Section 4808 of Title 29 (prohibiting assignment of lottery prizes).

(f) **Section prevails over inconsistent law.** Except as otherwise provided in subsection (e), this section prevails over any inconsistent provision of an existing or future statute, rule or regulation of this State unless the provision is contained in a statute of this State, refers expressly to this section and states that the provision prevails over this section.

§ 9-409. **Restrictions on Assignment of Letter-of-Credit Rights Ineffective.**

(a) **Term or law restricting assignment generally ineffective.** A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

- (1) would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or
- (2) provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(b) **Limitation on ineffectiveness under subsection (a).** To the extent that a term in a letter of credit is ineffective under subsection (a) but would be effective under law other than this Article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter

of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

- (1) is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;
- (2) imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and
- (3) does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

PART 5

FILING

SUBPART 1. FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT

§ 9-501. Filing Office.

(a) **Filing offices.** Except as otherwise provided in subsection (b), if the local law of this State governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) the office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) the collateral is as-extracted collateral or timber to be cut; or

(B) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(2) the office of the Secretary of State, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) **Filing office for transmitting utilities.** The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

§ 9-502. Contents of Financing Statement; Record of Mortgage as Financing Statement; Time of Filing Financing Statement.

(a) **Sufficiency of financing statement.** Subject to subsection (b), a financing statement is sufficient only if it:

- (1) provides the name of the debtor;
- (2) provides the name of the secured party or a representative of the secured party; and
- (3) indicates the collateral covered by the financing statement.

(b) **Real property-related financing statements.** Except as otherwise provided in Section 9-501(b), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) and also:

- (1) indicate that it covers this type of collateral;
- (2) indicate that it is to be filed in the real property records;
- (3) provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this State if the description were contained in a record of the mortgage of the real property; and
- (4) if the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) **Record of mortgage as financing statement.** A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

- (1) the record indicates the goods or accounts that it covers;
- (2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
- (3) the record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and
- (4) the record is duly recorded.

(d) **Filing before security agreement or attachment.** A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

§ 9-503. Name of Debtor and Secured Party.

(a) **Sufficiency of debtor's name.** A financing statement sufficiently provides the name of the debtor:

- (1) if the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;
- (2) if the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;
- (3) if the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

(A) provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and

(B) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

(4) in other cases:

(A) if the debtor has a name, only if it provides the individual or organizational name of the debtor; and

(B) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(b) **Additional debtor-related information.** A financing statement that provides the name of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

(1) a trade name or other name of the debtor; or

(2) unless required under subsection (a)(4)(B), names of partners, members, associates, or other persons comprising the debtor.

(c) **Debtor's trade name insufficient.** A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) **Representative capacity.** Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) **Multiple debtors and secured parties.** A financing statement may provide the name of more than one debtor and the name of more than one secured party.

§ 9-504. Indication of Collateral.

A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

- (1) a description of the collateral pursuant to Section 9-108; or
- (2) an indication that the financing statement covers all assets or all personal property.

§ 9-505. Filing and Compliance with Other Statutes and Treaties for Consignments, Leases, Other Bailments, and Other Transactions.

(a) **Use of terms other than "debtor" and "secured party."** A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in Section 9-311(a), using the terms "consignor", "consignee", "lessor", "lessee", "bailor", "bailee", "licensor", "licensee", "owner", "registered owner", "buyer", "seller", or words of similar import, instead of the terms "secured party" and "debtor".

(b) **Effect of financing statement under subsection (a).** This part applies to the filing of a financing statement under subsection (a) and, as appropriate, to compliance that is equivalent to filing a financing statement under Section 9-311(b), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

§ 9-506. Effect of Errors or Omissions.

(a) **Minor errors and omissions.** A financing statement substantially satisfying the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(b) **Financing statement seriously misleading.** Except in the case of individual debtors and as otherwise provided in subsection (c), a financing statement that fails sufficiently to provide the name of the debtor in accordance with Section 9-503(a) is seriously misleading.

(c) **Financing statement not seriously misleading.** If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with Section 9-503(a), the name provided does not make the financing statement seriously misleading.

(d) **"Debtor's correct name."** For purposes of Section 9-508(b), the "debtor's correct name" in subsection (c) means the correct name of the new debtor.

§ 9-507. Effect of Certain Events on Effectiveness of Financing Statement.

(a) **Disposition.** A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) **Information becoming seriously misleading.** Except as otherwise provided in subsection (c) and Section 9-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under Section 9-506.

(c) **Change in debtor's name.** If a debtor so changes its name that a filed financing statement becomes seriously misleading under Section 9-506:

- (1) the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the change; and
- (2) the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after the change

§ 9-508. Effectiveness of Financing Statement If New Debtor Becomes Bound by Security Agreement.

(a) **Financing statement naming original debtor.** Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(b) **Financing statement becoming seriously misleading.** If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (a) to be seriously misleading under Section 9-506:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under Section 9-203(d); and

(2) the financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four months after the new debtor becomes bound under Section 9-203(d) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(c) **When section not applicable.** This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under Section 9-507(a).

§ 9-509. Persons Entitled to File a Record.

(a) **Person entitled to file record.** A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) the debtor authorizes the filing in an authenticated record or pursuant to subsection (b) or (c); or

(2) the person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) **Security agreement as authorization.** By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) the collateral described in the security agreement; and

(2) property that becomes collateral under Section 9-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) **Acquisition of collateral as authorization.** By acquiring collateral in which a security interest or agricultural lien continues under Section 9-315(a)(1), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under Section 9-315(a)(2).

(d) **Person entitled to file certain amendments.** A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) the secured party of record authorizes the filing; or

(2) the amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by Section 9-513(a) or (c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) **Multiple secured parties of record.** If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d).

§ 9-510. Effectiveness of Filed Record.

(a) **Filed record effective if authorized.** A filed record is effective only to the extent that it was filed by a person that may file it under Section 9-509.

(b) **Authorization by one secured party of record.** A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(c) **Continuation statement not timely filed.** A continuation statement that is not filed within the six-month period prescribed by Section 9-515(d) is ineffective.

§ 9-511. Secured Party of Record.

(a) **Secured party of record.** A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under Section 9-514(a), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(b) **Amendment naming secured party of record.** If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under Section 9-514(b), the assignee named in the amendment is a secured party of record.

(c) **Amendment deleting secured party of record.** A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

§ 9-512. Amendment of Financing Statement.

(a) **Amendment of information in financing statement.** Subject to Section 9-509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (e), otherwise amend the information provided in, a financing statement by filing an amendment that:

(1) identifies, by its file number, the initial financing statement to which the amendment relates; and

(2) if the amendment relates to an initial financing statement filed in a filing office described in Section 9-501(a)(1), provides the information specified in Section 9-502(b).

(b) **Period of effectiveness not affected.** Except as otherwise provided in Section 9-515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(c) **Effectiveness of amendment adding collateral.** A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(d) **Effectiveness of amendment adding debtor.** A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(e) **Certain amendments ineffective.** An amendment is ineffective to the extent it:

(1) purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(2) purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

§ 9-513. Termination Statement.

(a) **Consumer goods.** A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) the debtor did not authorize the filing of the initial financing statement.

(b) **Time for compliance with subsection (a).** To comply with subsection (a), a secured party shall cause the secured party of record to file the termination statement:

(1) within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) if earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(c) **Other collateral.** In cases not governed by subsection (a), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(1) except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) the financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) the financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) the debtor did not authorize the filing of the initial financing statement.

(d) **Effect of filing termination statement.** Except as otherwise provided in Section 9-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in Section 9-510, for purposes of Sections 9-519(g), 9-522(a), and 9-523(c), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

§ 9-514. Assignment of Powers of Secured Party of Record.

(a) **Assignment reflected on initial financing statement.** Except as otherwise provided in subsection (c), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(b) **Assignment of filed financing statement.** Except as otherwise provided in subsection (c), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(1) identifies, by its file number, the initial financing statement to which it relates;

(2) provides the name of the assignor; and

(3) provides the name and mailing address of the assignee.

(c) **Assignment of record of mortgage.** An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under Section 9-502(c) may be made only by an assignment of record of the mortgage in the manner provided by law of this State other than the Uniform Commercial Code.

§ 9-515. Duration and Effectiveness of Financing Statement; Effect of Lapsed Financing Statement.

(a) **Five-year effectiveness.** Except as otherwise provided in subsections (b), (c), (f), and (g), a filed financing statement is effective for a period of five years after the date of filing

(b) **Public-finance or manufactured-home transaction.** Except as otherwise provided in subsections (c), (f), and (g), an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

(c) **Lapse and continuation of financing statement.** The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (d). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(d) **When continuation statement may be filed.** A continuation statement may be filed only within six months before the expiration of the five-year period specified in subsection (a) or the 30-year period specified in subsection (b), whichever is applicable.

(e) **Effect of filing continuation statement.** Except as otherwise provided in Section 9-510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as

provided in subsection (c), unless, before the lapse, another continuation statement is filed pursuant to subsection (d). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) **Transmitting utility financing statement.** If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(g) **Record of mortgage as financing statement.** A record of a mortgage that is effective as a financing statement filed as a fixture filing under Section 9-502(c) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

§ 9-516. What Constitutes Filing; Effectiveness of Filing.

(a) **What constitutes filing.** Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) **Refusal to accept record; filing does not occur.** Filing does not occur with respect to a record that a filing office refuses to accept because:

- (1) the record is not communicated by a method or medium of communication authorized by the filing office;
- (2) an amount equal to or greater than the applicable filing fee is not tendered;
- (3) the filing office is unable to index the record because:
 - (A) in the case of an initial financing statement, the record does not provide a name for the debtor;
 - (B) in the case of an amendment or correction statement, the record:
 - (i) does not identify the initial financing statement as required by Section 9-512 or 9-518, as applicable; or
 - (ii) identifies an initial financing statement whose effectiveness has lapsed under Section 9-515;
 - (C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or
 - (D) in the case of a record filed in the filing office described in Section 9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;
- (4) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- (5) in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
 - (A) provide a mailing address for the debtor; or
 - (B) indicate whether the debtor is an individual or an organization; or
 - (C) if the financing statement indicates that the debtor is an organization, provide:
 - (i) a type of organization for the debtor; or
 - (ii) a jurisdiction of organization for the debtor;
- (6) in the case of an assignment reflected in an initial financing statement under Section 9-514(a) or an amendment filed under Section 9-514(b), the record does not provide a name and mailing address for the assignee; or

(7) in the case of a continuation statement, the record is not filed within the six-month period prescribed by Section 9-515(d).

(c) **Rules applicable to subsection (b).** For purposes of subsection (b):

(1) a record does not provide information if the filing office is unable to read or decipher the information; and

(2) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by Section 9-512, 9-514, or 9-518, is an initial financing statement.

(d) **Refusal to accept record; record effective as filed record.** A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

§ 9-517. Effect of Indexing Errors.

The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

§ 9-518. Claim Concerning Inaccurate or Wrongfully Filed Record.

(a) **Correction statement.** A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) **Sufficiency of correction statement.** A correction statement must:

(1) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) indicate that it is a correction statement; and

(3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) **Record not affected by correction statement.** The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

SUBPART 2. DUTIES AND OPERATION OF FILING OFFICE

§ 9-519. Numbering, Maintaining, and Indexing Records; Communicating Information Provided in Records.

(a) **Filing office duties.** For each record filed in a filing office, the filing office shall:

(1) assign a unique number to the filed record;

(2) create a record that bears the number assigned to the filed record and the date and time of filing;

(3) maintain the filed record for public inspection; and

(4) index the filed record in accordance with subsections (c), (d), and (e).

(b) **File number.** A file number assigned after January 1, 2002 must include a digit that:

(1) is mathematically derived from or related to the other digits of the file number; and

(2) aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

(c) **Indexing; general.** Except as otherwise provided in subsections (d) and (e), the filing office

shall:

(1) index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(2) index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(d) **Indexing: real property-related financing statement.** If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index it:

(1) under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(2) to the extent that the law of this State provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(e) **Indexing: real property-related assignment.** If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under Section 9-514(a) or an amendment filed under Section 9-514(b):

(1) under the name of the assignor as grantor; and

(2) to the extent that the law of this State provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(f) **Retrieval and association capability.** The filing office shall maintain a capability:

(1) to retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(2) to associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(g) **Removal of debtor's name.** The filing office may not remove a debtor's name from the index until one year after the effectiveness of a financing statement naming the debtor lapses under Section 9-515 with respect to all secured parties of record.

(h) **Timeliness of filing office performance.** The filing office shall perform the acts required by subsections (a) through (e) at the time and in the manner prescribed by filing-office rule.

§ 9-520. Acceptance and Refusal to Accept Record.

(a) **Mandatory refusal to accept record.** A filing office shall refuse to accept a record for filing for a reason set forth in Section 9-516(b) and may not refuse to accept a record for filing for any other reason.

(b) **Communication concerning refusal.** If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule.

(c) **When filed financing statement effective.** A filed financing statement satisfying Section 9-502(a) and (b) is effective, even if the filing office is required to refuse to accept it for filing under subsection (a). However, Section 9-338 applies to a filed financing statement providing information described in Section 9-516(b)(5) which is incorrect at the time the financing statement is filed.

(d) **Separate application to multiple debtors.** If a record communicated to a filing office provides information that relates to more than one debtor, this part applies as to each debtor separately.

§ 9-521. Uniform Form of Written Financing Statement and Amendment.

(a) **Initial financing statement form.** A filing office that accepts written records may not refuse to accept a written initial financing statement in the following form and format except for a reason set forth in Section 9-516(b):



UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only org debtor name (1 to 10) - do not abbreviate or condense names

1a. ORGANIZATION'S NAME

OR 1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE PORTAL CODE COUNTRY

1d. TAX ID # SSN OR EIN 1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION 1g. ORGANIZATIONAL D/E, I or U ** NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only org debtor name (1 to 10) - do not abbreviate or condense names

2a. ORGANIZATION'S NAME

OR 2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE PORTAL CODE COUNTRY

2d. TAX ID # SSN OR EIN 2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION 2g. ORGANIZATIONAL D/E, I or U ** NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR SPT) - Insert only org secured party name (1 to 10)

3a. ORGANIZATION'S NAME

OR 3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE PORTAL CODE COUNTRY

4. This FINANCING STATEMENT covers the following collateral

5. ALTERNATIVE DISPOSITION (if applicable)	6. RELEASED	7. COMBINED/COMBINED	8. BULK/SALE OR	9. BULK/BUYER	10. LEND	11. NON-UC/FILED
12. THIS FINANCING STATEMENT IS TO BE USED FOR (insert in box below) (check to indicate if SEARCHED REPORTED AND COMPLETED)	13. DATE OF RECORD - (insert date)	14. DATE OF RECORD - (insert date)	15. DATE OF RECORD - (insert date)	16. DATE OF RECORD - (insert date)	17. DATE OF RECORD - (insert date)	18. DATE OF RECORD - (insert date)
19. OPTIONAL FILER REFERENCE DATA						

NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 07/2006)

*Optional
**Not required for filings in the State of Delaware

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

1a. ORGANIZATION'S NAME		
OR		
1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only gov name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME			
OR			
11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
11c. MAILING ADDRESS		CITY	STATE PORTAL CODE COUNTRY
11d. TAX ID #: SSN OR EIN		11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION
ADD'L INFO RE ORGANIZATION DEBTOR		11g. ORGANIZATIONAL ID #, if any	

12. ADDITIONAL SECURED PARTY'S or ASSIGNOR'S NAME - Insert only gov name (12a or 12b)

12a. ORGANIZATION'S NAME			
OR			
12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
12c. MAILING ADDRESS		CITY	STATE PORTAL CODE COUNTRY

13. The FINANCING STATEMENT covers ☐ entire to be out of ☐ as-extracted collateral, or is filed as a ☐ future filing.

14. Description of real estate:

15. Name and address of a RECORD OWNER of above-described real estate
(Debtor does not have a record interest):

17. Check only if applicable and check only one box. Debtor is a <input type="checkbox"/> Trust or <input type="checkbox"/> Trustee acting with respect to property held in trust or <input type="checkbox"/> Decedent's Estate	
18. Check only if applicable and check only one box. <input type="checkbox"/> Debtor is a TRANSMITTING UTILITY <input type="checkbox"/> Filed in connection with a Manufactured Home Transaction — effective 30 years <input type="checkbox"/> Filed in connection with a Public Finance Transaction — effective 30 years	

NATIONAL UCC FINANCING STATEMENT ADDENDUM (FORM UCC 1A2) (REV. 07/25/98)

*Optional

**Not required for filings in the State of Delaware

Chapter 401
Vol.72

(b) **Amendment form.** A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason set forth in Section 9-516(b):

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (read and check CAREFULLY)

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a INITIAL FINANCING STATEMENT FILE ?

1b. This FINANCING STATEMENT AMENDMENT is
☐ in the filed that record (or records) in the
☐ REAL ESTATE RECORDS.

1 **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

2 **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

3 **ASSIGNMENT (all or partly):** One name of assignor in Item 7a or 7b and address of assignor in Item 7c and also give names of assignee in Item 8.

4 **AMENDMENT PARTY INFORMATION:** This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes (SEE provide appropriate information to Item 6 under 7)

☐ **CHANGE name and/or address:** One current record name in Item 6a or 6b, also give new name if name changed in Item 7a or 7b and new address if address changed in Item 7c. ☐ **DELETE name:** One record name to be deleted in Item 6a or 6b. ☐ **ADD name:** Complete Item 7a or 7b, and also Item 6c (not changing Item 7a or 7b).

5 **CURRENT RECORD INFORMATION**

5a ORGANIZATION'S NAME

OR 5b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7 **CHANGED NAME OR ADDED INFORMATION**

7a ORGANIZATION'S NAME

OR 7b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d YES ☐ NO ☐ **EXEMPT** ADD INFO IN 7e TYPE OF ORGANIZATION 7f JURISDICTION OF ORGANIZATION 7g ORGANIZATIONAL ID #, if any ☐ NONE

8 **AMENDMENT (COLLATERAL CHANGE):** check only one box.

Describe collateral: ☐ as used or ☐ subject, or give entire ☐ modified collateral description, or describe collateral as ☐ assigned.

9 **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment; if this is an Amendment authorized by a Debtor who has authorized or added the authorizing Debtor, or if this is a Termination authorized by a Debtor, check name ☐ and enter name of CREDITOR authorizing this Amendment.

9a ORGANIZATION'S NAME

OR 9b INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10 **OPTIONAL FILER REFERENCE DATA**

*Optional
 NATIONAL UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 07/29/96)
 **Not required for filings in the State of Delaware

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW THESE INSTRUCTIONS CAREFULLY

11. RE-FILE FINANCING STATEMENT FILE # (Do not re-file to an incorrect file #)

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT (Do not sign if an authorized party)

(1b) ORGANIZATION NAME

OR

(1c) INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME, SUFFIX

13. Use this space for additional information

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

NATIONAL UCC FINANCING STATEMENT AMENDMENT ADDENDUM (FORM UCC944) (REV. 07/09/01)

§ 9-522. Maintenance and Destruction of Records.

(a) **Post-lapse maintenance and retrieval of information.** The filing office shall maintain a record of the information provided in a filed financing statement for at least one year after the effectiveness of the financing statement has lapsed under Section 9-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

(b) **Destruction of written records.** Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (a).

§ 9-523. Information from Filing Office; Sale or License of Records.

(a) **Acknowledgment of filing written record.** If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to Section 9-519(a)(1) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

(1) note upon the copy the number assigned to the record pursuant to Section 9-519(a)(1) and the date and time of the filing of the record; and

(2) send the copy to the person.

(b) **Acknowledgment of filing other record.** If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(1) the information in the record;

(2) the number assigned to the record pursuant to Section 9-519(a)(1); and

(3) the date and time of the filing of the record.

(c) **Communication of requested information.** The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

(1) whether there is on file on a date and time specified by the filing office, but not a date earlier than three business days before the filing office receives the request, any financing statement that:

(A) designates a particular debtor;

(B) has not lapsed under Section 9-515 with respect to all secured parties of record; and

(C) if the request so states, has lapsed under Section 9-515 and a record of which is maintained by the filing office under Section 9-522(a);

(2) the date and time of filing of each financing statement; and

(3) the information provided in each financing statement.

(d) **Medium for communicating information.** In complying with its duty under subsection (c), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a record that can be admitted into evidence in the courts of this State without extrinsic evidence of its authenticity.

(e) **Timeliness of filing office performance.** The filing office shall perform the acts required by subsections (a) through (d) at the time and in the manner prescribed by filing-office rule.

(f) **Public availability of records.** At least weekly, the office of the Secretary of State may offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part, in every medium from time to time available to the filing office.

§ 9-524. Delay by Filing Office.

Delay by the filing office beyond a time limit prescribed by this part is excused if:

(1) the delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) the filing office exercises reasonable diligence under the circumstances.

§ 9-525. Fees.

(a) **Initial financing statement or other record: general rule.** Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in subsection (b), is the amount specified in subsection (c), if applicable, plus:

- (1) \$ 25 if the record is communicated in writing and consists of one or two pages;
 - (2) \$ 50 if the record is communicated in writing and consists of more than two pages;
- and
- (3) \$ 25 if the record is communicated by another medium authorized by filing-office rule.

(b) **Initial financing statement: public-finance or manufactured-home transaction.** Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the following kind is the amount specified in subsection (a) (and, if applicable, subsection (c)), plus \$ 20 if the financing statement indicates that it is filed in connection with a public-finance transaction or a manufactured-home transaction.

(c) **Number of names.** Except as otherwise provided in subsection (e), if a record is communicated in writing, the fee for each name more than two required to be indexed is \$ 25.

(d) **Response to information request and expediting services.** The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:

- (1) The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:
 - (A) \$ 25 if the request is communicated in writing; and
 - (B) \$ 25 if the request is communicated by another medium authorized by filing-office rule.
- (2) Upon request the filing office shall provide a copy of any record for a uniform fee of \$2 per page; provided, however, that the minimum fee for furnishing any copy under this subsection shall be \$5.
- (3) For each service described in this subsection or in Section 9-523(a) that is requested to be completed: (i) within a twenty-four hour period from the time of the request, the Secretary of State shall charge the additional sum of up to \$25; (ii) within the same day as the day of the request, the Secretary of State shall charge the additional sum of up to \$50; and (iii) within a two-hour period from the time of the request, the Secretary of State shall charge the additional sum of up to \$75.

(e) **Record of mortgage.** This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under Section 9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

§ 9-526. Filing-Office Rules.

(a) **Adoption of filing-office rules.** The Secretary of State shall adopt and publish rules to implement this Article. The filing-office rules must be:

- (1) consistent with this Article; and
- (2) adopted and published in accordance with Chapter 101 of Title 29 (the Delaware Administrative Procedures Act).

(b) **Harmonization of rules.** To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to

Chapter 401
Vol.72

keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the office of the Secretary of State, so far as is consistent with the purposes, policies, and provisions of this Article, in adopting, amending, and repealing filing-office rules, shall:

- (1) consult with filing offices in other jurisdictions that enact substantially this part; and
- (2) consult the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators or any successor organization; and
- (3) take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.

PART 6

DEFAULT

SUBPART 1. DEFAULT AND ENFORCEMENT OF SECURITY INTEREST

§ 9-601. Rights after Default; Judicial Enforcement; Consignor or Buyer of Accounts, Chattel Paper, Payment Intangibles, or Promissory Notes.

(a) **Rights of secured party after default.** After default, a secured party has the rights provided in this part and, except as otherwise provided in Section 9-602, those provided by agreement of the parties. A secured party:

- (1) may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and
- (2) if the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) **Rights and duties of secured party in possession or control.** A secured party in possession of collateral or control of collateral under Section 9-104, 9-105, 9-106, or 9-107 has the rights and duties provided in Section 9-207.

(c) **Rights cumulative; simultaneous exercise.** The rights under subsections (a) and (b) are cumulative and may be exercised simultaneously.

(d) **Rights of debtor and obligor.** Except as otherwise provided in subsection (g) and Section 9-605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) **Lien of levy after judgment.** If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

- (1) the date of perfection of the security interest or agricultural lien in the collateral;
- (2) the date of filing a financing statement covering the collateral; or
- (3) any date specified in a statute under which the agricultural lien was created.

(f) **Execution sale.** A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.

(g) **Consignor or buyer of certain rights to payment.** Except as otherwise provided in Section 9-607(c), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

§ 9-602. Waiver and Variance of Rights and Duties.

Except as otherwise provided in Section 9-624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

- (1) Section 9-207(b)(4)(C), which deals with use and operation of the collateral by the secured party;

- (2) Section 9-210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;
- (3) Section 9-607(c), which deals with collection and enforcement of collateral;
- (4) Sections 9-608(a) and 9-615(c) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;
- (5) Sections 9-608(a) and 9-615(d) to the extent that they require accounting for or payment of surplus proceeds of collateral;
- (6) Section 9-609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;
- (7) Sections 9-610(b), 9-611, 9-613, and 9-614, which deal with disposition of collateral;
- (8) Section 9-615(f), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;
- (9) Section 9-616, which deals with explanation of the calculation of a surplus or deficiency;
- (10) Sections 9-620, 9-621, and 9-622, which deal with acceptance of collateral in satisfaction of obligation;
- (11) Section 9-623, which deals with redemption of collateral;
- (12) Section 9-624, which deals with permissible waivers; and
- (13) Sections 9-625 and 9-626, which deal with the secured party's liability for failure to comply with this Article.

§ 9-603. Agreement on Standards Concerning Rights and Duties.

(a) **Agreed standards.** The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in Section 9-602 if the standards are not manifestly unreasonable.

(b) **Agreed standards inapplicable to breach of peace.** Subsection (a) does not apply to the duty under Section 9-609 to refrain from breaching the peace.

§ 9-604. Procedure If Security Agreement Covers Real Property or Fixtures.

(a) **Enforcement: personal and real property.** If a security agreement covers both personal and real property, a secured party may proceed:

- (1) under this part as to the personal property without prejudicing any rights with respect to the real property; or
- (2) as to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part do not apply.

(b) **Enforcement: fixtures.** Subject to subsection (c), if a security agreement covers goods that are or become fixtures, a secured party may proceed:

- (1) under this part; or
- (2) in accordance with the rights with respect to real property, in which case the other provisions of this part do not apply.

(c) **Removal of fixtures.** Subject to the other provisions of this part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property.

(d) **Injury caused by removal.** A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A

person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

§ 9-605. Unknown Debtor or Secondary Obligor.

A secured party does not owe a duty based on its status as secured party:

- (1) to a person that is a debtor or obligor, unless the secured party knows:
 - (A) that the person is a debtor or obligor;
 - (B) the identity of the person; and
 - (C) how to communicate with the person; or
- (2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:
 - (A) that the person is a debtor; and
 - (B) the identity of the person.

§ 9-606. Time of Default for Agricultural Lien.

For purposes of this part, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

§ 9-607. Collection and Enforcement by Secured Party.

(a) **Collection and enforcement generally.** If so agreed, and in any event after default, a secured party:

- (1) may notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;
- (2) may take any proceeds to which the secured party is entitled under Section 9-315;
- (3) may enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;
- (4) if it holds a security interest in a deposit account perfected by control under Section 9-104(a)(1), may apply the balance of the deposit account to the obligation secured by the deposit account; and
- (5) if it holds a security interest in a deposit account perfected by control under Section 9-104(a)(2) or (3), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(b) **Nonjudicial enforcement of mortgage.** If necessary to enable a secured party to exercise under subsection (a)(3) the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

- (1) a copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and
- (2) the secured party's sworn affidavit in recordable form stating that:
 - (A) a default has occurred; and
 - (B) the secured party is entitled to enforce the mortgage nonjudicially.

(c) **Commercially reasonable collection and enforcement.** A secured party shall proceed in a commercially reasonable inanner if the secured party:

- (1) undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(2) is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) **Expenses of collection and enforcement.** A secured party may deduct from the collections made pursuant to subsection (c) reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(e) **Duties to secured party not affected.** This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

§ 9-608. Application of Proceeds of Collection or Enforcement; Liability for Deficiency and Right to Surplus.

(a) **Application of proceeds, surplus, and deficiency if obligation secured.** If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under Section 9-607, reduced by the amounts deducted pursuant to Section 9-607(d), in the following order to:

(A) the reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(B) the satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(C) the satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (1)(C).

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under Section 9-607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) **No surplus or deficiency in sales of certain rights to payment.** If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

§ 9-609. Secured Party's Right to Take Possession after Default.

(a) **Possession; rendering equipment unusable; disposition on debtor's premises.** After default, a secured party:

(1) may take possession of the collateral; and

(2) without removal, may render equipment unusable and dispose of collateral on a debtor's premises under Section 9-610.

(b) **Judicial and nonjudicial process.** A secured party may proceed under subsection (a):

(1) pursuant to judicial process; or

(2) without judicial process, if it proceeds without breach of the peace.

(c) **Assembly of collateral.** If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

§ 9-610. **Disposition of Collateral after Default.**

(a) **Disposition after default.** After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(b) **Commercially reasonable disposition.** Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(c) **Purchase by secured party.** A secured party may purchase collateral:

(1) at a public disposition; or

(2) at a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(d) **Warranties on disposition.** A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(e) **Disclaimer of warranties.** A secured party may disclaim or modify warranties under subsection (d):

(1) in a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(2) by communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(f) **Record sufficient to disclaim warranties.** A record is sufficient to disclaim warranties under subsection (e) if it indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

§ 9-611. **Notification before Disposition of Collateral.**

(a) **"Notification date."** In this section, "notification date" means the earlier of the date on which:

(1) a secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(2) the debtor and any secondary obligor waive the right to notification.

(b) **Notification of disposition required.** Except as otherwise provided in subsection (d), a secured party that disposes of collateral under Section 9-610 shall send to the persons specified in subsection (c) a reasonable authenticated notification of disposition.

(c) **Persons to be notified.** To comply with subsection (b), the secured party shall send an authenticated notification of disposition to:

(1) the debtor;

(2) any secondary obligor; and

(3) if the collateral is other than consumer goods:

(A) any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

(B) any other secured party or lienholder that, 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(i) identified the collateral;

(ii) was indexed under the debtor's name as of that date; and

(iii) was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) any other secured party that, 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in Section 9-311(a).

(d) Subsection (b) inapplicable: perishable collateral; recognized market. Subsection (b) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) Compliance with subsection (c)(3)(B). A secured party complies with the requirement for notification prescribed by subsection (c)(3)(B) if:

(1) not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (c)(3)(B); and

(2) before the notification date, the secured party:

(A) did not receive a response to the request for information; or

(B) received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

§ 9-612. Timeliness of Notification before Disposition of Collateral.

(a) Reasonable time is question of fact. Except as otherwise provided in subsection (b), whether a notification is sent within a reasonable time is a question of fact.

(b) 10-day period sufficient in non-consumer transaction. In a transaction other than a consumer transaction, a notification of disposition sent after default and 10 days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

§ 9-613. Contents and Form of Notification before Disposition of Collateral: General.

Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) describes the debtor and the secured party;

(B) describes the collateral that is the subject of the intended disposition;

(C) states the method of intended disposition;

(D) states that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(E) states the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in paragraph (1) are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in paragraph (1) are sufficient, even if the notification includes:

(A) information not specified by that paragraph; or

(B) minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in Section 9-614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: [Name of debtor, obligor, or other person to which the notification is sent]

From: [Name, address, and telephone number of secured party]

Chapter 401

Vol. 72

Name of Debtor(s): [Include only if debtor(s) are not an addressee]

[For a public disposition:]

We will sell [or lease or license, as applicable] the [describe collateral] [to the highest qualified bidder] in public as follows:

Day and Date: _____

Time: _____

Place: _____

[For a private disposition:]

We will sell [or lease or license, as applicable] the [describe collateral] privately sometime after [day and date].

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell [or lease or license, as applicable] [for a charge of \$ ____]. You may request an accounting by calling us at [telephone number].

[End of Form]

§ 9-614. Contents and Form of Notification before Disposition of Collateral: Consumer-Goods Transaction.

In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) the information specified in Section 9-613(1);

(B) a description of any liability for a deficiency of the person to which the notification is sent;

(C) a telephone number from which the amount that must be paid to the secured party to redeem the collateral under Section 9-623 is available; and

(D) a telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

[Name and address of secured party]

[Date]

NOTICE OF OUR PLAN TO SELL PROPERTY

[Name and address of any obligor who is also a debtor]

Subject: [Identification of Transaction]

We have your [describe collateral], because you broke promises in our agreement.

[For a public disposition:]

We will sell [describe collateral] at public sale. A sale could include a lease or license. The sale will be held as follows:

Date: _____

Time: _____

Place: _____

You may attend the sale and bring bidders if you want.

[For a private disposition:]

We will sell *[describe collateral]* at private sale sometime after *[date]*. A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you *[will or will not, as applicable]* still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at *[telephone number]*.

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at *[telephone number]* [or write us at *[secured party's address]*] and request a written explanation. [We will charge you \$ _____ for the explanation if we sent you another written explanation of the amount you owe us within the last six months.]

If you need more information about the sale call us at *[telephone number]* [or write us at *[secured party's address]*].

We are sending this notice to the following other people who have an interest in *[describe collateral]* or who owe money under your agreement:

[Names of all other debtors and obligors, if any]

[End of Form]

(4) A notification in the form of paragraph (3) is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of paragraph (3) is sufficient, even if it includes errors in information not required by paragraph (1), unless the error is misleading with respect to rights arising under this Article.

(6) If a notification under this section is not in the form of paragraph (3), law other than this Article determines the effect of including information not required by paragraph (1).

§ 9-615. Application of Proceeds of Disposition; Liability for Deficiency and Right to Surplus.

(a) **Application of proceeds.** A secured party shall apply or pay over for application the cash proceeds of disposition under Section 9-610 in the following order to:

(1) the reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(2) the satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) the satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(A) the secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

(B) in a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) a secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) **Proof of subordinate interest.** If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (a)(3).

(c) **Application of noncash proceeds.** A secured party need not apply or pay over for application noncash proceeds of disposition under Section 9-610 unless the failure to do so would be commercially

Chapter 401
Vol.72

unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) **Surplus or deficiency if obligation secured.** If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) and permitted by subsection (c):

- (1) unless subsection (a)(4) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and
- (2) the obligor is liable for any deficiency.

(e) **No surplus or deficiency in sales of certain rights to payment.** If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

- (1) the debtor is not entitled to any surplus; and
- (2) the obligor is not liable for any deficiency.

(f) **Calculation of surplus or deficiency in disposition to person related to secured party.** The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

- (1) the transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and
- (2) the amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(g) **Cash proceeds received by junior secured party.** A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

- (1) takes the cash proceeds free of the security interest or other lien;
- (2) is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and
- (3) is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

§ 9-616. **Explanation of Calculation of Surplus or Deficiency.**

(a) **Definitions.** In this section:

- (1) "Explanation" means a writing that:
 - (A) states the amount of the surplus or deficiency;
 - (B) provides an explanation in accordance with subsection (c) of how the secured party calculated the surplus or deficiency;
 - (C) states, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and
 - (D) provides a telephone number or mailing address from which additional information concerning the transaction is available.
- (2) "Request" means a record:
 - (A) authenticated by a debtor or consumer obligor;
 - (B) requesting that the recipient provide an explanation; and
 - (C) sent after disposition of the collateral under Section 9-610.

(b) **Explanation of calculation.** In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under Section 9-615, the secured party shall:

(1) send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

(A) before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

(B) within 14 days after receipt of a request; or

(2) in the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) **Required information.** To comply with subsection (a)(1)(B), a writing must provide the following information in the following order:

(1) the aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(A) if the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession; or

(B) if the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition;

(2) the amount of proceeds of the disposition;

(3) the aggregate amount of the obligations after deducting the amount of proceeds;

(4) the amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(5) the amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (1); and

(6) the amount of the surplus or deficiency.

(d) **Substantial compliance.** A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (a) is sufficient, even if it includes minor errors that are not seriously misleading.

(e) **Charges for responses.** A debtor or consumer obligor is entitled without charge to one response to a request under this section during any six-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (b)(1). The secured party may require payment of a charge not exceeding \$25 for each additional response.

§ 9-617. Rights of Transferee of Collateral.

(a) **Effects of disposition.** A secured party's disposition of collateral after default:

(1) transfers to a transferee for value all of the debtor's rights in the collateral;

(2) discharges the security interest under which the disposition is made; and

(3) discharges any subordinate security interest or other subordinate lien.

(b) **Rights of good-faith transferee.** A transferee that acts in good faith takes free of the rights and interests described in subsection (a), even if the secured party fails to comply with this Article or the requirements of any judicial proceeding.

(c) **Rights of other transferee.** If a transferee does not take free of the rights and interests described in subsection (a), the transferee takes the collateral subject to:

- (1) the debtor's rights in the collateral;
- (2) the security interest or agricultural lien under which the disposition is made; and
- (3) any other security interest or other lien.

§ 9-618. Rights and Duties of Certain Secondary Obligor.

(a) **Rights and duties of secondary obligor.** A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

- (1) receives an assignment of a secured obligation from the secured party;
- (2) receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or
- (3) is subrogated to the rights of a secured party with respect to collateral.

(b) **Effect of assignment, transfer, or subrogation.** An assignment, transfer, or subrogation described in subsection (a):

- (1) is not a disposition of collateral under Section 9-610; and
- (2) relieves the secured party of further duties under this Article.

§ 9-619. Transfer of Record or Legal Title.

(a) **"Transfer statement."** In this section, "transfer statement" means a record authenticated by a secured party stating:

- (1) that the debtor has defaulted in connection with an obligation secured by specified collateral;
- (2) that the secured party has exercised its post-default remedies with respect to the collateral;
- (3) that, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and
- (4) the name and mailing address of the secured party, debtor, and transferee.

(b) **Effect of transfer statement.** A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

- (1) accept the transfer statement;
- (2) promptly amend its records to reflect the transfer; and
- (3) if applicable, issue a new appropriate certificate of title in the name of the transferee.

(c) **Transfer not a disposition; no relief of secured party's duties.** A transfer of the record or legal title to collateral to a secured party under subsection (b) or otherwise is not of itself a disposition of collateral under this Article and does not of itself relieve the secured party of its duties under this Article.

§ 9-620. Acceptance of Collateral in Full or Partial Satisfaction of Obligation; Compulsory Disposition of Collateral.

(a) **Conditions to acceptance in satisfaction.** Except as otherwise provided in subsection (g), a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

- (1) the debtor consents to the acceptance under subsection (c);
- (2) the secured party does not receive, within the time set forth in subsection (d), a notification of objection to the proposal authenticated by:

- (A) a person to which the secured party was required to send a proposal under Section 9-621; or

(B) any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(3) if the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(4) subsection (e) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to Section 9-624.

(b) **Purported acceptance ineffective.** A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) the secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(2) the conditions of subsection (a) are met.

(c) **Debtor's consent.** For purposes of this section:

(1) a debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(2) a debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(A) sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(B) in the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) does not receive a notification of objection authenticated by the debtor within 20 days after the proposal is sent.

(d) **Effectiveness of notification.** To be effective under subsection (a)(2), a notification of objection must be received by the secured party:

(1) in the case of a person to which the proposal was sent pursuant to Section 9-621, within 20 days after notification was sent to that person; and

(2) in other cases:

(A) within 20 days after the last notification was sent pursuant to Section 9-621; or

(B) if a notification was not sent, before the debtor consents to the acceptance under subsection (c).

(e) **Mandatory disposition of consumer goods.** A secured party that has taken possession of collateral shall dispose of the collateral pursuant to Section 9-610 within the time specified in subsection (f) if:

(1) 60 percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) 60 percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(f) **Compliance with mandatory disposition requirement.** To comply with subsection (e), the secured party shall dispose of the collateral:

(1) within 90 days after taking possession; or

(2) within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(g) **No partial satisfaction in consumer transaction.** In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

§ 9-621. **Notification of Proposal to Accept Collateral.**

(a) **Persons to which proposal to be sent.** A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(2) any other secured party or lienholder that, 10 days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(A) identified the collateral;

(B) was indexed under the debtor's name as of that date; and

(C) was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) any other secured party that, 10 days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in Section 9-311(a).

(b) **Proposal to be sent to secondary obligor in partial satisfaction.** A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (a).

§ 9-622. Effect of Acceptance of Collateral.

(a) **Effect of acceptance.** A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(1) discharges the obligation to the extent consented to by the debtor;

(2) transfers to the secured party all of a debtor's rights in the collateral;

(3) discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(4) terminates any other subordinate interest.

(b) **Discharge of subordinate interest notwithstanding noncompliance.** A subordinate interest is discharged or terminated under subsection (a), even if the secured party fails to comply with this Article.

§ 9-623. Right to Redeem Collateral.

(a) **Persons that may redeem.** A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(b) **Requirements for redemption.** To redeem collateral, a person shall tender:

(1) fulfillment of all obligations secured by the collateral; and

(2) the reasonable expenses and attorney's fees described in Section 9-615(a)(1).

(c) **When redemption may occur.** A redemption may occur at any time before a secured party:

(1) has collected collateral under Section 9-607;

(2) has disposed of collateral or entered into a contract for its disposition under Section 9-610; or

(3) has accepted collateral in full or partial satisfaction of the obligation it secures under Section 9-622.

§ 9-624. Waiver.

(a) **Waiver of disposition notification.** A debtor or secondary obligor may waive the right to notification of disposition of collateral under Section 9-611 only by an agreement to that effect entered into and authenticated after default.

(b) **Waiver of mandatory disposition.** A debtor may waive the right to require disposition of collateral under Section 9-620(e) only by an agreement to that effect entered into and authenticated after default.

(c) **Waiver of redemption right.** Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under Section 9-623 only by an agreement to that effect entered into and authenticated after default.

SUBPART 2. NONCOMPLIANCE WITH ARTICLE

§ 9-625. Remedies for Secured Party's Failure to Comply with Article.

(a) **Judicial orders concerning noncompliance.** If it is established that a secured party is not proceeding in accordance with this Article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) **Damages for noncompliance.** Subject to subsections (c), (d), and (f), a person is liable for damages in the amount of any loss caused by a failure to comply with this Article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) **Persons entitled to recover damages; statutory damages in consumer-goods transaction.** Except as otherwise provided in Section 9-628:

(1) a person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) for its loss; and

(2) if the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus 10 percent of the principal amount of the obligation or the time-price differential plus 10 percent of the cash price.

(d) **Recovery when deficiency eliminated or reduced.** A debtor whose deficiency is eliminated under Section 9-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under Section 9-626 may not otherwise recover under subsection (b) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(e) **Statutory damages: noncompliance with specified provisions.** In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover \$500 in each case from a person that:

(1) fails to comply with Section 9-208;

(2) fails to comply with Section 9-209;

(3) files a record that the person is not entitled to file under Section 9-509(a);

(4) fails to cause the secured party of record to file or send a termination statement as required by Section 9-513(a) or (c);

(5) fails to comply with Section 9-616(b)(1) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(6) fails to comply with Section 9-616(b)(2).

(f) **Statutory damages: noncompliance with Section 9-210.** A debtor or consumer obligor may recover damages under subsection (b) and, in addition, \$500 in each case from a person that, without reasonable cause, fails to comply with a request under Section 9-210. A recipient of a request under Section 9-210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) **Limitation of security interest: noncompliance with Section 9-210.** If a secured party fails to comply with a request regarding a list of collateral or a statement of account under Section 9-210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

§ 9-626. Action in Which Deficiency or Surplus Is in Issue.

(a) **Applicable rules if amount of deficiency or surplus in issue.** In an action arising from a transaction, other than a consumer transaction, in which the amount of a deficiency or surplus is in issue, the following rules apply:

(1) A secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

(3) Except as otherwise provided in Section 9-628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

(A) the proceeds of the collection, enforcement, disposition, or acceptance; or

(B) the amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of paragraph (3)(B), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under Section 9-615(f), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(b) **Non-consumer transactions; no inference.** The limitation of the rules in subsection (a) to transactions other than consumer transactions is intended to leave to the court the determination of the proper rules in consumer transactions. The court may not infer from that limitation the nature of the proper rule in consumer transactions and may continue to apply established approaches.

§ 9-627. Determination of Whether Conduct Was Commercially Reasonable.

(a) **Greater amount obtainable under other circumstances; no preclusion of commercial reasonableness.** The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(b) **Dispositions that are commercially reasonable.** A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(1) in the usual manner on any recognized market;

(2) at the price current in any recognized market at the time of the disposition; or

(3) otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(c) **Approval by court or on behalf of creditors.** A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(1) in a judicial proceeding;

(2) by a bona fide creditors' committee;

(3) by a representative of creditors; or

(4) by an assignee for the benefit of creditors.

(d) **Approval under subsection (c) not necessary; absence of approval has no effect.** Approval under subsection (c) need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

§ 9-628. Nonliability and Limitation on Liability of Secured Party; Liability of Secondary Obligor.

(a) **Limitation of liability of secured party for noncompliance with Article.** Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

- (1) the secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this Article; and
- (2) the secured party's failure to comply with this Article does not affect the liability of the person for a deficiency.

(b) **Limitation of liability based on status as a secured party.** A secured party is not liable because of its status as secured party:

- (1) to a person that is a debtor or obligor, unless the secured party knows:
 - (A) that the person is a debtor or obligor;
 - (B) the identity of the person; and
 - (C) how to communicate with the person; or
- (2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:
 - (A) that the person is a debtor; and
 - (B) the identity of the person.

(c) **Limitation of liability if reasonable belief that transaction not a consumer-goods transaction or consumer transaction.** A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

- (1) a debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or
- (2) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) **Limitation of liability for statutory damages.** A secured party is not liable to any person under Section 9-625(c)(2) for its failure to comply with Section 9-616.

(e) **Limitation of multiple liability for statutory damages.** A secured party is not liable under Section 9-625(c)(2) more than once with respect to any one secured obligation.

PART 7

TRANSITION

§ 9-701. Effective Date.

This Act takes effect on July 1, 2001. References in this part to "this Act" refer to the legislative enactment by which this part is added to Article 9 of the Uniform Commercial Code. References in this part to "former Article 9" are to Article 9 of the Uniform Commercial Code as in effect immediately before this Act takes effect.

§ 9-702. Savings Clause.

(a) **Pre-effective-date transactions or liens.** Except as otherwise provided in this part, this Act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this Act takes effect.

(b) **Continuing validity.** Except as otherwise provided in subsection (c) and Sections 9-703 through 9-709:

- (1) transactions and liens that were not governed by former Article 9 of the Uniform Commercial Code, were validly entered into or created before this Act takes effect, and would be subject to this Act if they had been entered into or created after this Act takes effect, and the rights.

duties, and interests flowing from those transactions and liens remain valid after this Act takes effect; and

(2) the transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by this Act or by the law that otherwise would apply if this Act had not taken effect.

(c) **Pre-effective-date proceedings.** This Act does not affect an action, case, or proceeding commenced before this Act takes effect.

§ 9-703. Security Interest Perfected before Effective Date.

(a) **Continuing priority over lien creditor: perfection requirements satisfied.** A security interest that is enforceable immediately before this Act takes effect and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under this Act if, when this Act takes effect, the applicable requirements for enforceability and perfection under this Act are satisfied without further action.

(b) **Continuing priority over lien creditor: perfection requirements not satisfied.** Except as otherwise provided in Section 9-705, if, immediately before this Act takes effect, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this Act are not satisfied when this Act takes effect, the security interest:

- (1) is a perfected security interest for one year after this Act takes effect;
- (2) remains enforceable thereafter only if the security interest becomes enforceable under Section 9-203 before the year expires; and
- (3) remains perfected thereafter only if the applicable requirements for perfection under this Act are satisfied before the year expires.

(c) **Special transition provision regarding trusts and trustees.** If, immediately before this Act takes effect, a security interest against a debtor that is a trust or trustee is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but, pursuant to Section 9-503(a)(3) (dealing with the sufficiency of the name of the debtor in the case of trusts and trustees), the financing statement filed in this State prior to the date this Act takes effect naming the trust or trustee as the debtor would be ineffective under this Act solely because it does not sufficiently provide the name of the debtor, the financing statement remains effective to the same extent as under former Article 9 of the Uniform Commercial Code (and shall remain effective by filing continuation statements naming the debtor as in the financing statement to be continued) if (i) the trust is a trust created under the provisions of Chapter 38 of Title 12 (the Delaware Business Trust Act), (ii) the trust is a common law business trust, or (iii) a trustee of the trust is a corporation authorized under the laws of this State to exercise corporate trust powers.

§ 9-704. Security Interest Unperfected before Effective Date.

A security interest that is enforceable immediately before this Act takes effect but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

- (1) remains an enforceable security interest for one year after this Act takes effect;
- (2) remains enforceable thereafter if the security interest becomes enforceable under Section 9-203 when this Act takes effect or within one year thereafter; and
- (3) becomes perfected:
 - (A) without further action, when this Act takes effect if the applicable requirements for perfection under this Act are satisfied before or at that time; or
 - (B) when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

§ 9-705. Effectiveness of Action Taken before Effective Date.

(a) **Pre-effective-date action; one-year perfection period unless reperfed.** If action, other than the filing of a financing statement, is taken before this Act takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before this Act takes effect, the action is effective to perfect a security interest that attaches under this

Act within one year after this Act takes effect. An attached security interest becomes unperfected one year after this Act takes effect unless the security interest becomes a perfected security interest under this Act before the expiration of that period.

(b) **Pre-effective-date filing.** The filing of a financing statement before this Act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this Act.

(c) **Pre-effective-date filing in jurisdiction formerly governing perfection.** This Act does not render ineffective an effective financing statement that, before this Act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former Section 9-103. However, except as otherwise provided in subsections (d) and (e) and Section 9-706, the financing statement ceases to be effective at the earlier of:

(1) the time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(2) June 30, 2006.

(d) **Continuation statement.** The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in Part 3, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.

(e) **Application of subsection (c)(2) to transmitting utility financing statement.** Subsection (c)(2) applies to a financing statement that, before this Act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former Section 9-103 of the Uniform Commercial Code only to the extent that Part 3 provides that the law of a jurisdiction other than jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) **Application of Part 5.** A financing statement that includes a financing statement filed before this Act takes effect and a continuation statement filed after this Act takes effect is effective only to the extent that it satisfies the requirements of Part 5 for an initial financing statement, except as provided in Section 9-703(c).

§ 9-706. When Initial Financing Statement Suffices to Continue Effectiveness of Financing Statement.

(a) **Initial financing statement in lieu of continuation statement.** The filing of an initial financing statement in the office specified in Section 9-501 continues the effectiveness of a financing statement filed before this Act takes effect if:

(1) the filing of an initial financing statement in that office would be effective to perfect a security interest under this Act;

(2) the pre-effective-date financing statement was filed in an office in another State or another office in this State; and

(3) the initial financing statement satisfies subsection (c).

(b) **Period of continued effectiveness.** The filing of an initial financing statement under subsection (a) continues the effectiveness of the pre-effective-date financing statement:

(1) if the initial financing statement is filed before this Act takes effect, for the period provided in former Section 9-403 with respect to a financing statement; and

(2) if the initial financing statement is filed after this Act takes effect, for the period provided in Section 9-515 with respect to an initial financing statement.

(c) **Requirements for initial financing statement under subsection (a).** To be effective for purposes of subsection (a), an initial financing statement must:

(1) satisfy the requirements of Part 5 for an initial financing statement;

(2) identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the

financing statement and of the most recent continuation statement filed with respect to the financing statement; and

- (3) indicate that the pre-effective-date financing statement remains effective.

§ 9-707. Amendment of Pre-Effective-Date Financing Statement.

(a) **Pre-effective-date financing statement.** In this section, "pre-effective-date financing statement" means a financing statement filed before this Act takes effect.

(b) **Applicable law.** After this Act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Part 3. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) **Method of amending: general rule.** Except as otherwise provided in subsection (d), if the law of this State governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after this Act takes effect only if:

- (1) the pre-effective-date financing statement and an amendment are filed in the office specified in Section 9-501;
- (2) an amendment is filed in the office specified in Section 9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies Section 9-706(c); or
- (3) an initial financing statement that provides the information as amended and satisfies Section 9-706(c) is filed in the office specified in Section 9-501.

(d) **Method of amending: continuation.** If the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under Section 9-705(d) and (f) or 9-706.

(e) **Method of amending: additional termination rule.** Whether or not the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this State may be terminated after this Act takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies Section 9-706(c) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Part 3 as the office in which to file a financing statement.

§ 9-708. Persons Entitled to File Initial Financing Statement or Continuation Statement.

A person may file an initial financing statement or a continuation statement under this part if:

- (1) the secured party of record authorizes the filing; and
- (2) the filing is necessary under this part:
 - (A) to continue the effectiveness of a financing statement filed before this Act takes effect; or
 - (B) to perfect or continue the perfection of a security interest.

§ 9-709. Priority.

(a) **Law governing priority.** This Act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this Act takes effect, former Article 9 of the Uniform Commercial Code determines priority.

(b) **Priority if security interest becomes enforceable under Section 9-203.** For purposes of Section 9-322(a), the priority of a security interest that becomes enforceable under Section 9-203 of this Act dates from the time this Act takes effect if the security interest is perfected under this Act by the filing of a financing statement before this Act takes effect which would not have been effective to perfect the security interest under former Article 9 of the Uniform Commercial Code. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement."

Section 2. Amend Section 1-105, Subtitle I, Title 6 of the Delaware Code by striking "Policy and scope of the Article on Secured Transactions. Sections 9-102 and 9-103.", and substituting in lieu thereof "Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests. Sections 9-301 through 9-307."

Section 3. Amend Subsection (9), Section 1-201, Subtitle I, Title 6 of the Delaware Code by striking said Subsection in its entirety, and substituting in lieu thereof the following:

"(9) 'Buyer in ordinary course of business' means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a pre-existing contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business."

Section 4. Amend Subsection (32), Section 1-201, Subtitle I, Title 6 of the Delaware Code by inserting "security interest," after "lien," and before "issue or reissue,".

Section 5. Amend Subsection (37), Section 1-201, Subtitle I, Title 6 of the Delaware Code by striking said Subsection in its entirety, and substituting in lieu thereof the following:

"(37) 'Security interest' means an interest in personal property or fixtures which secures payment or performance of an obligation. The term also includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9. The special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 2-401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with Article 9. Except as otherwise provided in Section 2-505, the right of a seller or lessor of goods under Article 2 or 2A to retain or acquire possession of the goods is not a "security interest", but a seller or lessor may acquire a "security interest" by complying with Article 9. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2-401) is limited in effect to a reservation of a "security interest"."

Section 6. Amend Subsection (3), Section 2-103, Subtitle I, Title 6 of the Delaware Code by striking "9-109", and substituting in lieu thereof "9-102", and by striking "3-507", and substituting in lieu thereof "3-502".

Section 7. Amend Section 2-210, Subtitle I, Title 6 of the Delaware Code by striking "Unless" at the beginning of said subsection and substituting in lieu thereof "Except as otherwise provided in Section 9-406, unless", by renumbering Subsections (3), (4) and (5) thereof as Subsections (4), (5) and (6), respectively, and adding thereto a new Subsection (3) as follows:

"(3) The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but (i) the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer, and (ii) a court having jurisdiction may

Chapter 401
Vol. 72

grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement."

Section 8. Amend Section 2-326, Subtitle I, Title 6 of the Delaware Code by striking said Section in its entirety, and substituting in lieu thereof the following:

"§ 2-326. Sale on Approval and Sale or Return; Rights of Creditors.

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is

(a) a "sale on approval" if the goods are delivered primarily for use, and

(b) a "sale or return" if the goods are delivered primarily for resale.

(2) Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(3) Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this Article (Section 2-201) and as contradicting the sale aspect of the contract within the provisions of this Article on parol or extrinsic evidence (Section 2-202)."

Section 9. Amend Section 2-502, Subtitle I, Title 6 of the Delaware Code by striking said Section in its entirety, and substituting in lieu thereof the following:

"§ 2-502. Buyer's Right to Goods on Seller's Repudiation, Failure to Deliver, or Insolvency.

(1) Subject to subsections (2) and (3) and even though the goods have not been shipped, a buyer who has paid a part or all of the price of goods in which he has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if:

(a) in the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or

(b) in all cases, the seller becomes insolvent within ten days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under subsection (1)(a) vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

(3) If the identification creating his special property has been made by the buyer he acquires the right to recover the goods only if they conform to the contract for sale."

Section 10. Amend Subsection (3), Section 2-716, Subtitle I, Title 6 of the Delaware Code by adding the following sentence at the end of said Subsection:

"In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver."

Section 11. Amend Subsection (3), Section 2A-103, Subtitle I, Title 6 of the Delaware Code by striking said Subsection in its entirety, and substituting in lieu thereof the following:

"(3) The following definitions in other Articles apply to this Article:

"Account". Section 9-102(a)(2).

"Between merchants". Section 2-104(3).

"Buyer". Section 2-103(1)(a).

"Chattel paper". Section 9-102(a)(11).

"Consumer goods". Section 9-102(a)(23).

"Document". Section 9-102(a)(30).

"Entrusting". Section 2-403(3).
"General intangible". Section 9-102(a)(42).
"Good faith". Section 2-103(1)(b).
"Instrument". Section 9-102(a)(47).
"Merchant". Section 2-104(1).
"Mortgage". Section 9-102(a)(55).
"Pursuant to commitment". Section 9-102(a)(68).
"Receipt". Section 2-103(1)(c).
"Sale". Section 2-106(1).
"Sale on approval". Section 2-326.
"Sale or return". Section 2-326.
"Seller". Section 2-103(1)(d)."

Section 12. Amend Section 2A-303, Subtitle 1, Title 6 of the Delaware Code by striking said Section in its entirety, and substituting in lieu thereof the following:

"§ 2A-303. Alienability of Party's Interest Under Lease Contract or of Lessor's Residual Interest in Goods; Delegation of Performance; Transfer of Rights.

(1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to Article 9, Secured Transactions, by reason of Section 9-109(a)(3).

(2) Except as provided in subsection (3) and Section 9-407, a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection (4), but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

(3) A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection (4).

(4) Subject to subsection (3) and Section 9-407:

(a) if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in Section 2A-501(2);

(b) if paragraph (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(5) A transfer of "the lease" or of "all my rights under the lease", or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

Chapter 401
Vol.72

(6) Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(7) In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous."

Section 13. Amend Section 2A-307, Subtitle I, Title 6 of the Delaware Code by striking said Section in its entirety, and substituting in lieu thereof the following:

"§ 2A-307. Priority of Liens Arising by Attachment or Levy on, Security Interests in, and Other Claims to Goods.

(1) Except as otherwise provided in Section 2A-306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in subsection (3) and in Sections 2A-306 and 2A-308, a creditor of a lessor takes subject to the lease contract unless the creditor holds a lien that attached to the goods before the lease contract became enforceable.

(3) Except as otherwise provided in Sections 9-317, 9-321, and 9-323, a lessee takes a leasehold interest subject to a security interest held by a creditor of the lessor."

Section 14. Amend Subsection (1)(b), Section 2A-309, Subtitle I, Title 6 of the Delaware Code by inserting "record of a" after "office where a" and before "mortgage", and by striking "9-402(5)", and substituting in lieu thereof "9-502(a) and (b)".

Section 15. Amend Subsection (c)(1), Section 4-210, Subtitle I, Title 6 of the Delaware Code by striking "9-203(1)(a)", and substituting in lieu thereof "9-203(b)(3)(A)".

Section 16. Amend Article 5, Subtitle I, Title 6 of the Delaware Code by adding thereto a new Section 5-118 as follows:

"§ 5-118. Security Interest of Issuer or Nominated Person.

(a) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(b) So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (a), the security interest continues and is subject to Article 9, but:

(1) a security agreement is not necessary to make the security interest enforceable under Section 9-203(b)(3);

(2) if the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

(3) if the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document."

Section 17. Amend Subsection (1)(a), Section 7-503, Subtitle I, Title 6 of the Delaware Code by striking "9-307", and substituting in lieu thereof "9-320".

Section 18. Amend Subsection (f), Section 8-103, Subtitle I, Title 6 of the Delaware Code by striking "9-115", and substituting in lieu thereof "9-102(a)(15)".

Section 19. Amend Subsection (d), Section 8-106, Subtitle I, Title 6 of the Delaware Code by striking "or" at the end of Subsection (d)(1), adding "or" at the end of Subsection (d)(2) and adding a new Subsection (d)(3) as follows:

"(3) another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser."

Section 20. Amend Subsection (f), Section 8-106, Subtitle I, Title 6 of the Delaware Code by striking "(2)" after each reference to "(c)" and "(d)" in such Subsection and inserting ", " after "control" and before "even".

Section 21. Amend Subsection (e), Section 8-110, Subtitle I, Title 6 of the Delaware Code by striking said Subsection in its entirety, and substituting in lieu thereof the following:

"(e) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part, this Article, or this subtitle, that jurisdiction is the securities intermediary's jurisdiction.

(2) If paragraph (1) does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(3) If neither paragraph (1) nor paragraph (2) applies and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(4) If none of the preceding paragraphs applies, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder's account is located.

(5) If none of the preceding paragraphs applies, the securities intermediary's jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located."

Section 22. Amend Subsection (a)(3), Section 8-301, Subtitle I, Title 6 of the Delaware Code by striking said Subsection in its entirety, and substituting in lieu thereof the following:

"(3) a securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and is (i) registered in the name of the purchaser, (ii) payable to the order of the purchaser, or (iii) specially indorsed to the purchaser by an effective indorsement and has not been indorsed to the securities intermediary or in blank."

Section 23. Amend Subsection (a), Section 8-302, Subtitle I, Title 6 of the Delaware Code by striking "upon delivery" and striking "to a purchaser, the purchaser".

Section 24. Amend Section 8-510, Subtitle I, Title 6 of the Delaware Code by striking said Section in its entirety, and substituting in lieu thereof the following:

"§ 8-510. Rights of Purchaser of Security Entitlement from Entitlement Holder.

(a) In a case not covered by the priority rules in Article 9 or the rules stated in subsection (c), an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(b) If an adverse claim could not have been asserted against an entitlement holder under Section 8-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(c) In a case not covered by the priority rules in Article 9, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. Except as otherwise provided in subsection (d), purchasers who have control rank according to priority in time of:

(1) the purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under Section 8-106(d)(1);

(2) the securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under Section 8-106(d)(2); or

Chapter 401
Vol.72

(3) if the purchaser obtained control through another person under Section 8-106(d)(3), the time on which priority would be based under this subsection if the other person were the secured party.

(d) A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary."

Approved July 07, 2000

CHAPTER 402

FORMERLY

SENATE BILL NO. 370
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 7, 16 AND 26 OF THE DELAWARE CODE RELATING TO THE CERTIFICATION AND REGULATION OF WATER UTILITIES AND WELL PERMITS AND TO TRANSFER TO THE PUBLIC SERVICE COMMISSION THE JURISDICTION TO ISSUE CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR WATER UTILITIES BEGINNING JULY 1, 2001

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

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

Section 1. Amend Title 7, Chapter 60, Subchapter V, sections 6075, 6076, 6077, 6078, 6079, and 6080 by deleting those sections in their entirety.

Section 2. Amend Title 7, Chapter 60, Subchapter V, by adding a new Section 6075 to read as follows:

"§ 6075. Non-utility wells and permits for non-utility wells within a service territory served by a water utility under a certificate of public convenience and necessity.

(a) The Department may not withhold a permit for a potable water well within the service territory served by a water utility under a certificate of public convenience and necessity, or require an applicant for a potable water well permit in an area served by a water utility to utilize the services of the utility, unless:

- (1) the Delaware Geological Survey or the Department of Health and Social Services certifies that the ground water supply is inadequate or unsuitable for the intended use for which the permit is being sought; or
- (2) the water utility demonstrates to the satisfaction of the Department that it can provide service of equal or better quality at lower cost; or
- (3) the permit applicant is a resident of a municipality, a county water district authority, or a recorded development where public water is available.

(b) Notwithstanding subsection (a)(2) and (3) above, following the issuance of a certificate of public convenience and necessity to a water utility, the Department shall not withhold a potable water well permit from any person seeking to construct or extend a well on a farm, farmland or the lands of any existing mobile home community, or an addition, modification, or extension of that mobile home community, which as of April 11, 2000 self supplied potable water under existing permits in an area served by a water utility, nor shall it require that the person utilize the services of the utility. However, this subsection

shall not authorize or require the issuance of a potable well permit that would enable a person or entity to act as a water utility without a duly issued certificate of public convenience and necessity.

- (c) Notwithstanding any other provision of this section, following the issuance of a certificate of public convenience and necessity to a water utility, the Department shall not withhold a non-potable water well permit from any person seeking to construct or extend a non-potable water well in an area serviced by a water utility, subject to the provisions of subsection (d) of this section.
- (d) Following the issuance of a non-potable water well permit in an area for which a certificate of public convenience and necessity has been issued, the Secretary shall send a copy of the permit, with conditions, to the water utility providing water to that area. This notification requirement shall not apply to permits issued for monitor, observation, recovery and de-watering wells. All non-potable water well permits issued in such an area shall include the following conditions:
 - (1) Water taken from the well is not to be used for human consumption; and
 - (2) The well shall not, at anytime, be interconnected with any portion of any building's plumbing and/or any water utility's service connection; and
 - (3) Representatives of the Secretary and the water utility that services the certificated area may inspect the well at any reasonable time to insure that there are not interconnections; and
 - (4) That the permit is subject to revocation upon any violation of its permit conditions, and upon revocation, the Secretary shall order that the well will be abandoned.
- (e) The Secretary may enforce this section under § 6005 of this Title. Violations of this section may be sanctioned under the provisions of §§ 6005 and 6013 of this Title."

Section 3. Amend Title 7, Chapter 60, Subchapter V, by adding a new Section 6076 to read as

follows:

"§6076. Transfer of jurisdiction for certificates of public convenience and necessity for water utilities to the Public Service Commission.

On and after July 1, 2001, the Department and Secretary shall no longer have jurisdiction to issue certificates of public convenience and necessity to water utilities. On such date, the jurisdiction to issue certificates of public convenience and necessity shall be vested in the Public Service Commission. On such date, the Public Service Commission shall also be vested with the jurisdiction, to the extent described in Chapter 1 of Title 26, to issue, suspend, and revoke certificates issued to water utilities. The process of reviewing requests for certificates, however, shall include coordination and cooperation by the Commission with the Department of Natural Resources and Environmental Control and the Division of Public Health."

Section 4. Amend Title 16, Chapter 1, Section 122(3)(c) by deleting the present subparagraph 6 therein in its entirety and replacing it with the following new subparagraph 6:

- "6. Should any public water system serving more than 500 service connections within the State fail, without good cause, to meet water quality standards pursuant to this section for a period of time greater than seven consecutive days, or should the public water system have a history of a recurring problem, the Secretary shall file a report with the Public Service Commission detailing such failures or such history of a recurring problem. The Public Service Commission may utilize the report as cause to review the water system's ability to provide adequate service under its present certificate of public convenience and necessity and may also use such report as a factor in considering any application by the water system for any further certificate. In addition, for water systems operated by public utilities which are subject to the jurisdiction of the Public Service

Commission under § 203C of Title 26, the Commission may utilize such report as cause to review the appropriate rates to be charged by the utility in light of the quality of service being provided."

Section 5. Amend Title 26, Chapter 1, Subchapter II, Section 202 by deleting subsection (d) in its entirety, and further by deleting subsections (a) and (b) thereof in their entirety and replacing them with the following new subsections (a) and (b):

- "(a) Except insofar as may be necessary to implement §§ 203A and 203B of this Title regarding the establishment and administration of retail electric service territories, and except as may be necessary to implement § 203C of this Title regarding the issuance of certificates of public convenience and necessity for water utilities, and the review authorized under § 122 of Chapter 1 of Title 16, the Commission shall not have any supervision or regulation over any public utility, or over the rates, property, property rights, equipment, facilities or franchises of any public utility, that is municipally-owned or over any municipal electric company formed pursuant to Chapter 13 of Title 22.
- (b) Except as may be necessary to implement §203C of this Title regarding the issuance of certificates of public convenience and necessity for water utilities, and the review authorized under § 122 of Chapter 1 of Title 16, the Commission shall not have any jurisdiction over any public utility, water district, or water authority created and operated pursuant to Title 9 and Title 16."

Section 6. Amend Title 26, Chapter 1, Subchapter II, by adding a new section 203C to read as follows:

"§ 203C. Certificates of public convenience and necessity for water utilities.

- (a) No person or entity (including municipalities, governmental agencies, and water authorities and districts created under Title 9 or Title 16) shall begin the business of a water utility nor shall any existing water utility begin any extension or expansion of its business or operations without having first obtained from the Commission a certificate that the present or future public convenience and necessity requires, or will be served by, the operation of such business or the proposed extension or expansion.
- (b) This section shall not be construed to require any water utility holding an existing certificate of public convenience and necessity to secure an additional certificate from the Commission for existing operations nor shall this section be construed to require an additional certificate for the extension or expansion of operations within a service territory for which a certificate has previously been granted.
- (c) An application for a certificate of public convenience and necessity to begin, extend or expand the business of a water utility beyond the territory covered by any existing certificate shall be in writing, shall be in such form as determined by the Commission and shall contain the information specified in subsection (d) or (e) below.
- (d) The Commission shall issue a certificate of public convenience and necessity if the applicant therefore has submitted, together with the application, the following:
 - (1) evidence that all landowners of the proposed territory have been notified by certified mail, or its equivalent, of the filing of the application, such evidence consisting of (i) a list provided by the United States Postal Service, or the alternate delivery service, of those to whom notice was sent and (ii) copies of materials returned to sender; and
 - (2) one of the following:
 - a. evidence that the water in the proposed service area does not meet the regulations governing drinking water standards of the Department of Health and Social Services for human consumption; or
 - b. evidence that the supply is insufficient to meet the projected demand.

- (e) The Commission shall issue a certificate of public convenience and necessity if the applicant therefore has submitted, together with the application, the following:
- (1) evidence that all landowners of the proposed territory have been notified by certified mail, or its equivalent, of the filing of the application, such evidence consisting of (i) a list provided by the United States Postal Service, or the alternate delivery service, of those to whom notice was sent and (ii) copies of all materials returned to sender; and one of the following:
 - a. a signed service agreement with the developer of a proposed subdivision or development, which subdivision or development has been duly approved by the respective county government; or
 - b. a petition requesting such service signed by a majority of the landowners of the proposed territory to be served; or
 - c. a duly certified copy of a resolution from the governing body of a county or municipality requesting the applicant to provide service to the proposed territory to be served; and,
 - (2) In the case of a new water utility, evidence that it possesses the financial, operational, and managerial capacity to comply with all state and federal safe drinking water requirements and that it has, or will procure, adequate supplies of water to meet demand, even in drought conditions, by maintaining supply sufficient to meet existing and reasonably anticipated future peak monthly demands; and,
 - (3) Certification by the applicant that any proposed extension of service will satisfy the provisions of 26 Del. C. Section 403.
- (f) Notwithstanding any other provision of this section, a certificate of public convenience and necessity to begin, extend or expand the business or operations of a water utility will not be granted if the Commission finds that the applying water utility is unwilling or unable to provide safe, adequate and reliable water service to existing customers, or is currently subject to a Commission finding that the utility is unwilling or unable to provide safe, adequate and reliable water service to existing customers.
- (g) (1) An applicant for a certificate of public convenience and necessity shall be deemed in compliance with the notification requirement set forth in paragraphs (d)(1) and (e) (1) of this section with respect to condominium units, as defined in the Delaware Unit Property Act, Chapter 22, Title 25 of the Delaware Code, upon providing certification signed by an authorized officer of the condominium association that (i) the officer of the condominium association is properly authorized to sign the petition for water service, and (ii) all unit owners have been provided notice of the application. A copy of the notice provided to unit owners shall accompany the certification.
- (2) The Commission may establish alternative means of demonstrating compliance with the notification requirement set forth in this section, including verification that notification has been delivered to the land owners of the proposed territory to be served, subject to a finding that the appropriate internet accessible technology creating a record that the notification has been sent and the status of its receipt is employed by the United States Postal Service, and after soliciting input on the use of such technology from water utilities.
- (h) (1) The Commission shall act on an application for a certificate of public convenience and necessity within ninety days of the submission of a completed application. For good cause shown, and if it finds that the public interest would be served, the Commission may extend the date of its action on an application for an additional period not to exceed 30 days
- (2) Any proceedings involving certificates of public convenience and necessity shall be conducted in accordance with the procedures set forth in 29 Del. C. Ch. 101, subchapter III.

- (i) For applications submitted pursuant to subsection (e) of this section, no certificate of public convenience and necessity shall be issued where a majority of the landowners of the proposed territory to be served object to the issuance thereof. Any landowner whose property, or any part thereof, is located within the proposed territory to be served shall be permitted to opt-out of inclusion in the territory prior to the issuance of a certificate of public convenience and necessity to a water utility applying to serve that territory.
- (j) For purposes of this section, the phrase 'land owners of the proposed territory to be served' shall refer solely to those persons having fee ownership of the affected parcel of real property within the proposed territory to be served (as reflected by appropriate tax or land record documents) at the time that the application for a certificate of public convenience and necessity is submitted by the applicant to the Commission for consideration, provided however, that with respect to condominium units, as defined in the Delaware Unit Property Act, Chapter 22, Title 25 of the Delaware Code, this phrase shall mean the governing body or authorized officers of any condominium association with authority to act on behalf of unit owners, unless the underlying real property on which such condominium units have been built has been leased, directly or indirectly, to unit owners and the underlying real property owner retains the power to bind the unit owners.
- (k) The Commission may undertake to suspend or revoke for good cause a certificate of public convenience and necessity held by a water utility. Good cause shall consist of:
 - (1) A finding made by the Commission of material non-compliance by the holder of the Certificate with any provisions of Titles 7, 16 or 26 of the Delaware Code dealing with obtaining water or providing water and water services to customers, or any order or rule of the Commission relating to the same; and,
 - (2) The presence of such additional factors as deemed necessary by the Commission as outlined in subsection (l) of this section.
- (l) Prior to July 1, 2001, the Commission shall establish rules for the revocation of a certificate of public convenience and necessity held by a water utility. Such regulations shall outline the factors, in addition to those outlined in subsection (k) of this section, which must be present for a finding of good cause for revocation of a certificate. Such additional factors shall include, but not be limited to, the following:
 - (1) A finding by the Commission that, to the extent practicable, service to customers will remain uninterrupted under an alternative water utility or a designated third party capable of providing adequate water service; and,
 - (2) To the extent practicable, the Commission should attempt to identify methods to mitigate any financial consequences to customers served by the utility subject to a revocation.
- (m) The power to revoke a certificate of public convenience and necessity granted by this section shall not apply to a certificate held by a municipally-owned water utility or by a water district or water authority created and operated under Titles 9 and 16. In the case of water utilities that are public utilities subject to the jurisdiction of the Commission, the Commission shall have the authority to assess penalties under § 217 of this Chapter."

Section 7. Amend Title 26, Subchapter III, Section 302, by adding, after the current text, the following:

"If a water utility is not, pursuant to 16 Del. C. § 122(3)(c), under review concerning its water system's ability to provide adequate service to its customers under its present certificates of public convenience and necessity or subject to a review by the Commission of the appropriate rates to be charged by the water utility in light of the quality of service being provided to its customers, the Commission will include in the utility's rate base, treat as used and useful utility plant and, accordingly, allow to be fully recovered in the utility's rates without imputation of

revenues, all costs which are incurred by the water utility, in the exercise of its good faith business judgment, in constructing facilities (including without limitation supply, treatment and transmission facilities) to serve the needs of existing customers or of persons who are reasonably anticipated by the water utility to be its customers within three years from the date used by the Commission to recognize rate base in the rate proceeding. The number of customers reasonably anticipated to be added within that three year period will consist of customer projections which are relied on by the utility and are generated by professional engineers or planners, governmental or regulatory agencies, officials or authorities, or the water utility itself, and which are not arbitrary and capricious. If the water utility does not, by the end of the three year period after the date used by the Commission to recognize rate base in the rate proceeding, reach at least 75% of the total number of customers originally anticipated to be served by the facilities, the Commission may only then require the water utility to impute revenues and then only to the extent of the number of customers it originally anticipated to be served by the facilities but who have not, as of the end of the three year period, been added."

Section 8. Amend Title 16, Chapter 1, section 403(d), by deleting subsection (d) in its entirety and replacing it with the following new subsection (d):

"(d) The appropriate agency shall report any such finding that a water company has failed to materially meet the water pressure standards of subsection (a) or (b) of this section or any order issued pursuant to subsection (c) of this section to the Public Service Commission in accordance with the Commission's authority to grant a water utility a certificate of public convenience and necessity to expand or extend its service territory."

Section 9. An application for a certificate of public convenience and necessity, filed under the provisions of 7 Del. C. §§ 6075-6080 and pending before the Secretary of the Department of Natural Resources and Environmental Control on July 1, 2001, shall be transferred to the Public Service Commission and shall thereafter be reviewed and considered by that Commission under the provisions herein enacted.

Section 10. Sections 1 through 6 and Sections 8 and 9 shall become effective July 1, 2001.

Section 11. Section 7 shall become effective September 1, 2000.

Approved July 06, 2000

CHAPTER 403

FORMERLY

SENATE BILL NO. 383

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO SPECIFIC SPEED LIMITS.

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

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

Section 1. Amend § 4169, Title 21 of the Delaware Code, by adding thereto a new subsection as follows:

"(d) The Department of Transportation shall designate a maximum speed limit of 65 miles per hour for all portions of Delaware State Route 1 located between the Red Lion Creek and the Appoquinimink River. Such maximum limits may be posted on fixed or variable signs. Any speed in excess of such displayed limits shall be absolute evidence that the speed is not reasonable or prudent and that it is unlawful."

Approved July 07, 2000

CHAPTER 404

FORMERLY

SENATE BILL NO. 388
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SLAUGHTER BEACH, CHAPTER 150, VOLUME 69, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF SLAUGHTER BEACH." TO PROVIDE FOR THE COMPENSATION AND REIMBURSEMENT OF EXPENSES INCURRED BY THE MAYOR, TOWN COUNCIL, AND MEMBERS OF THE TOWN'S ZONING BOARD OF ADJUSTMENT AND REIMBURSEMENT OF EXPENSES INCURRED BY TOWN OFFICERS AND OFFICIALS, INCLUDING MEMBERS OF THE BOARD OF ADJUSTMENT.

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

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

Section 1. Amend Section 4 (Organization of Town Council) of Chapter 150, Volume 69, Laws of Delaware, by adding, at the end thereof a new subsection 4.10 to read as follows:

"§4.10 Compensation of Mayor and Council. The Town Council is authorized to compensate the Mayor and each member of the Town Council in such amount(s) as established by ordinance for each council meeting attended, provided, however, that such compensation shall not exceed \$75.00 per person per Council meeting attended.

§4.10.1 Changes in Compensation. Any increase or decrease shall not take effect as to any seat on Council (or the Mayor) until the first Council meeting following a Town election to fill that seat's vacancy.

§4.10.2 Reimbursement of Expenses. The Town Council is authorized to reimburse the Mayor and members of Council for their documented actual and necessary expenses incurred in the performance of their duties of office."

Section 2. Amend Section 5 (Officer of the Town) of Chapter 150, Volume 69, Laws of Delaware, by adding at the end thereof new subsections 5.1 and 5.2 to read as follows:

"§5.1 Compensation of Members of the Board of Adjustment. The Town Council is authorized to compensate members of the Board of Adjustment in such amount(s) as established by ordinance for each meeting attended, provided, however, that such compensation shall not exceed \$50.00 per person per Board of Adjustment meeting attended.

§5.2 Reimbursement of Expenses. The Town Council is authorized to reimburse all Town Officers and Officials, including the members of the Board of Adjustment, for their documented actual and necessary expenses incurred in the performance of their duties of office."

Section 3. Nothing in this Act shall be deemed to invalidate the payment of reasonable compensation to the Mayor and members of the Town Council for attendance at Town Council meetings prior to this Act nor to invalidate the payment of reasonable compensation to members of the Board of Adjustment for attendance at Board meetings prior to this Act.

Approved July 06, 2000

CHAPTER 405

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 202

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO REINSURANCE.

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

Section 1. Amend Section 914 of Title 18 of the Delaware Code by deleting the current text and replacing thereto as follows:

"(a) Notwithstanding any other provision of Section 911 or Section 912 of this title, no credit shall be allowed as an admitted asset or deduction from liability unless the reinsurance agreement provides that, in the event of insolvency of the ceding insurer, reinsurance proceeds shall be paid under a contract(s) reinsured by the assuming insurer on the basis of the amount of the claim allowed in the insolvency proceeding without diminution by reason of the inability of the ceding insurer to pay all or any part of the claim. For all ceding insurers which are subject to liquidation proceedings pursuant to Chapter 59 of this title on or before December 31, 1999, such payments shall be made directly to the domiciliary liquidator. For all other ceding insurers, including ceding insurers under supervision or rehabilitation proceedings under Chapter 59 of this title as of December 31, 1999, subject to the provisions of subchapter II (summary proceedings) of Chapter 59 of this title, such payments shall be made directly to the ceding insurer or to its domiciliary liquidator, except:

(1) where the contract or other written agreement between the ceding insurer and the assuming insurer specifically provides another payee of such reinsurance in the event of the insolvency of the ceding insurer. Provided, however, the exception set forth in this paragraph (1) shall only apply to the extent that the reinsurance proceeds due such payee are actually paid by the assuming insurer, or

(2) where the assuming insurer, with the consent of the direct insured(s), has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in full and complete substitution for the obligations of the ceding insurer to such payees.

(b) Upon request of the Commissioner an insurer shall promptly inform the Commissioner in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements."

Approved July 06, 2000

CHAPTER 406

FORMERLY

HOUSE BILL NO. 241
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO HOUSING PROJECTS
LOCATED WITHIN THE CITY OF WILMINGTON.

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

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

Section 1. Amend Chapter 43, Title 31 of the Delaware Code, by adding a new section thereto as follows:

"§ 4323. Inspection of housing projects located within the City of Wilmington.

"(a) Every dwelling, apartment or other living accommodation owned or managed by the
Wilmington Housing Authority and located within the City of Wilmington, shall be subject to the
comprehensive development plan, including the housing component thereof, and the planning, zoning,
sanitary and building laws, ordinances and regulations of the City of Wilmington.

(b) No dwelling, apartment or other living accommodation owned or managed by the Wilmington
Housing Authority and located within the City of Wilmington, shall be given a Certificate of Occupancy after
January 1, 2000, until such property has been determined to be in compliance with the applicable codes,
ordinances and regulations of the City of Wilmington as determined by the Department of Licensing and
Inspection."

Section 2. This Act shall take effect on July 1, 2001.

Approved July 07, 2000

CHAPTER 407

FORMERLY

HOUSE BILL NO. 464
AS AMENDED BY SENATE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO VIOLATIONS OF TRAFFIC
CONTROL SIGNALS.

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

Section 1. Amend § 4108, Title 21, Delaware Code by adding thereto a new subsection (d) as follows:

"(d) Whoever violates this section shall be fined not less than \$75.00 nor more than \$115.00.
Whoever violates subsection (a)(3) of this section shall be fined not less than \$75.00 nor more than
\$230.00. For each subsequent offense of subsection (a)(3) within 2 years, the person shall be fined not less
than \$100.00 nor more than \$575.00, or imprisoned not less than 10 nor more than 60 days or both.

(e) Notwithstanding any provision of the Delaware Code to the contrary, any local government,
municipality, town, or county whether incorporated or unincorporated, shall pay to the General Fund any
sums collected under this section or any substantially conforming ordinances and regulations enacted by

local authorities that exceed the maximum fine permitted under the law as it existed prior to the effective date of subsection (d)."

Approved July 05, 2000

CHAPTER 408

FORMERLY

HOUSE BILL NO. 521

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE CONTRACTS.

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

Section 1. Amend Chapter 33 of Title 18 of the Delaware Code by enacting the following as a new Section §3344. Annual Pap Smear Coverage Reimbursement as follows:

"§3344. Annual Pap Smear Coverage Reimbursement.

All individual health insurance policies which are delivered or issued for delivery in this State by any health insurer, health service corporation, health maintenance organization or any health services and facilities reimbursement program operated by the State and which provides a benefit for outpatient services shall also provide a benefit for an annual benefit for one cervical and endometrial cancer screening known as a "pap smear" for all females aged 18 and over.

This section shall apply to all policies, contracts, certificates or programs issued, renewed, modified, altered, amended, or reissued on or after January 1, 2001."

Section 2. Amend Chapter 35 of Title 18 of the Delaware Code by enacting the following as a new Section §3559. Annual Pap Smear Coverage Reimbursement as follows:

"§3559. Annual Pap Smear Coverage Reimbursement.

All group and blanket health insurance policies which are delivered or issued for delivery in this State by any health insurer, health service corporation, health maintenance organization or any health services and facilities reimbursement program operated by the State and which provides a benefit for outpatient services shall also provide a benefit for an annual benefit for one cervical and endometrial cancer screening known as a "pap smear" for all females aged 18 and over."

This section shall apply to all policies, contracts, certificates or programs issued, renewed, modified, altered, amended or reissued on or after January 1, 2001.

Approved July 07, 2000

CHAPTER 409

FORMERLY

HOUSE BILL NO. 549
AS AMENDED BY HOUSE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 13, TITLE 26 OF THE DELAWARE CODE RELATING TO THE
ESTABLISHMENT OF A TEMPORARY WATER COORDINATOR AND A WATER SUPPLY
COORDINATING COUNCIL.

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

WHEREAS, the General Assembly finds that the enhancement of existing water supplies in northern New Castle County is essential to avoid a repeat of the difficulties experienced during the drought of 1999; and

WHEREAS, on August 26, 1999, the Governor's Water Supply Task Force was created and charged with reviewing Delaware's current and projected water supply along with current and projected demand; and

WHEREAS, the Task Force was further charged with providing recommendations to the Governor and the General Assembly concerning short-term and long-term solutions to northern New Castle County's water supply needs; and

WHEREAS, on December 2, 1999, the Governor's Water Supply Task Force submitted its final Report, which recommends various actions and undertakings by utilities and others to move toward ensuring adequate water supply in the future; and

WHEREAS, in its Report, the Task Force identified a series of water supply enhancement projects which, if implemented, will provide a sufficient supply of water for northern New Castle County citizens during any future drought periods; and

WHEREAS, in its Report, the Task Force also recommends the establishment of a temporary Water Coordinator and a Council composed of water providers and others knowledgeable in water supply to monitor the implementation of these enhancement projects; and

WHEREAS, the General Assembly finds that the implementation of the projects recommended in the Report, or similar projects providing a commensurate increase in water supply, is critical to ensuring adequate water supply in northern New Castle County during any future drought periods; and

WHEREAS, the General Assembly finds that utilities should be encouraged to expeditiously implement and complete the identified water enhancement projects;

NOW THEREFORE:

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

Section 1. Amend Chapter 13, Title 26 of the Delaware Code by adding a new § 1305 to read as follows:

"§ 1305. Establishment of a Temporary Water Coordinator for New Castle County.

(a) The Water Resources Agency ("WRA") at the University of Delaware is hereby designated as the "Temporary Water Coordinator for New Castle County" pursuant to the recommendations contained in the final Report of the Governor's Water Supply Task Force submitted on December 2, 1999. The WRA shall monitor the implementation of short-term water supply enhancement projects as documented in that Report.

(b) The Delaware Geological Survey and the Department of Natural Resources and Environmental Control shall work with the WRA to help ensure the timely implementation of the projects identified in the final Report.

(c) The WRA shall prepare, with the assistance of the Delaware Geological Survey and the Department of Natural Resources and Environmental Control, periodic reports for the Governor and the General Assembly summarizing the progress towards completion of the projects identified in the final Report. The WRA shall submit the first such report on, or before, May 31, 2000, and shall thereafter submit additional reports no less than twice each year."

Section 2. Amend Chapter 13, Title 26 of the Delaware Code by adding a new § 1306 to read as follows:

"§ 1306. Establishment of a Temporary Water Supply Coordinating Council.

(a) A Water Supply Coordinating Council is hereby established.

(1) The Council shall have the following members:

- a. the Secretary of the Department of Natural Resources and Environmental Control;
 - b. the Secretary of the Department of Agriculture;
 - c. the Executive Director of the Public Service Commission;
 - d. the Director of the Delaware Emergency Management Agency;
 - e. the Director of the Division of Public Health;
 - f. the Public Advocate;
 - g. the Executive Director of the Delaware River Basin Commission;
 - h. a representative of the Office of the Governor;
 - i. a representative of the Government of New Castle County;
 - j. a representative of each public and private water utility serving New Castle County;
 - k. a representative of the New Castle County Chamber of Commerce;
 - l. a representative of the Delaware State Chamber of Commerce;
 - m. a representative of the Delaware Nursery and Landscape Association;
 - n. a representative of the Professional Grounds Management Society;
 - o. a representative of the Delaware State Golf Association;
- and,
- p. a representative of the Delaware Nature Society.

(2) The Governor shall appoint the representatives described in subparagraphs h. through p. of paragraph (1) of this subsection. The Council, by majority vote, may designate additional members of the Council.

(3) The Governor shall select a Chairperson from the members of the Council to serve at the pleasure of the Governor.

(b) the principal duty of the Council shall be to work cooperatively with the Temporary Water Coordinator for New Castle County (established pursuant to § 1305 of this Title) to implement short-term water supply enhancement projects. Additional duties of the Council shall consist of performing the following specific functions:

1. To provide technical input in conducting hydraulic field tests and/or modeling to optimize and expand the intra-county interconnections to convey water from suppliers with excess capacity to suppliers in need of additional water to meet peak demands;
2. To work with water utilities to develop cooperative market based cost and capacity agreements for the purchase of water supplies during drought and other times emphasizing the need for providers with supply deficiencies to enter agreements which assure adequate supply to customers;
3. To provide technical input to the recently authorized U. S. Army Corps of Engineers Groundwater Availability Study for northern New Castle County; and
4. To examine appropriate utilization of all water supply sources located in both northern and southern New Castle County."

(c) The Department of Natural Resources and Environmental Control, the Delaware Geological Survey, and the Water Resources Agency of the University of Delaware shall provide staff support for the Council."

Section 3. Amend Chapter 13, Title 26 of the Delaware Code by adding a new § 1307 to read as follows:

"§ 1307. Recovery of costs of water supply enhancement projects in rates of public utilities.

In the case of a public utility subject to the jurisdiction of the Public Service Commission, upon the determination by the Commission that a water supply enhancement project identified in the final report of the Governor's Water Supply Task Force has been placed into service by the utility and is used and useful in the provision of public utility service, the public utility shall be entitled to recover, in its rates, its reasonable and prudently incurred capital and on-going operating costs for such project. Nothing in this section shall preclude the Commission from authorizing an allowance for funds used during construction for any such identified enhancement project."

Section 4. Amend Chapter 13, Title 26 of the Delaware Code by adding a new Section 1308 to read as follows:

"§ 1308. Length of Service for Temporary Water Coordinator and Water Supply Coordinating Council.

The designation of the WRA as the Temporary Water Coordinator for New Castle County, the designation of the Water Supply Coordinating Council and the duties and responsibilities conferred upon each by this section shall be subject to annual reauthorization by the General Assembly beginning no later than June 30, 2001. Such reauthorization shall be for a period not to exceed one year, and shall be based on the Water Supply Coordinating Council demonstrating that water provider(s) have acted in good faith to make the investments, system improvements or agreements necessary to assure adequate quality water supply, during drought and at other times for their customers."

Section 5. This act shall become effective upon its enactment.

Approved July 06, 2000

CHAPTER 410

FORMERLY

HOUSE BILL NO. 324

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SEX OFFENDERS.

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

Section 1. Amend Section 4121(a)(4)a. of Title 11 of the Delaware Code by striking the section number "1112" as it appears in said subparagraph, and by substituting in lieu thereof the following:

"1112A".

Section 2. Amend Section 4121(e)(2)a. of Title 11 of the Delaware Code by adding between the phrases "Unlawfully Dealing in Material Depicting a Child Engaging in a Prohibited Sexual Act" and "; or" as they appear in said subparagraph the following:

" , Sexual Solicitation of a Child".

Section 3. Amend Section 4121(e)(1)e. of Title 11 of the Delaware Code by striking the section number "1111" as it appears in said subparagraph, and by substituting in lieu thereof the following:

"1112A".

Approved July 13, 2000

CHAPTER 411

FORMERLY

HOUSE BILL NO. 423

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO DISTRIBUTION, DELIVERY OR POSSESSION OF CONTROLLED SUBSTANCES.

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

Section 1. Amend § 4768, Title 16 of the Delaware Code, by deleting the phrase "park or recreation area;" as it appears in the title to the section, and by inserting in lieu thereof the following phrase:

"park, recreation area, church, synagogue, or other place of worship;".

Section 2. Amend § 4768(a), Title 16 of the Delaware Code, by striking the following phrase: "or while within 300 feet of the boundaries of any such parkland, park or recreation area" as it appears therein, and by inserting in lieu thereof the phrase:

"or in any church, synagogue, or other place of worship, or within 300 feet of the boundaries of any such parkland, park, recreation area, or church, synagogue, or other place of worship".

Approved July 13, 2000

CHAPTER 412

FORMERLY

HOUSE BILL NO. 430

AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE USE OF AUTOMATIC EXTERNAL DEFIBRILLATORS UNDER CERTAIN CIRCUMSTANCES.

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

Section 1. Amend Part II, Title 16 of the Delaware Code by adding thereto a new chapter, designated as Chapter 30, which new chapter shall read as follows:

"CHAPTER 30. AUTOMATIC EXTERNAL DEFIBRILLATORS (AEDS)

§3001. Findings and Purpose.

The General Assembly of the State of Delaware has found that each year more than 350,000 Americans experience out-of-hospital sudden cardiac arrest. More than 95% of them die. In many cases, people die because life saving defibrillators arrive on the scene too late, if at all. It is estimated that more

than 100,000 deaths could be prevented each year if defibrillators were more widely available to designated users (responders). Many communities around the country have invested in 911 emergency response systems, emergency personnel, and ambulance vehicles. However, many of these same communities do not have enough defibrillators. It is therefore the intent of this General Assembly to encourage greater acquisition, deployment, and use of automated external defibrillators in communities within the State of Delaware.

§3002. Definitions.

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

(a) "Automated external defibrillator," (AED) shall mean a medical device which is both a heart monitor and defibrillator that has received approval of its pre-market notification, filed with the Food and Drug Administration pursuant to United States Code, Title 21, section 360(k).

(b) "Records" shall mean the recordings of interviews and all oral or written reports, statements, minutes, memoranda, charts, statistics, data and other documentation generated by the State EMS Medical Director.

§3003. Correct use of defibrillator; training in order to ensure public health and safety

(a) Any entity to whom AEDs are distributed shall insure that:

(1) each prospective defibrillator user receives appropriate training by the American Red Cross, the American Heart Association, Delaware State Fire School or by another nationally recognized provider of training for cardio-pulmonary resuscitation and AED use; provided however, that such training shall be approved by the State EMS Medical Director;

(2) the defibrillator is maintained and tested according to the manufacturer's guidelines; and

(3) any person who renders emergency care or treatment on a person in cardiac arrest by using an AED shall notify the appropriate EMS units as soon as possible, and report any clinical use of the AED to the appropriate licensed physician or medical authority.

(b) The State EMS Medical Director shall maintain a file containing the name of each person or entity that acquires an AED with State funding.

§3004. Quality Review Program

All quality management proceedings shall be confidential. Records of the State EMS Medical Director, and EMS quality care review committee relating to AED reviews and audits shall be confidential and privileged, are protected, and are not subject to discovery, subpoena, or admission into evidence in any judicial or administrative proceeding. Raw data used in any AED review or audit shall not be available for public inspection; nor is such raw data a "public record" as set forth in the Delaware Freedom of Information Act.

§3005. Provision of limited liability protections.

(a) Any person or entity, who in good faith and without compensation, renders emergency care or treatment by the use of an AED shall be immune from civil liability for any personal injury as a result of such care or treatment, or as a result of any act or failure to act in providing or arranging further medical treatment, if such person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances and such act or acts do not amount to willful or wanton misconduct or gross negligence.

(b) Any individual who authorizes the purchase of an AED, any person or entity who provides training in cardiopulmonary resuscitation and the use of an AED, and any person or entity responsible for the site where the AED is located, shall be immune from civil liability for any personal injury that results from any act or omission that does not amount to willful or wanton misconduct or gross negligence."

CHAPTER 413

FORMERLY

HOUSE BILL NO. 515
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 4

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

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

Section 1. Amend § 5916(a) of Title 29 of the Delaware Code by inserting after the word "classification." The following:

"Any State employees who are not covered under Title 20, who are normally scheduled to work on weekends and are members of the National Guard or United States Reserves shall be afforded the opportunity to reschedule within the same pay cycle their normally scheduled work weekends whenever their National Guard or United States Reserves drill weekend conflicts with their State weekend to work. The employee shall provide the State with 30 days advance notification of their scheduled Guard or Reserve drill weekend."

Approved July 13, 2000

CHAPTER 414

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 519
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 §1141 of Title 9 of the Delaware Code by deleting subsections (a) through (h) in their entirety and substituting in lieu thereof the following:

"(a) For any general or special election prior to and including the general election of 2002, the County Council shall consist of 7 members. Six of these members shall be elected from council districts. The 7th member shall be elected at large from New Castle County and shall serve as president of County Council.

(b) Notwithstanding any law to the contrary, except for the President of County Council, the terms of officials of the county governing body elected in the 1998 general election and any special election held after the 1998 general election but prior to the 2002 general election shall terminate on the second Tuesday in January following the 2002 general election. Notwithstanding any law to the contrary, the terms of the officials of the county governing body elected in the 2002 general election and any special election held following the 2002 general election to fill a vacancy in a seat elected in the 2002 general election, shall terminate on the second Tuesday in January following the 2006 general election. The President of County Council shall always be elected in the presidential election year.

(c) Notwithstanding any law to the contrary, following the 2002 general election, and to become effective with the 2004 general election and all subsequent elections, the County Council shall consist of 13

members. Twelve of these members shall be elected from council districts. The 13th member shall be elected at large from New Castle County and shall serve as the President of the County Council.

(d) Notwithstanding any law to the contrary, for the 2004 general election, the County Council shall reapportion the County into 12 council districts. This reapportionment shall split each existing council district into two districts or as close thereto as is possible pursuant to the terms of §1165 of this title. This reapportionment shall further be conducted in the manner specified in §1165 of this title using the 2000 United States Decennial Census. This reapportionment shall be completed on or before January 1, 2004. The six members elected in the 2002 general election shall continue to hold office, until their terms expire pursuant to subsection (b) of this section. Six additional members shall be elected from the districts newly created pursuant to §1165 of this title. Notwithstanding any law to the contrary, the terms of the officials of the county governing body elected in the 2004 general election and any special election held thereafter to fill a vacancy in a seat elected in the 2004 general election, shall terminate on the second Tuesday in January following the 2008 general election.

(e) An elected official shall take office on the second Tuesday in January following the general election."

Section 2. Amend subsection (d) of §1156 of Title 9 of the Delaware Code by deleting the year "2002" as it exists therein and substituting in lieu thereof the date "2004".

Section 3. Amend §1157 of Title 9 of the Delaware Code by deleting the year "2002" as it exists therein and substituting in lieu thereof the year "2004".

Section 4. Amend §1165 of Title 9 of the Delaware Code by deleting subsection (a) in its entirety and substituting in lieu thereof the following:

"(a) It shall be the mandatory duty of the County Council to redistrict New Castle County into council districts after each regular United States decennial census.

(1) To accomplish the redistricting after the 2000 decennial census, the County Council shall, within 60 days after the official reporting of the 2000 decennial census by the President to Congress, appoint 7 qualified voters of the County who shall comprise a Redistricting Commission. The members of this Redistricting Commission shall be appointed 1 from each of the 7 council districts of the County, including 1 district comprising all of New Castle County, and shall not be employed by the County in any other capacity. No more than 4 of the members shall be affiliated with the same political party. Within 90 days after appointment by County Council, the Redistricting Commission shall file with the Clerk of County Council a report containing the recommended plan for adjusting the council district boundaries to reapportion the County into 12 council districts with the following specifications:

(i) Each district shall contain contiguous territory; and

(ii) Each district shall contain nearly as possible the same number of inhabitants and no district shall deviate in population more than 15% from the average population for all districts, the average to be obtained by dividing the number 12 into the total population of the County according to the last census.

(2) To accomplish the redistricting commencing with the 2010 decennial census, and each decennial census thereafter, the County Council shall, within 60 days after the official reporting of the census by the President to Congress, appoint 13 qualified voters of the County who shall comprise a Redistricting Commission. The members of this Redistricting Commission shall be appointed 1 from each of the 12 council districts of the County and one at-large, and shall not be employed by the County in any other capacity. No more than 7 of the members shall be affiliated with the same political party. Within 90 days after appointment by Council Council, the Redistricting Commission shall file with the Clerk of County Council a report containing the recommended plan for adjusting the council district boundaries of districts 1 through 12 to comply with the following specifications:

(i) Each district shall contain contiguous territory; and

(ii) Each district shall contain nearly as possible the same number of inhabitants and no district shall deviate in population more than 15% from the average population for

all districts, the average to be obtained by dividing the number 12 into the total population of the County according to the last census."

Section 5. Amend subsection (d) of §1165 of Title 9 of the Delaware Code by deleting, in the last sentence thereof, the phrase "the boundaries of districts 1 through 6" and substituting in lieu thereof the phrase "the boundaries of districts 1 through 12".

Section 6. Amend subsection (a) §1166 of Title 9 of the Delaware Code by deleting the year "2002" as it exists therein and substituting in lieu thereof the year "2004".

Section 7. Amend §1166 of Title 9 of the Delaware Code by deleting subsections (b) through (d) in their entirety and by redesignating current subsections (e) through (h) as subsections (b) through (e) respectively.

Approved July 13, 2000

CHAPTER 415

FORMERLY

HOUSE BILL NO. 537 AS AMENDED BY HOUSE AMENDMENT NO. 2 AND SENATE AMENDMENT NO. 1

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

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

Section 1. Amend Chapter 26, Title 9 of the Delaware Code, by adding thereto a new section to read as follows:

"§2615. Notice to property owners of zoning changes.

With respect to any proposed zoning change, unless the owner applies for the change or consents to the change, the county government shall notify the owner of the property and all adjacent property owners to the extent and in the manner the County by ordinance so provides as of June 28, 2000 mailed at least 7 days prior to the initial hearing upon such zoning change."

Section 2. Amend Chapter 49, Title 9 of the Delaware Code, by adding a new section to read as follows:

"§4926. Notice to property owners of zoning changes.

With respect to any proposed zoning change, unless the owner applies for the change or consents to the change, the county government shall notify the owner of the property and all property owners to the extent and in the manner the County by ordinance so provides as of June 28, 2000 mailed at least 7 days prior to the initial hearing upon such zoning change."

Section 3. Amend Chapter 69, Title 9, of the Delaware Code by adding a new section to read as follows:

"§6926. Notice to property owners of zoning changes.

With respect to any proposed zoning change, unless the owner applies for the change or consents to the change, the county government shall notify the owner of the property and all property owners to the extent and in the manner the County by ordinance so provides as of June 28, 2000 mailed at least 7 days prior to the initial hearing upon such zoning change."

Section 4. This Act shall become effective for zoning changes initiated after enactment of this act.

Approved July 13, 2000

CHAPTER 416

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 564
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO COVERAGE FOR
COLORECTAL CANCER SCREENING, HEALTH INSURANCE, AND GROUP AND BLANKET
HEALTH INSURANCE.

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

Section 1. Amend Chapter 33 of Title 18 of the Delaware Code by adding a new section thereto to read as follows:

"§3344. Colorectal cancer screening.

(a) Every individual health, sickness or accident insurance policy contract or certificate, which is delivered or issued for delivery in this State by any health insurer, health service corporation or health maintenance organization shall provide coverage for colorectal cancer screening under any such policy, contract or plan delivered, issued for delivery or renewed in this State, on or after January 1, 2001. The terms 'health, sickness or accident insurance policy contract or certificate' shall not include, unless specifically provided in the policy, the following types of insurance or combination thereof: Accident only, fixed or hospital confinement indemnity, limited benefit, credit, vision, specified disease, Medicare supplement, Champus supplement, long term care, disability income workers compensation or automobile medical payment.

(b) Colorectal cancer screening covered by this section shall include:

(1) For persons 50 years of age or older: screening with annual fecal occult blood tests (three specimens), flexible sigmoidoscopy every five years, colonoscopy every ten years, double contrast barium enema every five years, or any combination of the most reliable, medically recognized screening tests available as may be determined by the Secretary of Health and Social Services of this State.

(2) For persons who are deemed at high risk for colon cancer because of:

- a. family history of familial adenomatous polyposis;
- b. family history of hereditary non-polyposis colon cancer;
- c. chronic inflammatory bowel disease;
- d. family history of breast, ovarian, endometrial, colon cancer or polyps;
or
- e. a background, ethnic or lifestyle, such that the health care provider treating the participant or beneficiary believes he or she is at elevated risk;

screening by colonoscopy, barium enema, or any combination of the most reliable, medically recognized screening tests available as determined by the Secretary of Health and Social Services of this State shall be covered at a frequency determined by the physician."

Section 2. Amend Chapter 35, Title 18, Delaware Code by adding a new section thereto to read as follows:

"§ 3559. Colorectal cancer screening.

- (a) All group and blanket health insurance policies which are delivered or issued for delivery or renewed in this State on or after January 1, 2001 by any health insurer or health service corporation shall provide coverage for colorectal cancer screening.
- (b) Colorectal cancer screening covered by this section shall include:

(1) For persons 50 years of age or older: screening with annual fecal occult blood tests (three specimens), flexible sigmoidoscopy every five years, colonoscopy every ten years, double contrast barium enema every five years, or any combination of the most reliable, medically recognized screening tests available as may be determined by the Secretary of Health and Social Services of this State.

(2) For persons who are deemed at high risk for colon cancer because of:

- a. family history of familial adenomatous polyposis;
- b. family history of hereditary non-polyposis colon cancer;
- c. chronic inflammatory bowel disease;
- d. family history of breast, ovarian, endometrial, colon cancer or polyps; or
- e. a background, ethnic or lifestyle, such that the health care provider treating the participant or beneficiary believes he or she is at elevated risk;

screening by colonoscopy, barium enema, or any combination of the most reliable, medically recognized screening tests available as determined by the Secretary of Health and Social Services of this State shall be covered at a frequency determined by the physician."

Approved July 14, 2000

CHAPTER 417

FORMERLY

HOUSE BILL NO. 599

AS AMENDED BY SENATE AMENDMENT NO. 1

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

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

Section 3. Amend Section 1326, Chapter 5, Title 11 of the Delaware Code by striking the words "class A misdemeanor" as the same appear at the end of subsection (a), and substituting the words "class G felony" in lieu thereof.

Approved July 13, 2000

CHAPTER 418
FORMERLY
HOUSE BILL NO. 606

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE REGARDING BOILERS AND TITLE 29 OF
THE DELAWARE CODE REGARDING BOILER SAFETY AND THE ADMINISTRATIVE
PROCEDURES ACT.

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

Section 1. Amend Chapter 85, Title 16 of the Delaware Code by striking Chapter 85 in its entirety.

Section 2. Amend §8210, Title 29 of the Delaware Code by striking present §8210 in its entirety and substituting the following in lieu thereof:

"§8210. Division of Boiler Safety.

(a) The Division of Boiler Safety is established and shall have the powers, duties, and functions set forth in this section. The Division shall be responsible for the administrative, ministerial, budgetary, clerical and investigative functions as provided by law.

(b) The primary objective of the Division of Boiler Safety is to protect the general public, especially those persons who are owners or users of objects certified by the Division, from unsafe construction, operation, maintenance and repair of boilers, pressure vessels, and nuclear installations. The secondary objectives of the Division are to maintain minimum standards of inspector competency and to maintain certain standards in the delivery of services to the public. In meeting these objectives, the Division shall develop standards assuring professional competence; shall monitor complaints brought against inspectors, and shall develop rules and regulations.

(c) The mandates of this section shall not apply to the following:

- (1) Any boiler or pressure vessels, which is subject to federal inspection and control;
- (2) Any pressure vessel used for the transport or storage of compressed gasses and liquids under the control or regulation of the United State Department of Transportation;
- (3) Any air tank on any vehicle used for carrying passengers or freight and operated under the authority of any other state agency;
- (4) Any air tank installed on the right-of-way of railroads;
- (5) Any unfired pressure vessel not exceeding:
 - a. Five cubic feet in volume and up to 250 psig working pressure;
 - b. One and one-half cubic feet in volume and up to 600 psig working pressure;
 - c. An inside diameter of six inches.
- (6) Any unfired pressure vessel having an internal and/or external operating pressure not exceeding 15 psig;
- (7) Any unfired pressure vessel containing water at ambient temperatures when either of the following limitations is exceeded: 1) a nominal water containing capacity of 120 gallons; or 2) 100 psig working pressure;
- (8) Any water filter or softener containing water at ambient temperature when the pressure does not exceed 300 psig;
- (9) Any pressure vessel under the control of the State Fire Marshal;
- (10) Any water heater, directly fired with oil, gas, or electricity, which shall be equipped with American Society of Mechanical Engineers (ASME) stamped safety relief valves and which cannot exceed any of the following limitations:

- a. Heat input of 200,000 Btu/hr. or 58,600 watts.
- b. Water temperature of 210 degrees Fahrenheit.
- c. Nominal water capacity of 120 gallons.

(11) Any coil type hot water boiler, without any steam space where water flashes into steam when released through a manually operated nozzle, unless one of the following limitations is exceeded:

- a. A ¾-inch diameter tubing or pipe size, with no drum or headers attached;
- b. Nominal water containing capacity does not exceed six gallons;
- c. Water temperature does not exceed 350 degrees Fahrenheit;
- d. Steam is not generated within the coil.

(d) Notwithstanding the provisions of subsection (c) of this section, the Director, or his or her representative, shall have immediate access to the premises for investigation purposes in the event of an accident related to the construction, operation, maintenance or repair of a boiler, pressure vessel or nuclear installation.

(e) Notwithstanding any provision to the contrary, any heating and hot water supply boiler located in an apartment complex or residence of six or less living units, or any heating or hot water supply boiler used to heat a single unit, where the heat input does not exceed 100,000 Btu/hr., shall be exempt from field inspection only.

(f) The Division of Boiler Safety shall have the authority to specify minimum standards for the fabrication, construction, installation, operation, inspection, and repair of all boilers, pressure vessels, and nuclear installations in this state, except those exempt under subsection (c) of this section.

(g) The Division of Boiler Safety, with the approval of the Secretary of Public Safety, shall establish appropriate fees for all activities and services provided by the Division, including, but not limited to, commissions, inspections, and examinations.

(h) The Division of Boiler Safety shall have the authority to perform ASME shop reviews and National Board of Boiler and Pressure Vessel Inspectors (NBBPVI) shop reviews of those manufacturers and repair companies of boilers and pressure vessels in this state.

(i) The Division of Boiler Safety shall have the authority to require that all boilers and pressure vessels in this state be inspected by persons commissioned as boiler and pressure vessel inspectors in this state, and to issue a Certificate of Inspection to all boilers and pressure vessels that meet state installation guidelines, except those exempt under subsection (c) of this section. The Division shall be responsible for inspecting uninsured boilers and pressure vessels. The Director, or his or her representative, shall have immediate access to the site of all installations for inspection purposes and in the event of an accident. Inspection requirements shall be contained in rules and regulations.

(1) All owners, users, and/or contractors, who are responsible for the installation of boilers or pressure vessels in this state, shall obtain a Certificate of Inspection from the Division of Boiler Safety prior to the operation of the boiler or pressure vessel. Notwithstanding this provision, any newly installed boiler or pressure vessel may be operated for testing necessary for issuance of Certificate of Inspection.

(2) Failure to obtain the required Certificate of Inspection shall subject the owner, user and/or contractor to a fine of not less than \$1,000 for the first offense and \$2,000 for a second or subsequent offense. Justice of the Peace courts shall have jurisdiction over all violations of this subsection.

(j) The Director of the Division of Boiler Safety shall have the authority to issue a commission to an applicant as an inspector of boiler and pressure vessels, who meets the following criteria:

- (1) Shall file a notarized application with the Director and pay the fee established by the Division.
- (2) Shall obtain a passing score on the validated examination for inspector.
- (3) Shall possess a valid, current commission issued by the NBBPVI.
- (4) Shall not have been the recipient of any administrative penalties regarding his or her inspection practices in any other state where he or she has held, or currently holds, a commission.

The applicant shall be responsible for providing proof of valid commission in all states where he or she holds or has held a commission as boiler inspector.

(k) All shop inspections required by the ASME Boiler and Pressure Vessel Code shall be performed by a state-commissioned inspector.

(l) The Director of the Division of Boiler Safety shall promulgate and enforce rules and regulations, which shall be binding on all persons commissioned by the Division including manufacturers and users of boilers and pressure vessels. The rules and regulations shall conform, insofar as possible, to the ASME Boiler and Pressure Vessel Code and the NBBPVI's Inspection Code.

(m) The Director of the Division of Boiler Safety shall have the authority to grant a variance, on a case by case basis, to those rules and regulations that pertain to the installation of new boilers to replace existing boilers.

(n) The Director of the Division of Boiler Safety shall designate, contract, approve, and arrange for the administration of all examinations.

(o) The Director of the Division of Boiler Safety shall have the following powers, duties, and functions relating to the administration of examinations:

(1) Deposit all fees received for testing to be used to cover the costs of all expenses directly related to the administration of examinations.

(2) Review, approve, and execute all contracts for examination services.

(3) Review and approve the content and validity of any examination.

(4) Supervise the administration and proctoring of all tests.

(p) The Director of the Division of Boiler Safety, or any officer or employee of the Division designated by the Director, shall:

(1) Have the power of a constable pursuant to §2902(d) of Title 10 of the Delaware Code, for the sole purpose of executing and serving the administrative inspection warrants, subpoenas, and summons issued under the authority of this State and pursuant to the performance of their duties; and

(2) Have the power to shut down unsafe boilers or pressure vessels pursuant to this chapter.

(q) The Director shall have the power to suspend or revoke a state commission for a finding of improper conduct. Where an application has been refused or rejected for a commission as inspector in this state, or where a commission has been suspended for improper conduct, the applicant may appeal to the Secretary of Public Safety.

(r) The Director shall establish a process for handling citizen complaints regarding the unsafe operation of boilers and pressure vessels in this state, which process shall be promulgated in rules and regulations."

Section 3. Amend subsection (13), §10161, Title 29 of the Delaware Code by redesignating present subsection (13) as new subsection (14) and by renumbering each succeeding subsection accordingly.

Section 4. Amend §10161, Title 29 of the Delaware Code by adding thereto a new subsection (13) entitled "(13) Division of Boiler Safety;"

Section 5. All persons responsible for the maintenance of boilers and pressure vessels in public schools in this state shall attend an annual safety seminar provided by the Division of Boiler Safety. The principals of the public schools shall be responsible for insuring the responsible person's attendance at the seminar and for providing the names of all responsible persons to the Division of Boiler Safety.

Approved July 13, 2000

CHAPTER 419

FORMERLY

HOUSE BILL NO. 607
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO UNUSED PROPERTY
MARKETS.

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

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

Section 1. Amend Chapter 47, Title 6 of the Delaware Code, by designating the existing language thereof as "Subchapter I" and by adding thereto a new "Subchapter II" as follows:

"Subchapter II. Unused Property Markets

§ 4720. Definitions.

As used in this subchapter:

- (a) 'Baby food' or 'Infant formula' means any food manufactured, packaged, and labeled specifically for sale for consumption by a child under the age of two.
- (b) 'New and unused property' shall mean tangible personal property that was acquired by the Unused Property Merchant directly from the producer, manufacturer, wholesaler or retailer in the ordinary course of business which has never been used since its production or manufacturing or which is in its original and unopened package or container, if such personal property was so packaged when originally produced or manufactured.
- (c) 'Nonprescription drug' means any non-narcotic medicine or drug that may be sold without a prescription and is prepackaged for use by the consumer and prepared by the manufacturer or producer for use by the consumer. The term nonprescription shall include any drug commonly known as an 'over the counter drug' which is required by state food and drug laws or the federal 'Food, Drug and Cosmetic Act' to be properly labeled and unadulterated, but shall not include any herbal products, dietary supplements, botanical extracts, or vitamins.
- (d) 'Medical device' means any new or unused instrument, apparatus, implement, machine, contrivance, implant, invitro reagent, tool, or other similar or related article, including any component part or accessory, required by federal law to bear the label, 'Caution: Federal law requires dispensing by or on the order of a physician' or which is defined by federal law as a medical device and which is intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease in man or other animals, or is intended to affect the structure or any function of the body of man or other animals, which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and which is not dependant upon being metabolized for achievement of any of its principal intended purposes.
- (e) 'Unused property market' means any event at which persons offer personal property for sale or exchange, and which involves a series of sales sufficient in number, scope, and character to constitute a regular course of business, provided however that the event occurs at least six (6) times in any 12-month period. Unused property markets include any 'swap meet,' 'indoor swap meet,' 'flea market,' or other similar event at which transient retailers transact temporary or transient business, however the event is described and whether or not a fee is charged for entrance thereto.
- (f) 'Unused property merchant' means any person, other than a vendor or merchant with an established retail store in the county, who transports an inventory of goods to a building, vacant lot or other unused property market location and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail and shall include any transient retailer.

§ 4721. Prohibition on sale of certain goods.

Chapter 419

Vol.72

§ 4721. Prohibition on sale of certain goods.

No unused property merchant shall offer at an unused property market for sale or knowingly permit the sale of baby food, infant formula, cosmetics, or any nonprescription drug or medical device. This section shall not apply to a person who keeps available for public inspection a written authorization identifying that person as an authorized representative of the manufacturer or distributor of such product, as long as the authorization is not false, fraudulent, or fraudulently obtained.

§ 4722. Receipts of purchase required for resale; maintenance and inspection of records; destruction or obliteration of receipts.

- (a) No unused property merchant shall offer any new and unused property for sale at an unused property market for which the merchant does not possess a receipt of sale or equivalent documentary evidence of true ownership.
- (b) Every unused property merchant shall maintain receipts for the purchase of, or other documentary evidence of true ownership of new and unused property, for a period of not less than 2 years from the date of acquisition by the unused property merchant.
- (c) Receipts for the purchase for new and unused property, and any other documentary evidence of true ownership, must contain at least:
 - (1) the date of the transaction;
 - (2) the name and address of the person, corporation, or entity from whom the new and unused property was acquired;
 - (3) an identification and description of the new and unused property acquired;
 - (4) the price paid for such new and unused property; and
 - (5) the signature of the seller and buyer of the new and unused property.
- (d) No unused property merchant shall:
 - (1) falsify, obliterate, or destroy such receipts, or knowingly allow the same to occur; or
 - (2) refuse, or fail upon request, to make such receipts available for inspection within a period of time which is reasonable under the individual circumstances surrounding such request.
- (e) Nothing contained in this section shall be construed to require the unused property merchant to possess such receipt on or about his or her person without reasonable notice.

§ 4723. Unlawful trade in new and unused property; Penalties.

- (a) Any person who violates the provisions of this subchapter shall, in addition to any other crimes or violations contained in this Code, be guilty of the unlawful trade in new and unused property and shall, in addition to any other penalty provided for in any other provision of this Code:
 - (1) For the first offence, be guilty of a Class B misdemeanor; and
 - (2) For a second offence, be guilty of a Class A misdemeanor; and
 - (3) For a third or subsequent offence, be guilty of a Class G Felony.
- (b) The Superior Court shall have original jurisdiction over all violations of this subchapter.

§ 4724. Same - Exceptions.

The provisions of this subchapter shall not apply to:

- (a) Any event which is organized for the exclusive benefit or any community chest, fund, foundation, association, or corporation organized and operated for religious, educational, or charitable purposes, provided that no part of any admission fee or parking fee charged vendors or prospective purchasers or the gross receipts or net earnings from the sale or exchange of personal property, whether in the form of a percentage of the receipts or earnings, as salary, or otherwise, inures to the benefit of any private shareholder or person participating in the organization or conduct of the event;

- (b) Any event at which all of the personal property offered for sale or displayed is new, and all persons, selling, exchanging or offering or displaying personal property for sale or exchange, are manufacturers or authorized representatives of manufacturers or distributors;
- (c) The sale of a motor vehicle or trailer that is required to be registered or is subject to the certificate of title laws of this state;
- (d) The sale of wood for fuel, ice, or livestock;
- (e) Business conducted in any industry or association trade show;
- (f) Property, although never used, whose style, packaging or material, clearly indicates that such property was not produced or manufactured within recent times;
- (g) Anyone who sells by sample, catalog or brochure for future delivery;
- (h) The sale of arts or crafts by a person who produces such arts or crafts;
- (i) The sale of new and unused property claimed to be the personal possession of the unused property merchant which had been intended for the merchant's personal use; provided, however, that this exception shall not apply to any item of personal property that is one of four or more identical items that the unused property merchant possesses or offers for sale; or
- (j) Persons who make sales presentations pursuant to a prior, individualized invitation issued to the consumer by the owner or legal occupant of the premises."

Approved July 13, 2000

CHAPTER 420

FORMERLY

HOUSE BILL NO. 618

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE.

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

Section 1. Amend § 7502 (4) a. 1. and (5), Chapter 75, Title 18 of the Delaware Code by striking the word "certified" as it appears immediately before the words "financial planner".

Approved July 13, 2000

CHAPTER 421

FORMERLY

HOUSE BILL NO. 631

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 :

Section 1. Amend Section 9703, Title 16, Delaware Code by deleting a. 6. "The New Castle County Executive or, at the Executive's discretion, the Colonel of the New Castle County Police Department;" and inserting in lieu thereof the following: "the Colonel of the New Castle County Police Department or, at the Colonel's discretion, the Director of New Castle County Emergency Medical Services."

Approved July 13, 2000

CHAPTER 422

FORMERLY

HOUSE BILL NO. 647

AN ACT TO AUTHORIZE AND APPROVE THE TRANSFER OF CERTAIN REAL PROPERTY IN SUSSEX COUNTY KNOWN AS THE LAUREL READINESS CENTER.

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

WHEREAS, the Delaware National Guard occupies certain property owned by the State referred to as the Laurel Readiness Center; and

WHEREAS, this property was originally given to the State by the Town of Laurel for such purpose; and

WHEREAS, the National Guard is in the process of relocating to a new facility in Dagsboro; and

WHEREAS, the Town of Laurel wishes to reacquire the property for other community purposes.

NOW, THEREFORE:

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

Section 1. Notwithstanding any provisions to the contrary, including those contained in Chapter 94, Title 29 of the Delaware Code, the transfer and conveyance of that certain parcel of land known as the Laurel Readiness Center, from the State of Delaware to the Town of Laurel, hereinafter referred to as the "Town", for the consideration of one dollar (\$1.00) is hereby specifically approved.

Section 2. The Department of Administrative Services or other appropriate State agency is hereby authorized and empowered to execute and deliver to the Town a good and sufficient deed to the said real property.

Section 3. The Town agrees to accept the property in "as is" condition at the time of conveyance.

Approved July 13, 2000

CHAPTER 423

FORMERLY

HOUSE BILL NO. 656

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND DELAWARE LAWS TO NAME THE STATE OWNED RAILROAD STATION BUILDING IN DOVER THE GEORGE V. MASSEY STATION.

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

WHEREAS, George V. Massey, a prominent Dover Lawyer designed the new Railroad Station on Loockerman Street after prevailing upon the Pennsylvania Railroad Company to build the replacement station; and

WHEREAS, George V. Massey born December 16, 1841, West Whiteland, Chester County, Pennsylvania, moved to Dover, Delaware in 1852 and died October 21, 1924 at Philadelphia, Pennsylvania. He married Mary Woodall, in Dover, Delaware, daughter of John and Anne Matilda (Calley) Woodall, of Little Creek Hundred, Kent County, Delaware; and

WHEREAS, George V. Massey, Adjutant General of Volunteers, War of Rebellion. Mr. Massey was a Lawyer, engaged in practice, in Dover, Delaware from 1865-1895. He was Solicitor for the Philadelphia, Wilmington and Baltimore Railroad

Company from 1876-1895, Assistant General Solicitor from 1895-1902, General Counsel from November 26, 1902 through December 31, 1911, Pennsylvania Railroad Member Board of Control, World's Columbian Exposition, Chicago, 1893, Commissioner General on behalf of the United States at the International Exposition at Antwerp, Belgium in 1894.

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

NOW, THEREFORE, be it enacted by the House of Representatives, of the 140th General Assembly, the Senate concurring, that the State owned railroad building on Loockerman Street in the City of Dover be renamed the George V. Massey Station, with suitable signage be erected to recognize Mr. Massey.

Approved July 13, 2000

CHAPTER 424

FORMERLY

HOUSE BILL NO. 672

AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATED TO THE PRACTICE OF OPTOMETRY.

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

Section 1. Amend §131, Title 14 of the Delaware Code by renaming the existing subsection (b) as subsection (c) and adding a new subsection (b) to read as follows:

"(b) All kindergarten enrollees for the 2000-2001 school year shall be exempt from the provisions of Chapter 26 of Title 16, Delaware Code."

Approved July 13, 2000

CHAPTER 425

FORMERLY

HOUSE BILL NO. 692

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

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

Amend Chapter 59, Volume 63, Laws of Delaware, Town Charter of Dewey Beach, by adding the following sentence at the end of the existing language of Section 14(b), said section entitled "Duties and Powers of the Mayor":

"The Mayor shall also have the power and authority to solemnize marriages within the boundaries of the Town of Dewey Beach."

Approved July 13, 2000

CHAPTER 426

FORMERLY

HOUSE BILL NO. 694

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE SELLER'S DISCLOSURE
OF REAL PROPERTY CONDITION REPORT.

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

Section 1. Amend Subchapter VII, Chapter 25, Title 6, Delaware Code, by striking the last sentence of § 2578 which reads: "This form or forms shall be available no later than October 30, 1993." and substituting in lieu thereof the following:

"This form or forms for different circumstances shall be promulgated and amended from time to time by the Real Estate Commission, including such additional relevant content as the Commission deems appropriate.

Each form shall also include the following:

"The cost of repairing and repaving the streets adjacent to the property is paid for by
(check one):

_____ the property owner(s), estimated fees: \$ _____.

_____ Delaware Department of Transportation or the State of Delaware.

_____ Unknown.

Note to Buyer: Repairing and repaving of the streets can be very costly.' "

Approved July 13, 2000

CHAPTER 427

FORMERLY

SENATE BILL NO. 289

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE LICENSING OF PRIVATE
INVESTIGATORS AND PRIVATE SECURITY AGENCIES.

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

Section 1. Amend §1341, Title 24, Delaware Code by deleting the first sentence and inserting in lieu thereof the following:

"Any licensee pursuant to §1318, §1319 or §1320 of this chapter shall maintain an office within the State, which office shall be supervised by a manager licensed pursuant to this chapter."

Approved July 13 2000

CHAPTER 428

CHAPTER 428

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 300

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE REGULATION OF
NURSING FACILITIES AND SIMILAR FACILITIES.

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

AMEND §1111, Title 16 of the Delaware Code by striking the sentence beginning with "The Department must choose" and replacing it with the following:

"If the federal government collects a civil monetary penalty for reported deficiencies, the State of Delaware will not collect a civil monetary penalty for the same conditions. In the event that a civil monetary penalty has been collected by the state and the federal government subsequently collects a penalty for the same conditions, the state shall refund the previously collected penalty."

Approved July 13, 2000

CHAPTER 429

FORMERLY

SENATE BILL NO. 384

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE BOARD OF PARDONS.

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

Section 1. Amend Subsection 4362(a), Title 11 of the Delaware Code by striking the phrase "psychiatrist who has examined such person" as it appears in that subsection and substituting in lieu thereof the phrase "psychiatrist and psychologist who have examined such person".

Section 2. Amend Subsection 4362(b), Title 11 of the Delaware Code by striking the current language of that subsection in its entirety and substituting in lieu thereof the following:

"(b) Prior to consideration by the Board of Pardons of any application for a pardon or a commutation of sentence made by any person who has been incarcerated for any of the crimes stated in subsection (a) of this section, such person shall be examined by a psychiatrist and by a psychologist within a 12-month period immediately preceding consideration of such person's case by the Board of Pardons. The Commissioner of the Department of Correction or the Commissioner's designee may request the Director of the Delaware Psychiatric Center to cause examination and studies to be made."

Section 3. Amend Subsection 4362(c), Title 11 of the Delaware Code by striking the current language of that subsection in its entirety and substituting in lieu thereof the following:

"(c) Any psychiatrist or psychologist who, pursuant to subsection (b) of this section, examines any applicant for a pardon or a commutation of sentence shall furnish to each member of the Board of Pardons a report containing their respective findings, opinions as to the mental and emotional health of the applicant, and opinions as to the probability of the applicant again committing any crime if released. If the Board of Pardons recommends a pardon or a commutation of sentence, a copy of any report

submitted to the Board by any psychiatrist or psychologist shall be provided to the Governor."

Section 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved July 13, 2000

CHAPTER 430

FORMERLY

SENATE BILL NO. 387

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF
EDUCATION AND EDUCATIONAL OUTCOME ACCOUNTABILITY REPORTING.

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

WHEREAS, the mission of the Department of Education is to promote the highest quality education for every Delaware student; and

WHEREAS, it is imperative to an effective system of public education to understand how public school students succeed in life once they have left the public school system; and

WHEREAS, accurate and timely data concerning high school graduates are essential to this understanding:

NOW THEREFORE:

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

Section 1. Amend §156, Title 14 of the Delaware Code by adding the following at the end thereof:

"(c) Beginning in the year 2001, the Secretary of Education shall submit to the Governor and the General Assembly each year an annual education outcome report. The report must be based on the unit count taken in September of the school year immediately preceding the annual reporting date and must contain the following information:

- (1) the number of students enrolled in 12th grade, based on the September unit count;
- (2) the number of those students still enrolled at the close of the school year who receive a high school diploma and the type of diploma received;
- (3) the number of those students still enrolled at the close of the school year who complete 12th grade, but do not receive a high school diploma;
- (4) the number of those students who, by the close of the school year, have dropped out

of school; and

- (5) the number of those students who, by the close of the school year, transferred to other schools.

(d) Each year the Secretary shall conduct a graduate follow up study of students who completed the 12th grade during the preceding school year to determine the educational and employment status of each student. The survey shall request information regarding the post-secondary education enrollment status and the employment status of students and shall at a minimum, include the following questions:

- (1)
 - a. Is the student presently enrolled in a post-secondary educational institution of any type?
 - b. Is the student enrolled full time or part time?

- c. What is the student's major area of study?
- d. What is the name of the institution in which the student is enrolled?
- (2) a. Is the student presently employed?
- b. Is the student employed full time or part time?
- c. The name and address of the student's employer?
- d. In what industry is the student employed?
- e. What position does the student hold?
- f. What is the student's hourly/weekly/annual salary?
- (3) What is the student's perception of the value of his or her secondary education in terms of preparation for post-secondary education or employment?

(e) For the purpose of performing a comparative longitudinal analysis of the information collected for an annual educational outcome report, the Secretary shall compile similar information about students who graduated in 1998 and 1999, and shall use the 1998 information as the basis for all comparisons. The goal of educational outcome accountability is to decrease the 13% 1998 Delaware public school dropout rate for grade 12, as published in the Department of Education report entitled Delaware Dropouts, 1997-1998 Summary Statistics, December 1998.

(f) Nothing in this section prohibits the Department of Education from conducting a more comprehensive survey and/or evaluation for the annual educational outcome report."

Approved July 13, 2000

CHAPTER 431

FORMERLY

SENATE BILL NO. 392

AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO TERMINATION OF PARENTAL RIGHTS.

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

Section 1. Amend Section 1101, Title 13 of the Delaware Code by deleting current subsection (1) and inserting in lieu thereof the following:

"(1) 'Abandoned' shall be interpreted as referring to a basis for termination of parental rights as described in Section 1103(a)(2) of this Chapter."

Section 2. Amend Section 1103, Title 13 of the Delaware Code by deleting the current subsection (a)(2) and inserting in lieu thereof the following:

"(2) The child has been abandoned.

- (a) The Court may order a termination of parental rights based upon abandonment if the Court finds that the following occurred and that the respondent intended to abandon the child:
 - (i) In the case of a minor who has not attained six months of age at the time a petition for termination of parental rights has been filed, and for whom the respondent has failed to:
 - (a) pay reasonable prenatal, natal, and postnatal expenses in accordance with the respondent's financial means;
 - (b) visit regularly with the minor; and
 - (c) manifest an ability and willingness to assume legal and physical custody of the minor, if, during this time, the minor was not in the physical custody of the other parent;

- (ii) In the case of a minor who has attained six months of age at the time a petition for termination of parental rights is filed, the respondent, for a period of at least six consecutive months in the year preceding the filing of the petition, has failed to:
 - (a) communicate or visit regularly with the minor; and
 - (b) manifest an ability and willingness to assume legal and physical custody of the minor, if, during this time, the minor was not in the physical custody of the other parent; or
- (iii) In the case of a minor who has not attained 6 months of age at the time a petition for termination of parental rights has been filed, and for whom the respondent has manifested the unwillingness to exercise parental rights and responsibilities, as evidenced by the respondent's placing the minor in circumstances which leave the minor in substantial risk of injury or death;
- (b) In cases in which no finding of intent to abandon has been made, the Court may order a termination of parental rights based upon abandonment if the Court finds that the respondent, for a period of at least twelve consecutive months in the 18 months preceding the filing of the petition, has failed to:
 - (i) communicate or visit regularly with the minor;
 - (ii) file or pursue a pending petition to establish paternity or to establish a right to have contact or visitation with the minor; and
 - (iii) manifest an ability and willingness to assume legal and physical custody of the minor, if during this time, the minor was not in the physical custody of the parent;

and if the Court finds that one of the following grounds exists:

- (i) if the minor is not in the legal and physical custody of the other parent, the respondent is not able or willing promptly to assume legal and physical custody of the minor, and to pay for the minor's support, in accordance with the respondent's financial means;
- (ii) if the minor is in the legal and physical custody of the other parent and a stepparent, and the stepparent is the prospective adoptive parent, the respondent is not able or willing promptly to establish and maintain contact with the minor and to pay for the minor's support, in accordance with the respondent's financial means;
- (iii) placing the minor in the respondent's legal and physical custody would pose a risk of substantial harm to the physical or psychological well-being of the minor because the circumstances of the minor's conception, the respondent's behavior during the mother's pregnancy or since the minor's birth, or the respondent's behavior with respect to other minors, indicates that the respondent is unfit to maintain a relationship of parent and child with the minor; or
- (iv) failure to terminate would be detrimental to the minor. In determining whether a failure to termination would be detrimental to the minor, the court shall consider any relevant factor, including the respondent's efforts to obtain or maintain legal and physical custody of the minor, the role of other persons in thwarting the respondent's efforts to assert parental rights, the respondent's ability to care for the minor, the age of the minor, the quality of any previous relationship between the respondent and the minor and between the respondent and any other minor children, the duration and suitability of the minor's present custodial environment, and the effect of a change of physical custody on the minor.

(c) The respondent's act of abandonment cannot be cured by subsequent conduct."

Section 3. Amend Section 1103 of Title 13 of the Delaware Code by adding new subsections (a)(7) and (a)(8) to read as follows:

- “(7) The parent has subjected the child to torture, chronic abuse, sexual abuse, and/or life-threatening abuse.

- c. What is the student's major area of study?
- d. What is the name of the institution in which the student is enrolled?
- (2) a. Is the student presently employed?
- b. Is the student employed full time or part time?
- c. The name and address of the student's employer?
- d. In what industry is the student employed?
- e. What position does the student hold?
- f. What is the student's hourly/weekly/annual salary?
- (3) What is the student's perception of the value of his or her secondary education in terms of preparation for post-secondary education or employment?

(e) For the purpose of performing a comparative longitudinal analysis of the information collected for an annual educational outcome report, the Secretary shall compile similar information about students who graduated in 1998 and 1999, and shall use the 1998 information as the basis for all comparisons. The goal of educational outcome accountability is to decrease the 13% 1998 Delaware public school dropout rate for grade 12, as published in the Department of Education report entitled Delaware Dropouts, 1997-1998 Summary Statistics, December 1998.

(f) Nothing in this section prohibits the Department of Education from conducting a more comprehensive survey and/or evaluation for the annual educational outcome report."

Approved July 13, 2000

CHAPTER 431

FORMERLY

SENATE BILL NO. 392

AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO TERMINATION OF PARENTAL RIGHTS.

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

Section 1. Amend Section 1101, Title 13 of the Delaware Code by deleting current subsection (1) and inserting in lieu thereof the following:

"(1) 'Abandoned' shall be interpreted as referring to a basis for termination of parental rights as described in Section 1103(a)(2) of this Chapter."

Section 2. Amend Section 1103, Title 13 of the Delaware Code by deleting the current subsection (a)(2) and inserting in lieu thereof the following:

"(2) The child has been abandoned.

- (a) The Court may order a termination of parental rights based upon abandonment if the Court finds that the following occurred and that the respondent intended to abandon the child:
 - (i) In the case of a minor who has not attained six months of age at the time a petition for termination of parental rights has been filed, and for whom the respondent has failed to:
 - (a) pay reasonable prenatal, natal, and postnatal expenses in accordance with the respondent's financial means;
 - (b) visit regularly with the minor; and
 - (c) manifest an ability and willingness to assume legal and physical custody of the minor, if, during this time, the minor was not in the physical custody of the other parent;

- (ii) In the case of a minor who has attained six months of age at the time a petition for termination of parental rights is filed, the respondent, for a period of at least six consecutive months in the year preceding the filing of the petition, has failed to:
 - (a) communicate or visit regularly with the minor; and
 - (b) manifest an ability and willingness to assume legal and physical custody of the minor, if, during this time, the minor was not in the physical custody of the other parent; or
- (iii) In the case of a minor who has not attained 6 months of age at the time a petition for termination of parental rights has been filed, and for whom the respondent has manifested the unwillingness to exercise parental rights and responsibilities, as evidenced by the respondent's placing the minor in circumstances which leave the minor in substantial risk of injury or death;
- (b) In cases in which no finding of intent to abandon has been made, the Court may order a termination of parental rights based upon abandonment if the Court finds that the respondent, for a period of at least twelve consecutive months in the 18 months preceding the filing of the petition, has failed to:
 - (i) communicate or visit regularly with the minor;
 - (ii) file or pursue a pending petition to establish paternity or to establish a right to have contact or visitation with the minor; and
 - (iii) manifest an ability and willingness to assume legal and physical custody of the minor, if during this time, the minor was not in the physical custody of the parent;

and if the Court finds that one of the following grounds exists:

- (i) if the minor is not in the legal and physical custody of the other parent, the respondent is not able or willing promptly to assume legal and physical custody of the minor, and to pay for the minor's support, in accordance with the respondent's financial means;
- (ii) if the minor is in the legal and physical custody of the other parent and a stepparent, and the stepparent is the prospective adoptive parent, the respondent is not able or willing promptly to establish and maintain contact with the minor and to pay for the minor's support, in accordance with the respondent's financial means;
- (iii) placing the minor in the respondent's legal and physical custody would pose a risk of substantial harm to the physical or psychological well-being of the minor because the circumstances of the minor's conception, the respondent's behavior during the mother's pregnancy or since the minor's birth, or the respondent's behavior with respect to other minors, indicates that the respondent is unfit to maintain a relationship of parent and child with the minor; or
- (iv) failure to terminate would be detrimental to the minor. In determining whether a failure to termination would be detrimental to the minor, the court shall consider any relevant factor, including the respondent's efforts to obtain or maintain legal and physical custody of the minor, the role of other persons in thwarting the respondent's efforts to assert parental rights, the respondent's ability to care for the minor, the age of the minor, the quality of any previous relationship between the respondent and the minor and between the respondent and any other minor children, the duration and suitability of the minor's present custodial environment, and the effect of a change of physical custody on the minor.

(c) The respondent's act of abandonment cannot be cured by subsequent conduct."

Section 3. Amend Section 1103 of Title 13 of the Delaware Code by adding new subsections (a)(7) and (a)(8) to read as follows:

- "(7) The parent has subjected the child to torture, chronic abuse, sexual abuse, and/or life-threatening abuse.

- (8) The child has suffered unexplained serious physical injury under such circumstances as would indicate that such injuries resulted from the intentional conduct or willful neglect of the parent."

Section 4. Amend Section 1103(d) of Title 13 of the Delaware Code by deleting "or" from after "(4)", inserting a comma ",", after "(4)", and inserting ", (7) or (8)" after "(6)".

Approved July 13, 2000

CHAPTER 432

FORMERLY

SENATE BILL NO. 393

AN ACT TO AMEND CHAPTER 11, 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 §1150 of Title 9 of the Delaware Code by adding subsection (d) as follows:

"(d) Pursuant to the authority granted to the Government of New Castle County in §1101 of this Title, the County Council may by ordinance impose upon itself a super majority voting requirement in addition to any super majority requirement imposed by State law."

Approved July 13, 2000

CHAPTER 433

FORMERLY

SENATE BILL NO. 406

AN ACT TO AMEND TITLE 8 OF THE DELAWARE CODE RELATING TO CERTIFICATES OF INCORPORATION FOR PRIVATE BUSINESS OR TRADE SCHOOLS.

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

Section 1. Amend §125 of Title 8 of the Delaware Code by adding the following sentence to the end of the first paragraph thereof: "Notwithstanding any provision herein to the contrary, no corporation shall have the power to conduct a private business or trade school unless the certificate of incorporation or an amendment thereof, prior to its being filed in the office of the Secretary of State, shall have endorsed thereon the approval of the Department of Education pursuant to Chapter 85 of Title 14."

Approved July 13, 2000

CHAPTER 434

FORMERLY

SENATE BILL NO. 407

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

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

Section 1. Amend §5701, Title 15 of the Delaware Code by striking subsection (a) in its entirety and substituting in lieu thereof:

"(a) The Superior court shall convene in each county on the second day after the general election, at 10 a.m., for the performance of the duties imposed upon it by §6 of Article V of the Constitution of this State and by this chapter. Thereupon the Court, with the aid of such of its officers and such sworn assistants as it shall appoint, shall publicly ascertain the state of the election throughout the county and in the respective election districts by calculating the aggregate amount of all the votes for each office that shall have been given in all of the election districts of the county for every person voted for such office. For this purpose, the court shall utilize the voting machine recording tapes, voting machine certificates, absentee vote tally sheets and write-in vote tally sheets for each election district provided by the Prothonotary and the Department of Elections for its county, whose representatives shall sit as observers and assistants to the Court during said calculation of the vote."

Section 2. Amend §5702, Title 15 of the Delaware Code by striking subsections (a) and (b) in their entirety and substituting in lieu thereof:

"(a) Whenever the voting machine recording tapes, voting machine certificates, absentee vote tally sheets, write-in vote tally sheets and absentee ballot box for any election district are not produced when the Court convenes or whenever any voting machine is not available by 12 noon, the Court may issue summary process against the election officers of such election district or any other persons to bring such documents or objects forthwith into the Court or to make them available for inspection by the Court.

(b) Whenever the documents produced do not agree or there is a complaint under oath of fraud or mistake in any such document, or if fraud, mistake or omission is apparent on the face of such document, the Court shall:

- (1) Open and examine the necessary voting machines and/or absentee ballot boxes;
- (2) Make a recount of the votes contained therein;
- (3) Correct any fraud, mistake or omission in any document or paper relating to the election."

Section 3. Amend §5702(d), Title 15 of the Delaware code by striking the words "certificates of election" and substituting in lieu thereof the words "absentee vote tally sheets".

Section 4. Amend §5705(b), Title 15 of the Delaware Code by striking the phrases "Prothonotary, 2;" and "Coroner, 2;" in their entirety.

Section 5. Amend §5706(a), Title 15 of the Delaware Code by striking the phrases "of Prothonotary," and "hundreds and" in their entirety.

Section 6. Amend §5706(b), Title 15 of the Delaware Code by striking the sentence "In case of Prothonotary....was duly elected Prothonotary for.....County." in its entirety.

Section 7. Amend §5708, Title 15 of the Delaware Code by striking the phrase "Prothonotary," In its entirety.

Section 8. Amend §5709(a)(8), Title 15 of the Delaware Code by striking the phrases "of Prothonotary," and "and of coroner" in their entirety and by then inserting the word "and" between the phrases "register in chancery," and "of sheriff".

Section 9. Amend §5715, Title 15 of the Delaware Code by inserting words "or representative" after the word "senatorial" wherever it appears and by inserting the words "or Representative" following the word "Senator" in subsection (a).

Approved July 13, 2000

CHAPTER 435

FORMERLY

HOUSE BILL NO. 593

AN ACT PROPOSING THE AMENDMENT OF ARTICLE IV OF THE CONSTITUTION OF THE STATE OF DELAWARE BY THE ADDITION OF A NEW SECTION 39 CREATING THE JUDICIAL OFFICE OF SENIOR JUDGE.

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

Section 1. Amend Article IV of the Constitution of the State of Delaware by adding a new Section 39 thereto as follows:

"§ 39. Senior Judges.

Section 39. The office of Senior Judge is hereby created. Any retired judge of a court established by this amended Article IV of this Constitution or by act of the General Assembly, who is duly qualified and appointed, may serve as a Senior Judge. The qualifications, manner of appointment, term of office, compensation, duties, and all other matters relating to the office of the Senior Judge shall be as specified by statute.

Senior Judges are subject to the Code of Judicial Conduct and are subject to censure, removal or retirement by the Court on the Judiciary in accordance with Section 37 of this Article IV.

Senior Judges shall not be counted for purposes of determining the political representation on any court or on any combination of courts under Section 3 of this Article IV."

Approved July 01, 2000

CHAPTER 436

FORMERLY

HOUSE BILL NO. 620

AS AMENDED BY HOUSE AMENDMENT NO. 1 AS AMENDED BY HOUSE AMENDMENT NO. 1 to
HOUSE AMENDMENT NO. 1

AN ACT PROPOSING AN AMENDMENT TO ARTICLE V, § 2 OF THE DELAWARE CONSTITUTION OF
1897, AS AMENDED, RELATING TO REFERENCES TO PEOPLE WITH MENTAL ILLNESS AND
PAUPERS.

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

Section 1. Amend § 2, Article V of the Delaware Constitution of 1897, as amended, by deleting the words
"idiot or insane person, pauper," as the same appear therein and by substituting in lieu thereof the words "person
adjudged mentally incompetent".

Approved June 30, 2000

CHAPTER 437

FORMERLY

SENATE BILL NO. 394

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE V, SECTION 6 OF THE
DELAWARE CONSTITUTION OF 1897 RELATING TO CERTIFICATES OF ELECTION AND
BALLOTS.

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, an amendment to the Constitution of the State of Delaware was proposed in the 139th General
Assembly, being Chapter 398, Volume 71, Laws of Delaware, as follows:

"AN ACT PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 6 OF THE DELAWARE
CONSTITUTION OF 1897 RELATING TO CERTIFICATES OF ELECTIONS AND BALLOTS

Section 1. Amend Article V, Section 6 of the Delaware Constitution of 1897, as amended, by deleting the
title and first two paragraphs in their entirety and substituting in lieu thereof the following:

"§. VOTING MACHINE RECORDING TAPES, VOTING MACHINE CERTIFICATE, AND
ABSENTEE BALLOTS; DELIVERY TO THE PROTHONOTARY; DUTIES AND
COMPOSITION OF COURT; QUORUM.

Section 6. Said presiding election officer of each election district, following the close of
the polls on the day of the general election, shall deliver the copy of each voting machine
recording tape containing the signatures of the election officers present at the opening and closing
of the polls from each voting machine assigned to his or her district and one copy of the voting
machine certificate, made and certified by law, together with the ballot box or ballot boxes
containing absentee ballots and other papers required by law to be placed therein, to the
Prothonotary of the Superior Court of the county, who at 10 o'clock a.m. on the second day after
the election present the same to the said Court, and the said Court shall at the same time convene
for the performance of the duties hereby imposed upon it; and thereupon the said Court, with the
aid of such of its officers and such sworn assistants as it shall appoint, shall publicly ascertain the
state of the election throughout the county, by determining the aggregate number of votes for each
office given in the election districts of the county and for every person who received votes for
each office.

Said presiding election officer shall also deliver a copy of each voting machine recording tape from each voting machine assigned to his or her district, one copy of the voting machine certificate and absentee ballots to the Department of Elections following close of the polls on the day of the general election, which at 10 o'clock a.m. on the second day after the election and shall appear at said Court with said voting machine recording tapes, voting machine certificates and absentee ballots for use, as necessary, in ascertaining the state of the election.

In case any voting machine recording tape, voting machine certificate, absentee ballot box, and/or any other document required by law shall not be produced, or in the case of a complaint under oath of fraud or mistake in any such tape or certificate, or in case fraud or mistake is evident on the face of any document completed by any election officer, the Court shall have the power to issue summary process against any election officer or any other person to bring such persons forthwith into Court with the election papers in their possession or control; and to open any absentee ballot box and take therefrom any paper contained therein, and to recount the absentee ballots; and to correct any fraud or mistake on the voting machine recording tape(s) or on any document completed by any election officers relating to such election."

WHEREAS, the said proposed amendment was adopted by two-thirds of all members elected to each house of the 139th General Assembly;

NOW THEREFORE:

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

(Two-thirds of all members elected to each house thereof concurring therein):

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

Approved June 30, 2000

CHAPTER 438

FORMERLY

SENATE BILL NO. 417 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29, OF THE DELAWARE CODE RELATING TO THE CALCULATION OF BENEFITS IN THE STATE EMPLOYEES' PENSION PLAN AND TO PROVIDE A MECHANISM TO FUND POST RETIREMENT HEALTH INSURANCE PREMIUMS FOR RETIRED STATE EMPLOYEES.

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

Section 1. Amend §5527(a), Chapter 55, Title 29, Delaware Code, by deleting the number "1/60" each time the same appears therein, and by substituting in lieu thereof the number "1.8%".

Section 2. Amend §5544(b), Chapter 55, Title 29, Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof a new subsection "§544(b)" to read as follows:

"(b) The State's appropriation to the funds for the fiscal year 2002, and for each fiscal year thereafter, shall be the percentage of covered payroll approved by the Board on the basis of the most recent actuarial valuation, and shall equal the sum of the normal cost plus the payment required to implement the provisions of subsection (c) of this section plus the payment required to amortize the unfunded actuarial accrued liability over 40 years from July 1, 1975. For plan amendments effective during Fiscal Year 2001 the unfunded actuarial accrued liability shall be amortized over a 30-year period from the valuation period that the amendment is first recognized. For plan amendments effective after Fiscal Year 2001 the unfunded actuarial accrued liability for such amendments shall be amortized over a 30-year period beginning at the amendment's effective date. The amortization payment shall be an amount computed as a level percentage of the prospective total covered payroll over the remainder of the amortization periods, with such prospective total covered payroll to be determined on the basis of a growth rate of 4% per year, compounded annually. Except as provided in subsection (c) of this section, all funds appropriated pursuant to this subsection shall be deposited into the Fund established by §5541 of this title."

Section 3. Amend Chapter 55, Title 29, Delaware Code by adding a new subsection "5550", to read as follows:

"5550. ESTABLISHMENT OF POST RETIREMENT HEALTH INSURANCE PREMIUM FUND.

There shall be established a State Post Retirement Health Insurance Premium Fund, separate and distinct from the Funds established under §5541 of this chapter to which state appropriations and other employer contributions shall be deposited, and to which earnings on investments, refunds, and reimbursements shall be deposited upon receipt, and from which the State's premiums as defined in §5202(b) of this Title shall be paid, and any fees and expenses authorized by the Board shall be paid. No money shall be disbursed from this fund except for the purpose of payment of the State's premiums for post retirement health insurance for employees retired under this Chapter of the Delaware Code."

Section 4. Amend §5544(c), Chapter 55, Title 29, Delaware Code by redesignating said subsection as new subsection (c)(1) and by adding a new subsection designated as subsection (c)(2) to read as follows:

"(c)(2) In order to provide a fund for post retirement health insurance premiums, the state shall include in its annual appropriation payments the sum of the anticipated cost of the State's post retirement health insurance premiums for that year, plus the greater of 5.00% of the normal cost or the difference of 2.00% of covered payroll less the amount appropriated for the normal cost and unfunded actuarial accrued liability in subsection (b) of this section. Funds appropriated to implement this subsection shall be deposited into the Post Retirement Health Insurance Premium Fund established by §5550 of this title."

Section 5. Sections 1 and 3 shall be effective July 1, 2000. Sections 3 and 4 shall be effective July 1, 2001.

Approved July 20, 2000

CHAPTER 439

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 111

AN ACT TO AMEND TITLE 11, DELAWARE CODE, RELATING TO THE ESTABLISHMENT OF A DELAWARE COUNTY AND MUNICIPAL POLICE/FIREFIGHTERS' RETIREE PENSION PLAN.

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

Section 1. Amend Title 11, Delaware Code, by adding thereto a new Chapter 89 to read as follows:

"CHAPTER 89. DELAWARE COUNTY AND MUNICIPAL
POLICE/FIREFIGHTERS' RETIREE PENSION PLAN

§ 8901. Definitions:

As used in this Subchapter:

- (a) 'Board' shall mean the Board of Pension Trustees established by §8308 of Chapter 83, Title 29, Delaware Code.
- (b) 'Retired member' shall mean a member who is retired from a county or municipality in Delaware, which has affiliated with the fund established by this Chapter.

§ 8902. Optional Participation of Counties and Municipalities.

Any county, or municipal police, or fire department that has a pension plan may elect to participate in the County and Municipal Police/Firefighters' Retiree Pension Plan beginning July 1 of any year on or after July 1, 2000. Application to participate shall be by the majority vote of retired members who are receiving benefits, with the approval of the appropriate municipal and State officials. A county or municipality must join the plan on or

before June 30, 2001. Any such application, upon approval by the Board, shall be irrevocable. Each participating county and municipality shall provide such information to the Board as it may require for the administration of this Chapter.

§ 8903. Payment of Pension

Pension payments shall be made to a retired member beginning with the month the participating county or municipality has provided sufficient information to the Board to begin such payment. No payments will be made unless sufficient funding has been paid to the Board from the participating county or municipality to cover such payments.

§ 8904. Adjustment of Benefits

- (a) On July 1, 2000 the City of Wilmington shall provide \$150,000 for the City's portion of a post-retirement increase. On July 1, 2003 the City of Wilmington shall provide an additional \$150,000 for the City's portion of a post-retirement increase. These funds are to be used for retired members who retired prior to June 30, 1997. The City shall use the same format to grant the increases as was granted to members in 1997.
- (b) All present and future retirees receiving a pension payable under this Chapter shall be adjusted no less liberally than adjustments made for pensions payable under the State Employees Pension Plan after July 1, 2003.

§ 8905. Employer Contributions

The contribution of the county or municipality for each month shall be the amount of benefits payable to retired members, plus any adjustments in benefits, plus administrative expenses. All contributions will be paid to the Board monthly by electronic funds transfer at least 5 business days prior to the last business day of each month.

§ 8906. Fund Established.

There shall be established a County and Municipal Police/Firefighters' Retiree Pension Fund, hereinafter referred to as the 'Fund', to which employer contributions will be deposited monthly, and from which benefits shall be paid and fees and expenses authorized by the Board shall be paid. The assets of the Fund will be commingled in the Delaware Public Employees' Retirement System as provided for by §8308 of Title 29 of the Delaware Code."

Approved July 21, 2000

CHAPTER 440

FORMERLY

SENATE BILL NO. 253

AN ACT TO AMEND TITLE 14 AND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DONATED LEAVE PROGRAM.

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

Section 1. Amend §1318A(b)(2), Title 14 of the Delaware Code by inserting the following between the word "illness" and the period (".") as they appear at the end of the first sentence therein:

"of a recipient or of a member of a recipient's family".

Section 2. Amend §1318A(b)(2), Title 14 of the Delaware Code by inserting the following between "employee" and "which" as they appear in the second sentence therein:

"or to a member of an employee's family".

Section 3. Amend §1318A(b)(2), Title 14 of the Delaware Code by striking the phrase "unable to work" as it appears in the second sentence therein and by substituting in lieu thereof the following:

Chapter 440
Vol.72

"or a member of the employee's family unable to work, or, in the case of a family member who does not work, the medical equivalent of 'unable to work'."

Section 4. Amend §1318A(b)(2), Title 14 of the Delaware Code by adding the following after the last sentence in paragraph (2):

"For this section, family member or member of an employee's family means an employee's spouse, son, daughter, or parent who resides with the employee and who requires the personal attendance of the employee during the family member's catastrophic illness."

Section 5. Amend §1318A(b)(5), Title 14 of the Delaware Code by adding thereto at the end of paragraph (5) the following:

"However, when donated leave is for the catastrophic illness of a family member, the employee must have used all of his or her sick days, personal days, and annual leave."

Section 6. Amend §5956(c), Title 29 of the Delaware Code by striking the phrase "catastrophic illness" as it appears therein at the end of the first sentence and by substituting in lieu thereof the following:

"a catastrophic illness of the recipient or of a family member of the recipient".

Section 7. Amend §5956(c), Title 29 of the Delaware Code by striking the second sentence therein in its entirety and by substituting in lieu thereof the following:

"For purposes of this section, the term 'catastrophic illness' means an illness or injury to an employee or to a member of an employee's family which is diagnosed by a physician and certified by the physician as rendering the employee or a member of the employee's family unable to work, or, in the case of a family member who does not work, the medical equivalent of 'unable to work', for a period greater than 5 calendar weeks."

Section 8. Amend §5956(c), Title 29 of the Delaware Code by adding the following after the last sentence in subsection (c):

"For purposes of this section, family member or member of an employee's family means an employee's spouse, son, daughter, or parent who resides with the employee and who requires the personal attendance of the employee during the family member's catastrophic illness."

Section 9. Amend §5956(c)(2), Title 29 of the Delaware Code by striking the phrase "vacation time; and " as it appears therein and by substituting in lieu thereof the following:

"annual leave; however, when the donated leave time is for the catastrophic illness of a family member, the employee must have used all of his or her sick days and annual leave; and".

Section 10. 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 18, 2000

CHAPTER 441

FORMERLY

SENATE BILL NO. 299
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HEALTH CARE ORGANIZATIONS.

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

Section 1. Amend Title 16 of the Delaware Code by adding the following to Chapter 91:

"§9119. Independent Health Care Appeals Program.

- (a) There is established the Independent Health Care Appeals Program in the Department of Health & Social Services. The program will include, at a minimum, a final step in the grievance process which provides for a review by an Independent Utilization Review Organization, hereafter referred to as 'I.U.R.O.', as specified in regulations promulgated by the Department pursuant to the authority granted in Section 9110 of Title 16 of the Delaware Code. The purpose of the program is to provide an independent medical necessity or appropriateness of services review of final decisions of carriers to deny, reduce or terminate benefits in the event the final decision is contested by the covered person. For the purpose of this act, 'medical necessity' means, the providing of covered health care services or products that a prudent physician would provide to a patient for the purpose of diagnosing, or treating an illness, injury, disease, or its symptoms in a manner that is:
 1. In accordance with generally accepted standards of medical practice;
 2. Consistent with the symptoms or treatment of the condition; and
 3. Not solely for anyone's convenience.

The appeal review shall include any decisions regarding covered benefits by the covered person's health benefits plan, and any determination by the I.U.R.O. shall be binding on the health carriers. If the I.U.R.O. makes a determination in favor of the carrier, it will give rise to a rebuttable presumption to that effect in any subsequent action brought by or on behalf of the covered person with respect to the decision. Should the determination favor the covered person, the health carrier shall have the ability to appeal the issue to Superior Court. The outcome of that appeal shall have no effect on the determination already made by the IURO. In any such instance in which an appeal is taken to the Superior Court, that Court shall, upon receiving notice of the appeal, appoint an independent attorney to defend the determination from which the appeal is taken. The expenses of the appeal to the Superior Court, including the assessment of attorney fees for the attorney appointed by the Court, shall be assessed by the Court against the health carrier. This act will affect 'health carriers,' defined as any entity subject to insurance laws and regulations of the state. For the purpose of this act, 'health carriers' shall be treated as 'Managed Care Organizations' as defined in Section 9102 of Title 16 of the Delaware Code.

- (b) A covered person may apply to the Independent Health Care Appeals Program for a review of any decision to deny, reduce or terminate covered benefits if the person has already completed the carrier's internal appeals process and the person contests the final decision by the carrier. Within sixty days of the date the final decision was issued by the carrier, a covered person or the covered person's authorized representative may file a request for an external review with the health carrier. Upon receipt of a request for an external review, the health carrier shall send a copy of the request to the Department.
- (c) The Department shall, at the time of the receipt of the request for an external review, assign an independent utilization review organization (IURO) from the list of certified IUROs pursuant to §9120 (a) of this Title and shall so inform the health carrier. The IURO shall notify the covered person or the covered person's authorized representative in writing that they have been assigned to conduct an external review. Included in the notice shall be a statement that the covered person or the covered person's authorized representative may submit additional

information and supporting documentation that the IURO shall consider when conducting the external review. Such additional information must be submitted within seven days of receipt of the notification.

- (d) Within seven calendar days after the date on which the health carrier receives notice of the IURO assigned, the health carrier shall provide to the assigned IURO all documents and information utilized in making the final decision to deny, reduce or terminate benefits, as well as the final written decision from the Stage 2 internal appeal.

§9120. Appeal Reviews; independent utilization review organizations.

- (a) The Secretary shall certify such organizations that meet the requirements of this act or regulations to be promulgated pursuant to it or shall deem certified any independent review entity meeting standards developed for this purpose by an independent, national accrediting organization. The Department will contract these I.U.R.O.
- (b) The Secretary shall appoint an I.U.R.O. on a rotating basis to hear each appeal. The carrier shall be responsible for all costs associated with the appeal regardless of the final ruling, and shall reimburse the Department within 90 days of a final decision for the expenses related to the appeal process. In addition, upon the written request of an MCO, the Secretary shall have the discretion to appoint an I.U.R.O. to conduct a preliminary review to determine if an appeal is clearly without merit. The cost of the preliminary review shall be borne by the MCO.
- (c) Regulations promulgated under this section shall include the following requirements:
 - 1. Expert reviewers assigned by independent review organizations must be physicians or other appropriate health care practitioners who meet the following minimum requirements:
 - a. Expert in the treatment of the covered person's medical condition, and knowledgeable about the recommended service or treatment through recent or current actual clinical experience treating patients with the same or similar medical conditions of the covered person.
 - b. Hold a non-restricted license in a state of the United States, and for physicians, a current certification by a recognized American medical specialty board in the area(s) appropriate to the subject of review;
 - c. Have no history of disciplinary action or sanctions (including but not limited to, loss of staff privileges or participation restrictions) taken or pending by any hospital, government or regulatory body.
 - 2. The independent review organization shall submit to the department the following information:
 - a. The names of all stockholders and owners of more than five per cent of any stock or options, if a publicly held organization.
 - b. The names of all entities the independent review organization controls or is affiliated with, including the nature and extent of any ownership or control, including the affiliated organization's type of business.
 - c. The names of all directors, officers and executives of the independent review organization, as well as a statement regarding any relationships the directors, officers and executives may have with any health care service plan, disability insurer, managed care organization, provider group or board or committee.
 - 3. Neither the expert reviewer, nor the independent review organization, has any material professional, familial, or financial conflict of interest with any of the following:
 - a. The plan.
 - b. Any officer, director or management of the plan.
 - c. The physician, the physician's medical group or the independent practice association proposing the service or treatment.
 - d. The institution at which the service or treatment would be provided.

- e. The development or manufacture of the principal drug, device, procedure or other therapy proposed for the covered person whose treatment is under review.
 - f. The covered person.
 - g. National, state or local trade association of health benefit plans or health care providers.
4. The independent review organization shall have a quality assurance mechanism in place that ensures the timeliness and quality of the reviews, the qualifications and independence of the experts; and the confidentiality of the medical records and review materials.
- a. The Secretary shall establish procedures for transmitting the completed application for an appeal review to the independent review entity.
 - b. The independent review entity shall promptly review the pertinent medical records of the covered person to determine whether the carrier's denial, reduction or termination of benefits deprived the covered person of medically necessary services covered by the person's health benefits plan, based on applicable, generally accepted practice guidelines developed by the federal government, national or professional medical practice societies, boards or associations and any applicable clinical protocols or practice guidelines developed by the carrier. The organization shall complete its review and make its written determination within 45 days of receipt of a completed application for an appeal review. In no event shall appeals involving an imminent, emergent or serious threat to the health of the enrollee, as determined by the treating health care practitioner, exceed 72 hours. Upon completion of the review, the entity shall state its findings in writing and make a determination of whether the carrier's denial, reduction or termination of benefits deprived the covered person of medically necessary services covered by the person's health benefits plan. If the organization determines that the denial, reduction or termination of benefits deprived the person of medically necessary covered services, it shall send a determination to the covered person and the carrier. The determination shall be binding on the carrier and the carrier shall promptly notify the person what action it intends to take to implement the determination.
 - c. Coverage for the services required under this section shall be provided subject to the terms and conditions generally applicable to benefits under coverage under the plan. Nothing in this section shall be construed to require the plan to pay for services of a non-participating physician, that are not otherwise covered pursuant to the evidence of coverage under the plan.
 - d. The Secretary shall require the independent review organization to establish procedures to provide for an expedited review of a carrier's denial, reduction or termination of a benefit decision when a delay in receipt of the services could seriously jeopardize the health or well being of the covered person.
 - e. The covered person's medical records provided to the program and the independent utilization review organization and the findings and recommendations of the organization made pursuant to this act are confidential and shall be used only by the Department, the organization and the affected carrier for the purposes of this act. The medical records and findings and determinations shall not otherwise be divulged or made public so as to disclose the identity of any person to whom they relate and shall not be included under any materials available to public inspection pursuant to Chapter 100 of Title 29 of the Delaware Code.
 - f. A carrier may at any time determine to provide the requested medical services by so notifying the organization or the Secretary, as well as the covered person which notification shall terminate the review process. Reviews so terminated will be reported separately as required in §9122 (a) of this Title. The cost of a partial review by an I.U.R.O. shall be borne by the carrier.

§9121. Indemnification and immunity of employees.

Chapter 441

Vol. 72

- (a) An employee of the Department who participates in the program shall not be liable in any action for damages to any person for any action taken within the scope of his function in the program. The Attorney General shall defend the person in any civil suit and the State shall provide indemnification for any damages awarded.
- (b) The carrier that is the subject of the review shall not be liable in any action for damages to any person for any action taken to implement a determination of the independent review organization pursuant to this act.
- (c) Any physician serving on the I.U.R.O. chosen by the Secretary to hear an appeal shall not be liable in any action for damages to any person for any action taken within the scope of his/her function in the program.

§9122. Report on the status of the Independent Health Care Appeals Program.

- (a) The Secretary shall report annually to the Senate and the General Assembly standing Committees on health and insurance on the status of the program. The report shall include a summary of the number of reviews conducted and medical specialties affected, a summary of the findings and determinations made by the independent review organizations, the number of coverage decisions voluntarily changed by the carrier while involved in the review, and any other information and recommendations deemed appropriate by the Secretary.

§9123. Violations; penalties.

- (a) A carrier that violates any provision of this chapter shall be liable to a civil penalty of not less than \$250 and not greater than \$10,000 for each day that the carrier is in violation of the chapter if ten days notice in writing is given of the intent to levy the penalty and, at the discretion of the Secretary, the carrier has 30 days, or such additional time as the Secretary shall determine to be reasonable, to remedy the condition which gave rise to the violation and fails to do so within the time allowed.
- (b) The Secretary may issue an order directing a carrier or a representative of a carrier to cease and desist from engaging in any act or practice in violation of the provisions of this act.
- (c) Within 20 days after service of the order of cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of this act have occurred. The hearing shall be conducted pursuant to the 'Administrative Procedure Act,' and judicial review shall be available as provided therein. This appeal shall not stay the cease and desist order.
- (d) In the case of any violation of the provisions of this Chapter, if the Secretary elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued pursuant to subsection (b) of this section, the Secretary may institute a proceeding to obtain injunctive relief in accordance with the applicable Court Rules.

§9124. Enforcement; adoption of rules and regulations.

- (a) The Secretary shall enforce the provisions of this act. Within six months of the effective date of this Chapter, the Secretary shall adopt rules and regulations, pursuant to the 'Administrative Procedure Act,' necessary to carry out the purposes of this act. The regulations shall establish procedures for protections defined in this act."

Section 2. This act shall become effective 90 days after its enactment into law."

Approved July 18, 2000

CHAPTER 442

FORMERLY

SENATE BILL NO. 304

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE; 64 DELAWARE LAWS, AS AMENDED; AND 70 DELAWARE LAWS, AS AMENDED, RELATING TO BUSINESS TAX CREDITS.

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

Section 1. Amend § 2010 of Title 30, Delaware Code, by striking the year "2002" as it appears in subsections (4) and (5) of said section and substituting in lieu thereof the year "2007".

Section 2. Amend § 12 of 64 Delaware Laws, Chapter 460, as amended by 67 Delaware Laws, Chapter 120; 68 Delaware Laws, Chapter 6; 68 Delaware Laws, Chapter 202; and 70 Delaware Laws, Chapter 487, by striking the year "2002" as the same appears in said section and substituting in lieu thereof the year "2007".

Section 3. Amend § 6 of 70 Delaware Laws, Chapter 219, as amended by 70 Delaware Laws,

Chapter 487, by striking the year "2002" as it appears in said section and substituting in lieu thereof the year "2007".

Section 4. This act shall be effective with respect to property placed into service after December 31, 1999 and before January 1, 2007.

Approved July 18, 2000

CHAPTER 443

FORMERLY

SENATE BILL NO. 310
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 23, TITLE 6 OF THE DELAWARE CODE, RELATING TO PRE-JUDGMENT INTEREST FOR COMPENSATORY DAMAGES IN TORT ACTIONS.

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

Section 1. Amend §2301, Title 6 of the Delaware Code by adding a new subsection (d) as follows:

"(d) In any tort action for compensatory damages in the Superior Court or the Court of Common Pleas seeking monetary relief for bodily injuries, death or property damage, interest shall be added to any final judgment entered for damages awarded, calculated at the rate established in subsection (a) of this section, commencing from the date of injury, provided that prior to trial the plaintiff had extended to defendant a written settlement demand valid for a minimum of thirty days in an amount less than the amount of damages upon which the judgment was entered."

Section 2. This Act shall apply to all causes of action occurring after its enactment into law.

Section 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved July 21, 2000

CHAPTER 444

FORMERLY

SENATE BILL NO. 320
AS AMENDED BY SENATE AMENDMENT NOS. 1, 2, 3, AND 4

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO THE ESTABLISHMENT OF A SCENIC AND HISTORIC HIGHWAY PROGRAM FOR THE STATE OF DELAWARE.

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

Section 1. Amend Title 17, Chapter 1, Section 101 by adding a new definition to read as follows:

"(11) A 'Scenic and Historic Highway' or 'Scenic Byway' is a transportation route which is adjacent to or runs along or next to an area that has particular intrinsic scenic, historic, recreational, cultural, or archaeological qualities and for which such transportation route is managed in order to protect such characteristics and to encourage development of tourism and recreational resources."

Section 2. Amend Title 17, Chapter 1 by inserting a new Subchapter VI to be known as "Scenic and Historic Highways" and to read as follows:

"Subchapter VI. Scenic and Historic Highways

§190. Statement of Intent

The General Assembly finds that certain portions of the state highway system are notable for their scenic, historic, recreational, cultural, or archaeological value and worthy of designation as scenic and historic highways to provide special consideration of their unique features and special role in the highway system.

The General Assembly further finds that the public interest would be served by the formation of a coordinated scenic highway program to enhance recreational, cultural, and archaeological resources, encourage development through tourism, and educate residents and visitors on the history, culture, and natural beauty of this state.

§ 191. State Scenic and Historic Highways Program.

The Secretary shall establish within the Department a program to be known as the Delaware Scenic and Historic Highways Program (hereinafter referred to as "scenic and historic highways program", "scenic byways program" or "program") to encourage and coordinate state actions and the activities of others which relate to the development, protection, promotion, operation and management of scenic and historic highways. In order to carry out the purposes of the program, the Secretary is authorized to:

(a) Plan, design, and develop the Scenic and Historic Highways system and to designate such highways as the Department may deem appropriate as "Scenic and Historic Highways". The process for such designation shall ensure that scenic and historic highways are selected and managed through a process that balances equity for property owners with the desire of the community to have a specific highway designated under this program;

(b) Ensure to the extent possible that all scenic and historic highway designations are continuous;

(c) Make safety improvements to a highway designated as a scenic and historic highway under this article to the extent such improvements are necessary to accommodate increased or reduced traffic as well as any changes necessary as a result of the types of vehicles using the highway due to such designation;

(d) Construct along such scenic highways such improvements as may be necessary for the use and enjoyment of motorists, pedestrians and bicyclists;

(e) Improve the highway to enhance access to areas utilized for the purpose of recreation, including, but not limited to youth-related activities and water-related recreation;

(f) Protect scenic, historical, natural, archaeological and cultural resources in areas adjacent to the highway;

(g) Develop and provide tourist information to the public, including interpretive information about the scenic and historic highway;

(h) Apply for funding from any appropriate source to further the purposes of the scenic or historic highway program; including but not limited to federal grants or private contributions; and

(i) Enter into contracts with qualified and responsible not-for-profit organizations involved in scenic highway activities for services relating to the development of the scenic highways program or services relating to the operation, development or promotion of a specific scenic and historic highway.

§ 192. Regulations

(a) The Secretary is authorized to promulgate such regulations as may be necessary or desirable to implement the scenic and historic highways program, consistent with departmental policy and this Subchapter. Such regulations may also:

(1) Encourage counties, towns and municipalities to work with the Department to designate scenic and historic highways within their jurisdictions and to petition for the inclusions of these highways into the scenic highway program. Such inclusion shall enable the municipality to participate in federal funding that may be available under the National Scenic Byways Program of the Transportation Equity Act of the 21st Century of 1998 (23 USC § 162).

(2) Develop criteria for scenic and historic highway designation based upon its scenic, historic, natural, recreational, cultural or archeological qualities;

(3) Encourage and assist in fostering public awareness, understanding, and participation in the objectives and functions of the scenic and historic highways program;

(4) Provide participants with tools and ideas for enhancement and protection of designated scenic and historic highways;

(5) Provide operation and management standards for highways designated as scenic and historic highways, including strategies for maintaining or improving the qualities for which a scenic and historic highway is so designated, for protecting and enhancing the landscape and scenic view and for minimizing traffic congestion as much as possible on such highways;

Chapter 444
Vol.72

(6) Provide standards for scenic and historic highway-related signs, including those which identify scenic and historic highways;

(7) Develop and implement a scenic and historic highway corridor management plan that specifies the actions, procedures, controls, operational practices and administrative strategies to maintain the scenic, historic, cultural, recreational, archaeological and natural qualities of the scenic highway; and

(8) Develop planning and design standards for development of official scenic and historic highways.

§ 193. State Scenic and Historic Highway Advisory Board

The Secretary shall appoint a State Scenic and Historic Highway Advisory Board consisting of public and private parties, including not-for-profit organizations to assist and recommend in the designation, development, operation, management and promotion of scenic and historic highways. Members of the Advisory Board created pursuant to this Section shall include, but not be limited to, the Secretaries, chief administrative officers or representatives of the:

(a) Department of State;

(b) Department of Agriculture;

(c) Delaware Economic Development Office;

(d) Department of Natural Resources and Environmental Control; and

(e) Such other public or private members as the Secretary may determine would be of assistance in this process. These members would include, but not be limited to, representatives from: federal, state and local governments; environmental groups, planning agencies; the real estate and outdoor advertising industries, business, farming and nature organizations and such other groups which may be affected by a scenic and historic highway designation.

§ 194. Outdoor advertising exemptions

(a) Nothing in this Subchapter shall authorize any removal or restriction on outdoor advertising erected or approved by the appropriate governmental authority to be erected before the effective date of this Subchapter.

(b) For the purposes of this section 'outdoor advertising' has the same meaning as defined by § 1102(b)(1) of this Title."

Approved July 18, 2000

CHAPTER 445

FORMERLY

SENATE BILL NO. 354

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 § 1169(a), Title 30 of the Delaware Code, by striking the symbol and number "\$100" as they appear in said subsection and by substituting in lieu thereof the symbol and number "\$400".

Section 2. This Act shall be effective for assessments of penalty made after December 31, 2000, with regard to tax periods commencing after December 31, 1999.

Approved July 18, 2000

CHAPTER 446

FORMERLY

SENATE BILL NO. 378

AN ACT AWARDING SPECIAL PENSION BENEFITS TO NORMAN A. BARRON AND TRANSFERRING MONIES INTO THE SPECIAL PENSION FUND CREATED BY VOLUME 61, CHAPTER 455, LAWS OF DELAWARE.

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

Section 1. The Board of Pension Trustees is hereby authorized and directed to grant Norman A. Barron a pension, effective March 1, 2001, in the amount of \$1,512.00 per month for 14 months as if such award were made pursuant to Chapter 55, Title 29 of the Delaware Code.

Section 2. The Budget Director and the Controller General are authorized to transfer the sum of \$21,055.00 from a contingency account within the Office of the Budget (10-02-04) to the Special Pension Fund authorized by Volume 61, Chapter 455, Laws of Delaware, for the purpose of implementing the provisions of Sections 1 of this Act.

Approved July 18, 2000

CHAPTER 447

FORMERLY

SENATE BILL NO. 389
AS AMENDED BY SENATE AMENDMENT NO. 1

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, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (h) to read as follows:

"(h). Any monthly service, disability, and survivor pension based on a former service or disability pension that was effective on or before June 30, 2000 but after December 31, 1979 and is payable on the effective date of this subsection shall be increased effective July 1, 2000 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, 2000 by 3% or \$25 per month, whichever is greater. These increases shall continue to be paid through June 30, 2001 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, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (j) to read as follows:

"(j)(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(h) of this Chapter shall be the payment required to amortize the unfunded accrued liability over five years from July 1, 2000.

(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 2001 shall be the lump sum actuarial liability of the benefits granted."

Chapter 447
Vol.72

(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 2001 shall be the lump sum actuarial liability of the benefits granted."

Approved July 21, 2000

CHAPTER 448

FORMERLY

SENATE BILL NO. 398

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO CASUALTY INSURANCE CONTRACTS.

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

Section 1. Amend §3904(b), Title 18, Delaware Code, by deleting paragraph (3) thereof in its entirety and substituting in lieu thereof the following:

"(3) The excluded driver or drivers shall be required to furnish proof that the coverage required under Delaware law is carried with another company or through the Delaware Automobile Insurance Plan, or surrender his or her motor vehicle operator's license within 30 days."

Approved July 18, 2000

CHAPTER 449

FORMERLY

SENATE BILL NO. 405

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EXEMPTIONS FOR PUBLIC SCHOOLS ENROLLEES' AND LEAD SCREENING.

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

Section 1. Amend §131, Title 14 of the Delaware Code by renaming the existing subsection (b) as subsection (c) and adding a new subsection (b) to read as follows:

"(b) All kindergarten enrollees for the 2000-2001 school year shall be exempt from the provisions of Chapter 26 of Title 16, Delaware Code."

Approved July 18, 2000

CHAPTER 450

FORMERLY

SENATE BILL NO. 412

AN ACT TO AMEND TITLE 14, CHAPTER 42, DELAWARE CODE, TO ESTABLISH A TECHNOLOGY BLOCK GRANT TO BE ADMINISTERED BY THE DELAWARE CENTER FOR EDUCATIONAL TECHNOLOGY AND THE DEPARTMENT OF EDUCATION.

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

Section 1. Amend Title 14, Chapter 42 by adding a new Section 4206 to read as follows:

"Section 4206. Technology Block Grants.

This Act creates a Technology Block Grant to be administered by the Delaware Center for Educational Technology (DCET) and Department of Education (DOE). DCET shall administer a non-competitive application process to determine grant awards to local school districts and charter schools. Funds provided by this Act shall be used for the purpose of supporting the maintenance, replacement, personnel and/or contractual requirements to maintain a system of technology within the school districts. Such funding distribution shall be calculated using a funding formula based on a per/pupil cost of technology maintenance. Notwithstanding the formula, each district shall be guaranteed a minimum level of block grant support. The formula developed shall be approved by the co-chairs of the Joint Finance Committee. It shall be the responsibility of the Department of Education, in consultation with DCET, to receive and disburse the block grant funds. The Department shall also be charged with the authority to verify the use of the funds and shall require each school district to annually report on expenditures of the funds."

Approved July 21, 2000

CHAPTER 451

FORMERLY

SENATE BILL NO. 415

AN ACT TO AMEND TITLES 10, 13, 29 AND 31 OF THE DELAWARE CODE RELATING TO GUARDIAN AD LITEM REPRESENTATION OF CHILDREN IN CHILD WELFARE PROCEEDINGS.

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

Section 1. Amend Section 925(17) of Title 10 of the Delaware Code by striking it in its entirety and inserting the following in lieu thereof:

"Appoint attorneys and/or Court Appointed Special Advocates to serve as guardians *ad litem* to represent the best interests of a child in any child welfare proceeding;"

Section 2. Amend Section 701(a) of Title 13 of the Delaware Code by deleting the word "custodians" in the first sentence and replacing it with the word "guardians".

Section 3. Amend Section 701 of Title 13 of the Delaware Code by adding a subsection (c) to read as follows:

"(c) Any child who is the subject of a custody, visitation, guardianship, termination of parental rights, adoption, or other related proceedings in which the Division of Family Services is a party, should have a guardian *ad litem* appointed by the Court to represent the best interests of the child. The Court, in its discretion, may also appoint an attorney to represent the child's wishes. The guardian *ad litem* shall be an attorney authorized to practice law in the State of Delaware or a Court Appointed Special Advocate. The rights, responsibilities and duties of the attorney serving as guardian *ad litem* are set forth in section 9007A of Title 29 of the Delaware Code, and the rights, responsibilities and duties of the Court Appointed Special Advocate serving as guardian *ad litem* are set forth in Chapter 36 of Title 31 of the Delaware Code. When determining whether to appoint an attorney through the Office

Chapter 451

Vol. 72

of the Child Advocate or a Court Appointed Special Advocate through the Family Court, the Family Court judge, in his or her discretion, should assign the most complex and serious cases to the Office of the Child Advocate."

Section 4. Amend the title of Chapter 90A of Title 29 of the Delaware Code by adding "the" after the word "of" and before the word "child".

Section 5. Amend Section 9001A of Title 29 of the Delaware Code by adding the word "the" after the word "of" and before the word "child" in the first sentence, and deleting the word "contractual" from the third sentence.

Section 6. Amend Section 9002A of Title 29 of the Delaware Code by adding new subsections (4), (6), (8), (11), (12), (14), and (15) and redesignating subsection (4) as subsection (5), redesignating (5) as subsection (7), redesignating subsection (6) as subsection (9), redesignating subsection (7) as subsection (10), and redesignating subsection (8) as subsection (13), to read as follows:

"(4) 'Best interests' as defined in Section 722 of Title 13 of the Delaware Code;

(6) 'Child welfare proceeding' means any Family Court proceeding and subsequent appeal therefrom involving custody, visitation, guardianship, termination of parental rights, adoption and other related petitions that involve a dependent, neglected or abused child or a child at risk of same as determined by a Family Court judge;

(8) 'Court' means the Family Court;

(11) 'Division' means the Division of Family Services of the Department of Services for Children, Youth and their Families;

(12) 'Guardian *ad litem*' means an individual appointed by the Court to represent the best interests of a child whether or not that reflects the wishes of the child, who by his or her appointment, shall be a party to the child welfare proceeding. The guardian *ad litem* is charged with obtaining a clear understanding of the situation and needs of the child, and making recommendations to the Court as to what is in the best interests of the child.

(14) 'Office' means the Office of the Child Advocate.

(15) 'Permanency' means the safe, stable, custodial environment in which a child is raised and the life-long relationship that child establishes with a nurturing caregiver."

Section 7. Amend Section 9006A of Title 29 of the Delaware Code by redesignating the existing section as subsection (1) and inserting after the word "confidential" in the first sentence ", including the identity of any person seeking assistance from the Office on behalf of a child."

Section 8. Amend Section 9006A of Title 29 of the Delaware Code by adding a (1) before the word "All" and adding a subsection (2) to read as follows:

"(2) Anyone participating in good faith in seeking assistance from the Office on behalf of a child pursuant to this Chapter shall have immunity from liability, civil or criminal, that might otherwise exist, and such immunity shall extend to participation in any judicial proceeding resulting from such a referral."

Section 9. Amend Section 9007A of Title 29 of the Delaware Code by striking the section in its entirety and inserting the following in lieu thereof:

"(1) Purpose.

(a) The General Assembly has recognized the need to safeguard the welfare of abused, neglected and dependent children in this State. As such, it has charged the Office of the Child Advocate and the Court-Appointed Special Advocate Program with ensuring representation of children's best interests in child welfare proceedings through appointment of guardians *ad litem*. To this end, the Office shall coordinate with the Family Court and the Court Appointed Special Advocate program to implement and administer a program for guardian *ad litem* representation of children.

(b) In determining whether to represent an abused, neglected or dependent child, the Office may communicate with any child at issue and may have access to all information relating to that child held or maintained by the Department. If the Office determines that a child needs guardian *ad litem* representation, the Court shall sign an order appointing the designated attorney as attorney guardian *ad litem*.

(c) This section shall be liberally construed so that these purposes may be realized.

(2) Appointment of Attorney Guardian *ad Litem*

(a) In the event that the Family Court Judge determines, pursuant to the conditions set forth in Section 701(c) of Title 13 of the Delaware Code that an attorney guardian *ad litem* should be appointed, the Family Court Judge shall sign an order appointing the attorney guardian *ad litem*. That order shall impose on the attorney guardian *ad litem* all the duties, rights and responsibilities set forth in this section. Upon entry of the order, the attorney guardian *ad litem* shall have the authority to review all documents and interview all pertinent persons having significant information relating to the child and the child's life circumstances.

- (b) The appointment shall last until the attorney guardian *ad litem* is released from responsibility by order of the Court, or until the attorney guardian *ad litem's* commitment to the Court ends.
- (c) The attorney guardian *ad litem* shall be a party to any child welfare proceeding in which the child is the subject, and shall possess all the procedural and substantive rights of a party including those set forth in Section 732 of Title 13 of the Delaware Code.
- (d) Upon presentation of the order of appointment by the attorney guardian *ad litem*, any agency, hospital, school, organization, division or department of the State, doctor, nurse or other health care provider, treatment facility, psychologist, psychiatrist, police department or mental health clinic shall permit the attorney guardian *ad litem* to inspect and copy any records relating to the child and parents involved in the case of appointment without consent of the child or parents.

(3) Duties and Rights

The attorney guardian *ad litem* shall:

- (a) represent the best interests of the child in all child welfare proceedings;
- (b) be trained by the Office of the Child Advocate or a course approved by the Office prior to representing any child before the Court. The attorney guardian *ad litem* shall be required to participate in ongoing training regarding child welfare. The attorney shall be employed, contracted and/or appointed by the Office;
- (c) provide independent, factual information to the Court regarding the cases to which he/she is appointed. To that end, the attorney guardian *ad litem* shall conduct an independent investigation of the circumstances surrounding a case of appointment. This investigation shall include interviews and/or observations of the child and relevant individuals, as well as a review of all relevant records or reports;
- (d) submit a written or oral report to the Court for any Court proceeding;
- (e) be provided with notice of every Court proceeding and receive copies of every pleading;
- (f) participate in all depositions, negotiations, discovery, pretrial conferences, hearings, and appeals;
- (g) have access to all records regarding the child and his or her family maintained by the Division;
- (h) monitor cases to which they are appointed to assure that the terms of the Court's orders are fulfilled and permanency for the child is achieved;
- (i) receive reasonable notice from the Division of changes in placement, school, or any other change of circumstances affecting the child;
- (j) receive reasonable notice from the Division of any founded complaint involving: (1) the child, where the child is the alleged victim; (2) the residence in which the child lives; and/or (3) the home-based daycare which the child attends;
- (k) request a hearing before the Court when the plan on behalf of the child is not implemented, is not meeting the child's needs or upon completion of a Division investigation;
- (l) request any appropriate relief from the Court on behalf of the child;

Chapter 451
Vol.72

- (m) appear, when appropriate, on behalf of a child before the Violent Crimes Compensation Board, to pursue a claim on behalf of the child, as set forth in Chapter 90 of Title 11 of the Delaware Code; and
 - (n) ascertain the wishes of the child and make the child's wishes known to the Court. If the attorney guardian *ad litem* concludes that the child's wishes differ from the position of the attorney guardian *ad litem*, he or she will notify the Court of the conflict.
- (4) Criminal Investigations and/or Prosecutions.

Notwithstanding any provision of this chapter to the contrary, the Office of the 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."

Section 10. Amend Section 9008A of Title 29 of the Delaware Code by adding the phrase "or contracted" in the first sentence after the word "employed" and before the word "by".

Section 11. Amend Section 3601(a) of Title 31 of the Delaware Code by striking it in its entirety and replacing it with the following:

"Children who appear in Family Court as the subject of custody, visitation, guardianship, termination of parental rights, adoption and other related petitions that involve a dependent, neglected or abused child often are situated in the middle of an adversary process. These children have no one to represent their best interests, as opposed to the interests of the petitioner and respondent. Furthermore, when the child has no one specifically to represent what is in his or her best interests, the Family Court may only receive information that supports the position of the petitioner or respondent. Therefore, the purpose of this chapter is to provide for a system to ensure that children who are the subject of these proceedings before the Family Court, have their best interests represented in those proceedings. To this end, the Family Court will establish and administer a Court Appointed Special Advocate Program."

Section 12. Amend Section 3602(1) of Title 31 of the Delaware Code by inserting after "physical injury" the following:

"or a child who has been abused as defined by § 902 of Title 16 of the Delaware Code"

Section 13. Amend Section 3602 of Title 31 of the Delaware Code by adding new subsections (4), (6), (9), (10), and (12); redesignating subsection (4) as subsection (5); redesignating subsection (5) as subsection (7); redesignating subsection (6) as subsection (8) while replacing the phrase "Division of Child Protective Services" with "Division of Family Services"; and redesignating subsection (7) as subsection (11), to read as follows:

- "(4) 'Best interests' as defined in Section 722 of Title 13 of the Delaware Code;
- (6) 'Child welfare proceeding' means any Family Court proceeding and subsequent appeal therefrom involving custody, visitation, guardianship, termination of parental rights, adoption and other related petitions that involve a dependent, neglected or abused child or a child at risk of same as determined by a Family Court judge;
- (9) 'Division' means the Division of Family Services of the Department of Services for Children, Youth and their Families;
- (10) 'Guardian *ad litem*' means an individual appointed by the Court to represent the best interests of a child whether or not that reflects the wishes of the child, who by their appointment, shall be a party to the child welfare proceeding. The guardian *ad litem* is charged with obtaining a clear understanding of the situation and needs of the child, and making recommendations to the Court as to what is in the best interests of the child.
- (12) 'Permanency' means the safe, stable, custodial environment in which a child is raised and the life-long relationship that child establishes with a nurturing caregiver."

Section 14. Amend Section 3603 of Title 31 of the Delaware Code by deleting subsections (b) through (f) in their entirety and inserting the following in lieu thereof:

"(b) The program will include coordinators who will be members of the staff of the Family Court. The number and qualifications of coordinators will be established by the Chief Judge of the Family Court. The coordinators will be part of the Merit System. The coordinators will be responsible for the

day-to-day operations of the program and will provide direct supervision to the Court Appointed Special Advocates (CASA).

(c) The program will include contract attorneys who will provide legal representation and advice for the Court Appointed Special Advocates and for the CASA Program. The program attorneys will be selected by the Chief Judge of the Family Court.

(d) The program will include volunteers to serve as Court Appointed Special Advocates at the pleasure of the Chief Judge of the Family Court. The Court Appointed Special Advocate may be appointed in child welfare proceedings or any other proceeding, as deemed appropriate by a Family Court judge."

Section 15. Amend Section 3604(a) of Title 31 of the Delaware Code, by inserting in the third sentence, after the word "must", "submit to background checks and".

Section 16. Amend Section 3605 of Title 31 of the Delaware Code, by striking subsections (b) through (c) and inserting subsections (b) through (d) as follows:

"(b) In the event that the Family Court Judge determines, pursuant to the conditions set forth in Section 701(c) of Title 13 of the Delaware Code that a Court Appointed Special Advocate should be appointed, the Family Court Judge shall sign an order appointing the Court Appointed Special Advocate as guardian *ad litem*. That order shall impose on the Court Appointed Special Advocate all the duties, rights and responsibilities set forth in this section. Upon entry of the order, the Court Appointed Special Advocate shall have the authority to review all documents and interview all pertinent persons having significant information relating to the child and the child's life circumstances.

(c) The appointment shall last until the Court Appointed Special Advocate is released from responsibility by order of the Court, or until the Court Appointed Special Advocate's commitment to the Court ends.

(d) The Court Appointed Special Advocate shall be a party to any child welfare proceeding or any other proceeding in which the Court appointed Special Advocate has been appointed in which the child is the subject, and shall possess all the procedural and substantive rights of a party including but not limited to those set forth in Section 732 of Title 13 of the Delaware Code."

Section 17. Amend Sections 3606 and 3607 of Title 31 of the Delaware Code by striking them in their entirety and inserting the following as Section 3606 to be titled "Same - Duties and Rights" in lieu thereof:

" The Court Appointed Special Advocate shall:

- (a) represent the best interests of the child in all child welfare proceedings;
- (b) provide independent, factual information to the Family Court regarding the cases to which he/she is appointed. To that end, the Court Appointed Special Advocate shall conduct an independent investigation of the circumstances surrounding a case of appointment. This investigation shall include interviews and/or observations of the child and relevant individuals, as well as a review of all relevant records or reports;
- (c) submit a written or oral report to the Court for any Court proceeding;
- (d) be provided with notice of every court proceeding and receive copies of every pleading;
- (e) participate in all depositions, negotiations, discovery, pretrial conferences, hearings, and appeals;
- (f) have access to all records regarding the child and his or her family maintained by the Division;
- (g) receive reasonable notice from the Division of changes in placement, school, or any other change of circumstances affecting the child;
- (h) monitor cases to which they are appointed to assure that the terms of the Court's orders are fulfilled and permanency for the child is achieved;
- (i) receive reasonable notice from the Division of any founded complaint involving: (1) the child, where the child is the alleged victim; (2) the residence in which the child lives; and/or (3) the home-based daycare which the child attends;

Chapter 451

Vol. 72

- (j) request a hearing before the Court when the plan on behalf of the child is not implemented, is not meeting the child's needs or upon completion of the investigation;
- (k) request any appropriate relief from the Court on behalf of the child; and
- (l) ascertain the wishes of the child and make the child's wishes known to the Court. If the Court Appointed Special Advocate concludes that the child's wishes differ from the position of the Court Appointed Special Advocate, he or she will notify the Court of the conflict."

Section 18. Amend Section 3608 of Title 31 of the Delaware Code by re-numbering it as Section 3607, by striking "5101" and inserting "5106" in lieu thereof, and by inserting the word "best" before the word "interests".

Section 19. Amend Section 3609 of Title 31 of the Delaware Code by re-numbering it as Section 3608.

Section 20. Amend Section 3610 of Title 31 of the Delaware Code by re-numbering it as Section 3609, by inserting the word "appeals," after the word "dispositions", and by striking the phrase "case to which" and inserting the phrase "child for whom" in lieu thereof.

Section 21. Amend Section 3611 of Title 31 of the Delaware Code by re-numbering it as Section 3610, and by adding the phrase "treatment facility," after the word "provider".

Section 22. Amend Sections 3612 and 3613 of Title 31 of the Delaware Code by re-numbering them as Sections 3611 and 3612 respectively.

Approved July 21, 2000

CHAPTER 452

FORMERLY

SENATE BILL NO. 423

AN ACT TO AMEND TITLES 22 AND 24 OF THE DELAWARE CODE RELATING TO ADULT ENTERTAINMENT ESTABLISHMENTS.

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 §1610, Title 24, Delaware Code by deleting subsection (c) in its entirety and by substituting in lieu thereof the following new subsections (c) and (d):

"(c) No new adult entertainment establishment as defined in §1602 of this Title shall operate in the same building or in separate buildings less than 1,500 feet from each other, within 500 feet of any residence regardless of how such property is zoned, or within 2,800 feet from a church or school. Violations of this subsection shall be punishable by a fine in the amount of \$5,000. Distances shall be measured from property line to property line.

(d) Notwithstanding any provision of law to the contrary, no municipal corporation or county may adopt any ordinance or charter amendment with distance restrictions less than those provided in this section."

Section 2. Amend Title 24, Section 1617(a), by adding in paragraphs (3), (4), and (5), after the phrase "Lewdness," as it appears in those paragraphs, the phrase "tax evasion,"

Section 3. Amend Title 22, Delaware Code by striking §110 of that Title in its entirety.

Approved July 18, 2000

CHAPTER 453

FORMERLY

SENATE BILL NO. 426

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 :

Section 1. Amend §4218(a) of Title 11 of the Delaware Code by striking the phrase "For a violation or misdemeanor offense under Titles 4, 7, 11, or 21" as it appears in the first sentence of said subsection, and by substituting in lieu thereof the phrase "Subject to the limitations set forth in this section, for a violation or misdemeanor offense under Titles 4, 7, or 11, or for any violation or misdemeanor offense under Title 21 which is designated as a motor vehicle offense subject to voluntary assessment by §709 of Title 21,."

Section 2. Further Amend §4218(a) of Title 11 of the Delaware Code by striking the phrase "when such offense is the first such offense on an individual's record," as it appears in the first sentence of said subsection.

Section 3. Further Amend §4218(a) of Title 11 of the Delaware Code by striking the phrase "prosecuting agency" as it appears in the first sentence of said subsection, and by substituting in lieu thereof the phrase "the State".

Section 4. Further Amend §4218(a) of Title 11 of the Delaware Code by adding between the phrases "as may be appropriate." and "The terms and conditions may include" as they appear in said subsection the following:

"The terms and conditions of any Probation Before Judgment shall include the following requirements: 1) the defendant shall provide the court with his or her current address; 2) the defendant shall promptly provide the court with written notice of any change of address; and 3) the defendant shall appear if summoned at any hearing convened for the purpose of determining whether the defendant has violated or fulfilled the terms and conditions of Probation Before Judgment."

Section 5. Further Amend §4128(a) of Title 11 of the Delaware Code by adding immediately after the last sentence of said subsection the following:

"The length of the period of Probation Before Judgment shall be fixed by the court, but in no event shall the total period of Probation Before Judgment exceed the maximum term of commitment provided by law for the offense or 1 year, whichever is greater."

Section 6. Amend §4218(c) of Title 11 of the Delaware Code by striking said subsection in its entirety, and by substituting in lieu thereof the following:

"(c)(1) Notwithstanding any provision of this section to the contrary, no person shall be admitted to Probation Before Judgment if:

- (A) the person is currently serving a sentence of incarceration, probation parole or early release of any type imposed for another offense; or
- (B) the person is charged with any offense set forth in Title 11 of this Code, and has previously been convicted of any violent felony; or
- (C) the person is charged with any offense set forth in Title 11 of this Code, and has previously been convicted of any non-violent felony with ten years of the date of the commission of the alleged offense; or
- (D) the person is charged with any offense set forth in Title 11 of the Code, and has previously been convicted of any misdemeanor offense within five years of the date of the commission of the alleged offense; or
- (E) the person is charged with any offense set forth in Title 4 or 7 of this Code, and has been previously convicted of any offense set forth in Titles 4 or 7 of this Code within five years of the date of the commission of the alleged offense; or

- (F) the person is currently charged with any offense set forth in §709 of Title 21 of this Code, and has been previously convicted of any offense set forth in Title 21 of this Code within five years of the date of the commission of the alleged offense.
- (2) For the purposes of this subsection, the following shall also constitute a previous conviction:
- (A) a conviction under the laws of another State, the United States or any territory of the United States of any offense which is the same as, or equivalent to, any offense specified in paragraph (1) of this subsection; or
 - (B) an adjudication of delinquency; or
 - (C) any adjudication, resolution, disposition or program set forth in §4177B(e)(1) of Title 21 of this Code."

Section 7. Amend §4218(f) of Title 11 of the Delaware Code by striking the phrase "shall discharge the person from probation." as it appears in the first sentence of said subsection, and by substituting in lieu thereof the following:

"shall enter an order discharging the person from probation. The burden shall be upon the defendant to demonstrate that the terms and conditions of probation have been fulfilled."

Section 8. Amend §4218 of Title 11 of the Delaware Code by adding a new subsection thereto be designated as subsection "(g)", to read as follows:

"(g) Notwithstanding any provision of this section to the contrary, the court shall not admit a defendant to Probation Before Judgment nor otherwise apply any provision of this section unless the defendant first gives written consent to the court permitting any hearing or proceeding pursuant to this section to occur in the defendant's absence if: 1) timely notice of the hearing or proceeding is sent or delivered to the address provided by him or her pursuant to subsection (a) of this section; and 2) the defendant fails to appear at said proceeding. In the event that a defendant fails to appear at any hearing or proceeding pursuant to this section, the court may proceed in the defendant's absence if it first finds that timely notice of the hearing or proceeding was sent or delivered to the address provided by the defendant pursuant to subsection (a) of this section. Nothing in this subsection shall limit the power of the Court to hold a hearing to determine whether a defendant is in violation of the terms of his or her probation."

Approved July 18, 2000

CHAPTER 454

FORMERLY

SENATE BILL NO. 429

AN ACT TO ESTABLISH A PUBLIC EDUCATION SCHOOL LIBRARY FUND.

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

Section 1. This Act creates a Public Education School Library Fund to be administered by the Department of Education.

Section 2. No later than August 15, 2000, any funds appropriated in the Annual Appropriations Act and/or the Bond and Capital Improvement Act to the Department of Education for the implementation of a Public Education School Library Fund shall be apportioned equally among all the State's public schools and charter schools.

Section 3. Funds allocated for this initiative are intended to supplement the existing level of State and local expenditures in support of library books and materials. In order to qualify for these funds, each reorganized school district must agree to maintain their current level of spending on library books and materials during Fiscal Year 2001. Districts shall satisfy this requirement by demonstrating to the Department of Education that their combined expenditure of Division II All-Other Costs, Local Current

Operating Expense funds, and other discretionary state sources are at least equal to 97 percent of the average annual expenditure made by the district during fiscal years 1998, 1999 and 2000 on such items from such sources combined. The Budget Director and the Controller General may grant a waiver for a specific amount if it is determined that a district's three-year average is overstated by an extraordinary one-time expenditure. However, a waiver may not be granted if its primary purpose is to mitigate a district's local financial position.

Section 4. The Department of Education and the Division of Purchasing of the Department of Administrative Services shall offer interested districts the opportunity to join together in order to negotiate maximum efficiency in price and delivery charges.

Section 5. This Act is contingent upon funding in the Annual Appropriations Act or the Bond and Capital Improvement Act and shall not be subject to reversion until June 30, 2002.

Approved July 21, 2000

CHAPTER 455

FORMERLY

HOUSE BILL NO. 296

AN ACT TO AMEND TITLE 28, DELAWARE CODE RELATING TO PROTESTS AND MEDICATION TESTING.

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

Section 1. Amend Chapter 7, Title 28, Delaware Code by adding a new section to read as follows:

"§ 706. Medication Protests, testing.

(a) If a licensed owner, trainer or driver has a reasonable belief that a competing horse has, or may have, an unfair competitive advantage due to a violation of the Delaware Harness Racing Commission (D. H. R. C.) medication rules, that owner, trainer or driver may file a "Medication Protest" with the Delaware Harness Racing Commission.

(b) A "Medication Protest" empowers the owner, trainer, or driver to request that any horse or horses they competed against in a specified race, have a blood and urine sample collected and then tested at an Official Association of Racing Commissioners International approved laboratory of his or her choice. The designated laboratory shall employ state of the art testing methods when testing these protested samples, which shall include, but not be limited to Enzyme Linked ImmunoSorbent Assay (ELISA), Thin Layer Chromatography (T. L. C.), Mass Spectral Gas Chromatography (M. S. G. C.) and Total Carbon Dioxide (TC02) tests.

(c) The owner, trainer or driver must file a verbal protest with either the starter or the paddock judge before the race has been made official. The starter or paddock judge must notify the Presiding Judge immediately, who shall order a veterinary assistant to escort and remain with the horse in accordance with established policy for obtaining a blood and urine sample. Within 15 minutes after the official sign has been posted for the race the protested horse competed in the protesting party shall file a written protest with the paddock judge and post a deposit of \$1,000 which shall be used to offset the following costs:

(1) The collection of sufficient blood and urine samples, including the costs of the state veterinary assistant and state veterinarian and all necessary collection apparatus;

(2) The packing of and transportation of these samples by bonded courier to the selected laboratory; and

(3) All costs incurred by the state of the art testing methods employed by the Association of Racing Commissioners International (A. R. C. I.) laboratory. These tests shall include, but not be

limited to Enzyme Linked ImmunoSorbent Assay (ELISA), Thin Layer Chromatography (T.L.C.), Mass Spectral Gas Chromatography (M.S.G.C.) and Total Carbon Dioxide (TCO2) testing.

(d) In the event costs exceed the \$1,000 deposit, the protesting party shall be required to post additional monies to cover such costs.

(e) The owner and/or trainer of the protested horse has the right to be present during the collection, packaging and shipping of these test samples.

(f) Upon completion of all testing the laboratory shall notify the Delaware Harness Racing Commission of the results. The Delaware Harness Racing Commission shall immediately notify the trainer of the protested horse as well as the protesting party of these test results.

(g) If the test results substantiate a violation of the Delaware Harness Racing Commission medication rules in effect on the date of the race, the trainer of the tested horse shall be afforded the same rights every trainer receives when charged with any medication violations found by the Delaware Harness Racing Commission Official laboratory. This shall include the right to request a split sample test at the designated laboratory of his or her choice.

(h) Penalties shall be assessed in accordance with the Delaware Harness Racing Commission penalty recommendations for medication violations in effect on the date of the race. In no case, however, shall the penalty imposed be less than a \$500 fine.

(i) Any monies remaining from the protest deposit after costs shall be returned to the protesting party if no violation is found. If a violation is found, costs shall be assessed against the trainer of the protested horse and the Commission shall reimburse the protesting party upon receipt thereof.

(j) The owner, trainer or driver that files a Medication Protest pursuant to this section shall be immune from civil liability for filing the medication Protest "

Approved July 18, 2000

CHAPTER 456

FORMERLY

HOUSE BILL NO. 308

AS AMENDED BY HOUSE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO FUNERAL PROCESSIONS.

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 of the Delaware Code by creating a new chapter as follows:

"CHAPTER 71. FUNERAL PROCESSIONS.

§ 7101. Definitions.

(a) "Funeral Director" and "Funeral Establishment" shall have the same meaning as set forth in § 3101, Title 24 of the Delaware Code.

(b) "Funeral Procession" means two or more vehicles, including a funeral lead vehicle or a funeral escort vehicle, accompanying the body of a deceased person or traveling to the church, chapel or other location where the funeral service or entombment is to be held.

(c) "Funeral Lead Vehicle" means any authorized law enforcement vehicle, or non-law enforcement motor vehicle properly equipped pursuant to § 7102 of this Chapter or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A hearse may serve as the funeral lead vehicle.

(d) "Funeral Escort" means a person or entity that provides escorts for funeral processions including funeral home personnel, law enforcement personnel and/or any other agency authorized by the Department of Public Safety to operate emergency vehicles.

(e) "Funeral Escort Vehicle" means any motor vehicle that is properly equipped pursuant to § 7102 of this Chapter and which escorts a funeral procession.

§ 7103. Driving in Funeral Processions.

(a) Pedestrians and operators of vehicles not part of a funeral procession, shall not drive between, obstruct, hinder or in any way interfere with the vehicles of a funeral procession being led by a funeral lead vehicle or funeral escort vehicle.

(b) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe.

(c) Any ordinance, law, or regulation stating that motor vehicles shall be operated to allow sufficient space enabling any other vehicle to enter and occupy such space without danger shall not be applicable to vehicles in a funeral procession.

(d) Each vehicle which is part of a funeral procession shall have its headlights, either high or low beam, and tail lights activated, and, except for Funeral Lead Vehicles and Funeral Escort Vehicles, must have the flashing hazard lights activated if the vehicle is so equipped.

(e) Funeral processions shall be subject to the following conditions and exceptions:

(1) Operators of vehicles in a funeral procession shall yield the right-of-way to an approaching emergency vehicle giving an audible and/or visual signal.

(2) Operators of vehicles in a funeral procession shall yield the right-of-way when directed to do so by a police officer.

(3) Operators in a funeral procession must exercise due care when participating in a funeral procession.

§ 7104. Penalties.

Whoever violates this Chapter shall be guilty of a moving violation, the penalty for which shall be prescribed by § 4205 of this Title.

Approved July 18, 2000

CHAPTER 457

FORMERLY

HOUSE BILL NO. 492
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO ELECTRONIC
TRANSACTIONS.

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

Section 1. Amend Title 6, Subtitle II, Delaware Code, by adding a new Chapter 12A thereto
which reads as follows:

"Chapter 12A - Uniform Electronic Transactions Act

§ 12A-101. SHORT TITLE.

This chapter may be cited as the Uniform Electronic Transactions Act.

§ 12A-102. DEFINITIONS.

In this chapter:

- (1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.
- (2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.
- (3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.
- (4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.
- (5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.
- (7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
- (8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (9) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a State or of a county, municipality, or other political subdivision of a State.
- (10) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(15) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a State.

(16) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business or commercial affairs.

§ 12A-103. SCOPE.

(a) Except as otherwise provided in subsection (b), this chapter applies to electronic records and electronic signatures relating to a transaction.

(b) This chapter does not apply to a transaction to the extent it is governed by:

(1) a law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) The Uniform Commercial Code other than Sections 1-107 and 1-206, Article 2, and Article 2A;

(3) the Uniform Computer Information Transactions Act;

(4) The General Corporation Law of the State of Delaware, the Delaware Professional Service Corporation Act, the Delaware Revised Uniform Partnership Act, the Delaware Revised Uniform Limited Partnership Act, the Delaware Limited Liability Company Act, the Delaware Uniform Partnership Law, and the Delaware Business Trust Act

(5) The Corporation Law for State Banks and Trust Companies, Credit Card Institutions, and the Corporation Law for State Savings Banks in Chapters 7, 15, and 16, respectively, of Title 5.

(c) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection (b) to the extent it is governed by a law other than those specified in subsection (b).

(d) A transaction subject to this chapter is also subject to other applicable substantive law.

§ 12A-104. PROSPECTIVE APPLICATION.

This chapter applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after the effective date of this chapter.

§ 12A-105. USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES; VARIATION BY AGREEMENT.

(a) This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This chapter applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(c) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.

(d) Except as otherwise provided in this chapter, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this chapter of the words "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

§ 12A-106. CONSTRUCTION AND APPLICATION.

This chapter must be construed and applied:

- (1) to facilitate electronic transactions consistent with other applicable law;
- (2) to be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and
- (3) to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among States enacting it.

§ 12A-107. LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS.

- (a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- (b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
- (c) If a law requires a record to be in writing, an electronic record satisfies the law.
- (d) If a law requires a signature, an electronic signature satisfies the law.

§ 12A-108. PROVISION OF INFORMATION IN WRITING; PRESENTATION OF RECORDS.

(a) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

(b) If a law other than this chapter requires a record (i) to be posted or displayed in a certain manner, (ii) to be sent, communicated, or transmitted by a specified method, or (iii) to contain information that is formatted in a certain manner, the following rules apply:

- (1) The record must be posted or displayed in the manner specified in the other law.
 - (2) Except as otherwise provided in subsection (d)(2), the record must be sent, communicated, or transmitted by the method specified in the other law.
 - (3) The record must contain the information formatted in the manner specified in the other law.
- (c) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(d) The requirements of this section may not be varied by agreement, but:

(1) to the extent a law other than this chapter requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under subsection (a) that the information be in the form of an electronic record capable of retention may also be varied by agreement; and

(2) a requirement under a law other than this chapter to send, communicate, or transmit a record by first-class mail, postage prepaid, may be varied by agreement to the extent permitted by the other law.

§ 12A-109. ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD AND ELECTRONIC SIGNATURE.

(a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under subsection (a) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

§ 12A-110. EFFECT OF CHANGE OR ERROR.

If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(1) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(2) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

(A) promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;

(B) takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

(C) has not used or received any benefit or value from the consideration, if any, received from the other person.

(3) If neither paragraph (1) nor paragraph (2) applies, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.

(4) Paragraphs (2) and (3) may not be varied by agreement.

§ 12A-111. NOTARIZATION AND ACKNOWLEDGMENT.

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

§ 12A-112. RETENTION OF ELECTRONIC RECORDS; ORIGINALS.

(a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

(1) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

(2) remains accessible for later reference.

(b) A requirement to retain a record in accordance with subsection (a) does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy subsection (a) by using the services of another person if the requirements of that subsection are satisfied.

(d) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection (a).

(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (a).

(f) A record retained as an electronic record in accordance with subsection (a) satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of this chapter specifically prohibits the use of an electronic record for the specified purpose.

(g) This section does not preclude a governmental agency of this State from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

§ 12A-113. ADMISSIBILITY IN EVIDENCE.

In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

§ 12A-114. AUTOMATED TRANSACTION.

In an automated transaction, the following rules apply:

(1) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(2) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(3) The terms of the contract are determined by the substantive law applicable to it.

§ 12A-115. TIME AND PLACE OF SENDING AND RECEIPT.

(a) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:

(1) is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(2) is in a form capable of being processed by that system; and

(3) enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) Unless otherwise agreed between a sender and the recipient, an electronic record is received when:

(1) it enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(2) it is in a form capable of being processed by that system.

(c) Subsection (b) applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection (d).

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules apply:

(1) If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

(2) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) An electronic record is received under subsection (b) even if no individual is aware of its receipt.

(f) Receipt of an electronic acknowledgment from an information processing system described in subsection (b) establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under subsection (a), or purportedly received under subsection (b), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement.

§ 12A-116. TRANSFERABLE RECORDS.

(a) In this section, "transferable record" means an electronic record that:

(1) would be a note under Article 3 of this Title or a document under Article 7 of this Title if the electronic record were in writing; and

(2) the issuer of the electronic record expressly has agreed is a transferable record.

(b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) A system satisfies subsection (b), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as:

(A) the person to which the transferable record was issued; or

(B) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in Section 1-201(20) of this Title, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under this Title, including, if the applicable statutory requirements under Section 3-302(a), 7-501, or 9-308 of this Title are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

(e) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under this Title.

(f) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

Chapter 457

Vol.72

§ 12A-117. CHOICE OF FORUM.

(a) The parties to an electronic contract may choose an exclusive judicial forum, provided however, that the provisions of §§ 1-105(2) and 2708 of this Title shall apply to such choice; provided further that if the contract is a consumer contract the choice is not enforceable if such choice is unreasonable and unjust.

(b) A judicial forum specified in an agreement is not exclusive unless the agreement expressly so provides."

Section 2. 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 3. EFFECTIVE DATE.

This chapter takes effect upon enactment into law.

Approved July 14, 2000

CHAPTER 458

FORMERLY

HOUSE BILL NO. 518

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO DRIVER'S LICENSE.

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

Section 1. Amend Title 21 of §2731 of the Delaware Code by adding as a new subsection (c) as follows:

(c) The Justice of the Peace Court Voluntary Assessment Center shall forward to the Department or its successor, a record of the name and address of each person who has signed a voluntary assessment form pursuant to 21 Del. C. §709 and who has: 1) failed to pay the fine agreed upon in the voluntary assessment within 20 days from the date of arrest; and 2) has not notified the court or voluntary assessment center within 10 days from the date of arrest (excluding Saturday and Sunday), personally or in writing, that he or she wishes to withdraw acceptance of the voluntary assessment and requests a hearing on the charge stated in the voluntary assessment form. Whenever such a person who has not paid the fine agreed upon in the voluntary assessment shall pay, the Voluntary Assessment Center shall provide the person with a receipt confirming that the fine has been paid so that the receipt may be presented to the Department, or its successor, as notice that the fine has been paid. If such person is arrested and prosecuted under 21 Del. C. §709 and found not guilty of the offense charged, the court shall provide a copy of the disposition record to the defendant so that this may be presented to the Department or its successor as notice of the finding.

Section 2. Further Amend §2732 Title 21 of the Delaware code by adding the following as a new subsection (g):

(g) Upon receiving a record that a person has signed a voluntary assessment form and has: 1) failed to pay the fine agreed upon in the voluntary assessment within 20 days from the date of arrest; and 2) has not notified the court or voluntary assessment center within 10 days from the date of arrest (excluding Saturday and Sunday), personally or in writing, that he or she wishes to withdraw acceptance of the voluntary assessment and requests a hearing on the charge stated in the voluntary assessment form, the Department or its successor, shall (1) if the person is a resident of this State, forthwith suspend the person's license until the person provides evidence to the Department that the fine has been paid or the person has been adjudicated not guilty of the offense agreed to in the voluntary assessment; and (2) if the person is a nonresident of this State, the Department may suspend the person's driving privileges in this State and immediately advise the Motor Vehicle Administrator of the State wherein the person is a resident that the person has failed to pay a voluntary assessment due and owing to this State and request

that the person's license to drive be suspended until the person provides evidence that the fine has been paid or such person has been prosecuted and found not guilty of the offense charged.

Approved July 18, 2000

CHAPTER 459

FORMERLY

HOUSE BILL NO. 541

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE FREEDOM OF INFORMATION ACT.

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

Section 1. Amend § 10004(h)(7)a, Title 29 of the Delaware Code by adding the following new sentence at the end thereof:

"4. The claim to be considered involves a 'victim' who is a 'child' as those terms are defined in Title 11, Chapter 90."

Approved July 21, 2000

CHAPTER 460

FORMERLY

HOUSE BILL NO. 544

AN ACT TO AMEND TITLE 11 AND TITLE 29 OF THE DELAWARE CODE RELATING TO COMPENSATION FOR VICTIMS OF CRIME.

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

Section 1. Amend § 9002(2), Title 11 of the Delaware Code, by adding the words and punctuation ", foster child" immediately after the word "stepchild" appearing therein.

Section 2. Amend § 9002(8), Title 11 of the Delaware Code, by adding the following language after the last sentence therein:

"Pecuniary loss includes, but is not limited to, the following:

- a. crime scene cleanup not to exceed \$1,000;
- b. temporary housing not to exceed \$1,500;
- c. moving expenses not to exceed \$1,000;
- d. essential personal safety property not to exceed \$1,500;
- e. lost wages of parents or others charged with the care, custody or guardianship of a child victim while providing care to a child victim;
- f. reasonable expenses, other than counseling, of secondary victims where the victim has been killed by the act of a person during the commission of a crime as defined in this chapter, not to exceed \$1,000;

- g. the deductible under a policy of automobile insurance where a motor vehicle is stolen in connection with a crime as defined in this chapter, not to exceed the amount of the deductible;
- h. childcare, security deposit and first month's rent, and used furniture costs not to exceed \$1,200 for victims of domestic violence who are leaving transitional housing;
- i. loss of support for victims of domestic violence, not to exceed \$3,000, when it is established that:
 - (1) the offender is incarcerated as a result of a crime as defined in this chapter committed against the victim;
 - (2) the offender was gainfully employed at the time of such crime; and
 - (3) the victim is fully or partially dependent on the income of the incarcerated offender;
- j. compensation for towing and impoundment expenses incurred as a direct result of a crime as defined in this chapter; and
- k. the cost to change locks and replace items seized as evidence."

Section 3. Amend § 9002(10), Title 11 of the Delaware Code, by striking said subsection in its entirety, and substituting in lieu thereof the following:

"(10) 'Secondary victims' shall mean any parent, stepparent, grandparent, son, daughter, spouse, sibling, halfsibling, fiancée, caretaker of the victim, any child who resides on a regular or semi-regular basis with any adult who is the victim of, or convicted of, any crime involving an act of domestic violence, the parents of a victim's spouse, or any other person who resided in the victim's household at the time of the crime or at the time of the discovery of the crime."

Section 4. Amend § 9002(3)a., Title 11 of the Delaware Code, by striking the word "or" appearing after the word "explosives" and before the word "unlawful" appearing therein, and by substituting in lieu thereof a ";", and by adding the following words after the word "firearms" and before the ";":

" , stalking or endangering the welfare of a child"

Section 5. Amend § 9002(3), Title 11 of the Delaware Code, by deleting the word "or" appearing at the end of subsection d., by deleting the "." at the end of subsection e. and by inserting in lieu thereof the words and punctuation "; or", and by adding a new subsection f, as follows:

"f. driving under the influence of any alcohol or drug or driving with a prohibited blood alcohol concentration, or hit-and-run."

Section 6. Amend § 9005(1), Title 11 of the Delaware Code, by deleting the words "Blue Cross and Blue Shield" appearing therein, and by substituting in lieu thereof the words "any applicable".

Section 7. Amend § 9005(3), Title 11 of the Delaware Code, by deleting the third sentence appearing therein, and by substituting in lieu thereof the following:

"Any claimant who is aggrieved by the Board's decision concerning compensation or any conditions attached to the award of such compensation may appeal to the Superior Court within thirty days following the date the decision of the board is mailed to the claimant."

Section 8. Amend § 9005(6), Title 11 of the Delaware Code, by striking said subsection in its entirety, and by substituting in lieu thereof the following:

"(6) A person whose domicile is in Delaware and who is the victim or secondary victim of a violent crime which occurs in another state, possession or territory or the United States may make an application for compensation if:

- a. The crimes would be compensable had they occurred in Delaware; and
- b. The placement(s) of the crime(s) occurred in states, possessions or territories of the United States not having eligible crime victim compensation programs that provide benefits equal to the benefits provided pursuant to this chapter."

Section 9. Amend § 9006(6), Title 11 of the Delaware Code, by adding the following language after the words "attempted suicide" and before the ";":

is directly related to a prior criminal victimization for which compensation is eligible pursuant to this chapter".

Section 10. Amend § 9007(a), Title 11 of the Delaware Code, by adding the following language after the words "appear and be heard by the Board" appearing in the last sentence thereof: "in accordance with § 9008(b)".

Section 11. Amend § 9007(d), Title 11 of the Delaware Code, by deleting the period appearing at the end of the first sentence, and by substituting in lieu thereof the following: "; provided, however, that the Board may award compensation to victims who are permanently and totally disabled in an amount not to exceed \$50,000."

Section 12. Amend § 9007(d), Title 11 of the Delaware Code, by adding the words and punctuation ". except life insurance proceeds," after the words "from any insurer" appearing in the second sentence thereof.

Section 13. Amend § 9008(a), Title 11 of the Delaware Code, by deleting the words "within 15 days of the date of the Board's decision" appearing in the fourth sentence therein, and by substituting in thereof the following: "within 15 days after the date the Board's decision is mailed".

Section 14. Amend § 9008(b), Title 11 of the Delaware Code, by deleting the words "within 15 days of the date of the decision" appearing in the first sentence therein, and by substituting in lieu thereof the following: "within 15 days after the date the decision is mailed".

Section 15. Amend § 9005(3), Title 11 of the Delaware Code, by deleting the words "within 30 days of the decision of the Board" appearing therein, and by substituting in lieu thereof the following: "within 30 days after the date the decision of the Board is mailed".

Section 16. Amend § 9008(b), Title 11 of the Delaware Code, by deleting the words "within 15 days of the date of the Board's decision" appearing in the second sentence therein, and by substituting in lieu thereof "within 15 days after the date the Board's decision is mailed".

Section 17. Amend § 9017, Title 11 of the Delaware Code, by adding the words and punctuation ". including nonresidents of Delaware," after the words "This chapter shall apply to all persons" as the same appear therein.

Section 18. Amend § 10004(7)2., Title 29 of the Delaware Code, by adding the words "or against" immediately after the words "any offense by" appearing therein.

Section 19. Amend § 9002(8), Title 11 of the Delaware Code, by deleting the words "loss of past earnings; and loss of future earnings" appearing therein, and by substituting in lieu thereof the words "loss of past or future earnings (including, but not limited to, reimbursement for vacation, sick and compensatory time)".

Section 20. Amend § 9006(a)(5), Title 11 of the Delaware Code, by adding the following new sentence at the end thereof: "This requirement shall be waived where (i) the crime has been reported to an appropriate governmental agency, such as child and/or adult protective services or the Family Court; (ii) the claimant can provide a protection from abuse order; or (iii) the claimant has cooperated with law enforcement or an appropriate government agency in cases of crimes involving sexual assault or abuse."

Section 21. Amend § 9003, Title 11 of the Delaware Code, by striking the last sentence in its entirety, and by substituting in lieu thereof the following: "The compensation of the chairperson shall be \$12,000 annually. The compensation of the vice chairperson shall be \$11,000 annually, and the compensation of the members shall be \$10,000 annually."

Approved July 21, 2000

CHAPTER 461

FORMERLY

HOUSE BILL NO. 545

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO FINANCIAL ASSISTANCE
FOR HIGHER EDUCATION.

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

Section 1. Amend the descriptive title of Subchapter I, Chapter 34, Title 14 of the Delaware Code by striking the descriptive title in its entirety and by substituting in lieu thereof the following:

"Subchapter I. Scholarship Incentive Program; Legislative Essay Scholarship Fund."

Section 2. Amend Chapter 34, Title 14 of the Delaware Code by adding thereto a new section to read:

"§3406. Legislative Essay Scholarship Fund.

(a) The purpose of the Legislative Essay Scholarship Fund is to award annually a \$500.00 nonrenewable scholarship to a 12th-grade student-resident from each senatorial and representative district in the State whose essay meets the standards established by the Delaware Higher Education Commission (Commission) and to award nonrenewable scholarships of \$5,000, \$2,500, and \$1,500 to the writers of the top 3 district essays. A student who applies for a legislative essay scholarship must be enrolled in a public, private, or charter school or be enrolled in a home school program.

(b) An applicant for a legislative essay scholarship shall submit an original essay of between 500 and 2,000 words on a topic that is chosen each year by a committee that consists of one member designated by the Executive Director of the Delaware Higher Education Commission, 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 topic of the essay must relate to:

(1) events, persons, philosophies, technologies, governments, or ideals in American history;

(2) the approximate 90-year period from 1770 to 1860, including events leading up to the American Revolutionary War, but excluding the Civil War; and

(3) a positive approach to the overall theme of 'Building the Foundations of the Modern United States of America.'

(c) The Commission shall administer the Legislative Essay Scholarship Fund and may adopt rules and regulations as it deems necessary and reasonable to administer the fund and to carry out the purpose of this section. The rules and regulations must contain criteria for the selection of scholarship recipients. The Commission shall encourage members of historical organizations, such as the Sons of the American Revolution and the Daughters of the American Revolution, to participate in judging the student essays.

(d) The Commission shall announce the recipients of the Legislative Essay Scholarships on or before February 15th of each year."

Section 3. 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 of the third calendar year following the year that the scholarship is awarded.

Section 4. The Commission shall report annually to the General Assembly the names of the scholarship recipients, the scholarship amount received by each recipient, the postsecondary institution where the scholarship was sent, and such other information as the Commission deems useful to the members of the General Assembly.

Section 5. This Act becomes effective upon the specific appropriation of funds for the Legislative Essay Scholarship Fund in the Annual Appropriations Act.

CHAPTER 462

FORMERLY

HOUSE BILL NO. 557

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO HOME IMPROVEMENT FRAUD.

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

Section 1. Amend Paragraph 916(b)(4), Title 11 of the Delaware Code by striking that paragraph in its entirety and substituting in lieu thereof the following:

"(4) Receives money for the purpose of obtaining or paying for services, labor, materials or equipment and fails to apply such money for such purpose by:

- a. failing to substantially complete the home improvement for which the funds were provided; or,
- b. failing to pay for the services, labor, materials or equipment provided incident to such home improvement; or,
- c. diverting said funds to a use other than for which the funds were received; or"

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 severable.

Approved July 18, 2000

CHAPTER 463

FORMERLY

HOUSE BILL NO. 559

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 Chapter 23, Title 19, Delaware Code, Section 2320 by deleting (a) and (b) in their entirety and inserting in lieu thereof the following:

At the request of any party, subpoenas shall be issued under authority of the Department of Labor. The party requesting the subpoena shall obtain a blank subpoena from the Department and shall complete the necessary information.

(a). Every subpoena shall:

- (1) state the name of the Industrial Accident Board;
- (2) state the title of the action and the IAB hearing number;
- (3) state the last known address of the person(s) to be served;
- (4) command each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated books, documents, or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified;

- (5) command each person directed to give testimony, to appear at hearing or at deposition at a time and place therein specified;
- (6) identify the name, address, and phone number of the person issuing the subpoena;
- (7) state the following in boldface:

"If you object to this subpoena you must immediately contact the Department of Labor, Office of Workers' Compensation and request a hearing to present your objections. Objections may be made if the subpoena (a) fails to allow reasonable time for compliance; (b) requires disclosure of privileged or other protected matter and no exception or waiver applies; or (c) subjects a person to undue burden."

(b). The following shall apply to the service of a subpoena:

- (1) A party issuing a subpoena shall be responsible for service of the subpoena and shall provide a copy of the completed subpoena to the Department of Labor.
- (2) A subpoena may be served by the Sheriff or by any person who is not a party and is not less than 18 years of age or by certified/return receipt requested mail to the last known address of the person listed on the subpoena.
- (3) Proof of service when necessary shall be made by filing with the Department of Labor a statement of the date and manner of service and of the names of the persons served.
- (4) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The Board shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(c). Response to subpoena(s):

- (1) A person commanded to produce and permit inspection and copying may object to the inspection or copying of any or all designated materials or of the premises. If objection is made, the party serving the subpoena may, upon notice to the person commanded to produce, move at anytime for an order to compel production.
- (2) If a party objects to a subpoena they must immediately contact the Department of Labor and request a hearing before the Board to present the objection. The Board may quash or modify a subpoena if it (a) fails to allow reasonable time for compliance; (b) requires disclosure of privileged or other protected matter and no exception or waiver applies; or (c) subjects a person to undue burden.
- (3) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (4) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.
- (d) The Board may administer oaths in any proceedings and in all other cases where it is necessary in the exercise of its powers and duties. The Board may examine persons as witnesses, take evidence, require production of documents and do all other things conformable to law which are necessary to effectively discharge the duties of office.
- (e) Any process or order of the Department or any notice or paper requiring service may be served by any sheriff, deputy sheriff, constable or any employee of the Department and return thereof made

to the Department. Such officer shall receive the same fees as are provided by law for like service in civil actions, except that if service is made by an employee of the Department, the employee shall not receive any fee but shall be paid the employee's actual expenses."

Section 2. Amend Section 2320, Chapter 23, Title 19, Delaware Code by re-lettering (c) through (h) to read (f) through (k).

Approved July 18,2000

CHAPTER 464

FORMERLY

HOUSE BILL NO. 614

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO RETAIL AND WHOLESALE MERCHANTS' LICENSE REQUIREMENTS.

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

Section 1. Amend §2901(2)b.(viii), Title 30 by deleting that provision in its entirety and replacing with the following:

"Receipts received by a non-U.S. person from a person commercially domiciled in Delaware that is related within the meaning of Section 2010(10) of this Title, (A) for the sale of active ingredient or formulated active ingredient which is formulated or packed into a finished ethical pharmaceutical product within the State of Delaware by a Delaware commercially domiciled entity related within the meaning of Section 2010(10) of this Title, or (B) for the sale of finished ethical pharmaceutical product which has been formulated or packed into a finished ethical pharmaceutical product within the State of Delaware by a commercially domiciled entity related within the meaning of Section 2010(10) of this Title."

Section 2. This act shall be effective January 1, 2000.

Approved July 18,2000

CHAPTER 465

FORMERLY

HOUSE BILL NO. 635 AS AMENDED BY HOUSE AMENDMENT NO. 2

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

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

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

Section 1. Amend § 6077, Title 7 of the Delaware Code, by striking §6077(a)(1) in its entirety and substituting in lieu thereof the following:

"(1) evidence that all landowners of the proposed territory have been notified by certified mail, or its equivalent, of the filing of the application, such evidence consisting of (i) a list provided by the United States Postal Service, or an alternate delivery service, of those to whom notice was sent and (ii) copies of materials returned to sender; and".

Section 2. Amend § 6077, Title 7 of the Delaware Code, by striking §6077(b)(1) in its entirety and substituting in lieu thereof the following:

- "(1) evidence that all landowners of the proposed territory have been notified by certified mail, or its equivalent, of the filing of the application, such evidence consisting of (i) a list provided by the United States Postal Service, or an alternate delivery service, of those to whom notice was sent and (ii) copies of all materials returned to sender; and"

Section 3. Amend § 6077(c), Title 7 of the Delaware Code, by inserting therein, between the phrase "opt-out of inclusion in the territory" and the phrase "prior to the issuance of a certificate", the phrase, "up to 30 calendar days"; by designating the existing language thereof as paragraph (c)(1); and by adding thereto the following:

- "(2) Within 10 calendar days after the expiration of the opt-out period, the Department shall notify an applicant for a certificate of public convenience and necessity with specificity of any landowner who has requested to opt-out of inclusion within the territory that the applicant has proposed to serve. The Department must take final action on the application within 90 calendar days after the date it determines that the application is administratively complete.
- (3) If, as submitted, an application identifies fewer than 300 parcels of real property to be included within the proposed territory to be served, then the Department shall have 21 calendar days from the date it first received the application to determine if the application is administratively complete and, if it determines that the application is not administratively complete, to identify for the applicant the deficiencies in the application and what actions must be taken in order for the Department to determine that the application is administratively complete.
- (4) If, as submitted, the application identifies 300 or more parcels of real property to be included within the proposed territory to be served, then the Department shall have 60 calendar days from the date it first received the application to determine if the application is administratively complete and, if it determines that the application is not administratively complete, to identify for the applicant the deficiencies in the application and what actions must be taken or what materials must be submitted in order for the Department to determine that the application is administratively complete.
- (5) The Department shall determine that an application is administratively complete when the applicant completes those actions that the Department has indicated must be taken in order for the Department to determine that the application is administratively complete."

Section 4. Amend §6077, Title 7 of the Delaware Code, by striking §6077(i) in its entirety and substituting in lieu thereof the following:

- "(i) For purposes of this section, 'land owners of the proposed territory to be served' are only those persons having fee ownership of the affected parcel of real property within the proposed territory to be served (as reflected by appropriate tax or land record documents) at the time that the application for a certificate of public convenience and necessity is submitted by the applicant to the Secretary for consideration, provided however, that with respect to condominium units, as defined in the Delaware Unit Property Act, Chapter 22, Title 25 of the Delaware Code, this phrase shall mean the governing body or authorized officers of any condominium association with authority to act on behalf of unit owners, unless the underlying real property on which such condominium units have been built has been leased, directly or indirectly, to unit owners and the underlying real property owner retains the power to bind the unit owners."

Section 5. Amend §6077, Title 7 of the Delaware Code, by redesignating 6077(c) through (i) as 6077(d) through (j) and adding a new §6077 (c) to read in its entirety as follows:

- "(c)(1) An applicant for a certificate of public convenience and necessity shall be deemed in compliance with the notification requirement set forth in paragraphs (a)(1) and (b)(1) of this section with respect to condominium units, as defined in the Delaware Unit Property Act, Chapter 22, Title 25 of the Delaware Code, upon providing certification signed by an authorized officer of the condominium association that (i) the officer of the condominium association is properly authorized to sign the petition for water service, and (ii) all unit owners have been provided notice of the application. A copy of the notice provided to unit owners shall accompany the certification.

- (2) The Secretary may establish alternative means of demonstrating compliance with the notification requirement set forth in subsections (a)(1) and (b)(1) of this section, including verification that notification has been delivered to the land owners of the proposed territory to be served, subject to a finding that the appropriate internet accessible technology creating a record that the notification has been sent and the status of its receipt is employed by the United States Postal Service, and after soliciting input on the use of such technology from water utilities."

Section 6. Amend § 6077, Title 7 of the Delaware Code, by adding thereto a new subsection as follows:

- "(k) For the purposes of subsections (a)(1) and (b)(1) of this section, notification sent to the landowners of a proposed territory must include at least the following statement:

'Pursuant to Title 7, § 6077 of the Delaware Code, an application for a Certificate of Public Convenience and Necessity (CPCN) will be submitted to the Secretary of the Department of Natural Resources and Environmental Control on or about {enter date of intended submission}. Your property has been included within an area {enter name of your organization} intends to serve with public water and we are required to inform you of certain information. Pursuant to current law, you may opt-out of inclusion in this service area prior to the issuance of the CPCN and you may seek a public hearing on this matter. A request for an opt-out or a hearing must be submitted in writing and by a date that is satisfactory to the Department. The Department will publish the date by which and the address to which requests may be submitted. Questions regarding opt-outs and hearings may be directed to: {enter the name or title, and the address and telephone number of the Department's contact person}.'

Section 7. Sections 1 through 5 of this Act shall be applied retroactively to April 11, 2000. The remainder of this Act shall be applied prospectively upon and after the enactment of this Act into law.

Approved July 18, 2000

CHAPTER 466

FORMERLY

HOUSE BILL NO. 648

AN ACT TO REINCORPORATE THE TOWN OF LEIPSIC.

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 Town of Leipsic set forth in Chapter 212, Volume 21, Laws of Delaware, enacted in 1899, with subsequent amendments, be consolidated into one complete Act and in certain respects be further amended and revised.

NOW THEREFORE:

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

"ARTICLE I - INCORPORATION

1.1 - Incorporation

The inhabitants of the "Town of Leipsic," within the corporate limits as defined in Section 1.2 of this Act or as subsequently altered by annexation procedures, shall be known as the "Town of Leipsic" and contracted to be a municipal body politic and corporate in perpetuity.

1.2 - Boundaries

(a) The boundaries of the Town of Leipsic are hereby established and declared to be the same boundaries and limits that have been heretofore determined and are as designated and delineated on a plot of the Town of Leipsic that is on record in the Office of the Recorder of Deeds in Dover in Plot Book 1, pages 5-6, and such other premises and real property as the Town of Leipsic may acquire.

(b) The Council of the Town of Leipsic may cause a survey and plot to be made of the said boundaries at any time hereafter and the said plot, when made and approved by the Council, may be recorded in the Office of the Recorder of Deeds in Dover, Delaware, and the same, the record thereof, or a duly certified copy of said record, shall be evidence in all courts of law and equity in this State.

1.3 - Annexation

(a) If and when a majority of the property owners in an unincorporated territory contiguous to the Town of Leipsic sign a petition seeking to have the area in which they reside annexed to the Town of Leipsic, they shall submit the petition and a survey of the area proposed to be annexed to the Town Council. The petition shall be considered by Council in the form of a resolution proposing the inclusion of the area within the limits of the Town of Leipsic and calling for a special election to be held in accordance with Title 22, Chapter 1, Section 101 of the Delaware Code.

(b) Said resolution shall contain a description of the territory proposed to be annexed and shall specify the date of the special election, which shall be not less than thirty nor more than sixty days after the adoption of said resolution, the place where said election shall occur, and the manner in which said election will be held.

(c) If the resolution on the proposed annexation is approved by Council, the question of annexation shall be submitted to the residents of the territory proposed to be included in the Town of Leipsic.

(d) If a majority of the votes cast in the election shall be in favor of the inclusion of that territory, the Council may adopt a resolution annexing said territory and including the same within the limits of the Town of Leipsic. Upon the adoption of said resolution, a copy thereof and a plot of the area annexed shall be filed forthwith for record with the Office of the Recorder of Deeds in Dover and the area so annexed shall for all purposes thenceforth be part of the Town of Leipsic.

(e) If a majority of the votes cast in an election shall be against the inclusion of that territory within the Town of Leipsic, the proposed annexation of said territory shall be declared to have failed. Nothing in this section shall prohibit Council from resubmitting a proposal of annexation to the voters of said territory, or any portion thereof, under the authority of this section and in accordance with the provisions thereof.

ARTICLE II - POWERS OF TOWN

2.1 - Powers of Town

(a) The Town of Leipsic shall have all the powers granted to municipal corporations and to towns by the Constitution and general laws of the State of Delaware, together with all the implied powers necessary to carry into execution all the powers granted. The Town of Leipsic shall continue to enjoy all powers which have been granted to it by special acts of the General Assembly of the State of Delaware, except insofar as they may be repealed by the enactment of this Charter. The Town of Leipsic, as a body politic and corporate, shall succeed to, own, or possess all property whether real, personal, or mixed, and all the rights, privileges, franchises, powers and immunities now or heretofore belonging to, possessed by, or enjoyed by the former corporation known as "The Town of Leipsic."

(b) The Town of Leipsic may have and use a corporate seal, may sue and be sued, may acquire property within or without its corporate limits by purchase, gift, devise, lease, or condemnation, for the purpose of providing sites for public buildings, parks, sewer systems, sewage treatment plants, water systems, water plants, gas or electric systems, or other municipal purposes, and may sell, lease, mortgage, hold, manage, and control such property or utility as its interests may require; and, except as prohibited by the Constitution of the State of Delaware or restricted by this Charter, the Town of Leipsic shall and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.

(c) 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 Town of Leipsic shall have and may exercise powers which, under the Constitution of the State of Delaware, it would be competent for this Charter specifically to enumerate. All powers of the Town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed herein, then in a manner provided by ordinance or resolution of the Council.

(d) This Charter shall be construed liberally in favor of the Town, and nothing in this Charter shall be construed as exempting any individual or agency from the operation of this section.

2.2 – Intergovernmental Relations

The Town of Leipsic may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

ARTICLE III – STRUCTURE OF GOVERNMENT

3.1 – Composition of Government

The government of the Town of Leipsic and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in six (6) Council members, one of whom shall be chosen by them as President.

3.2 – Qualifications for Council

Any citizen of the United States who is at least twenty-one (21) years of age and who, for the period of at least (15) years immediately preceding election to office, has not been convicted of a crime involving moral turpitude or a crime which would be a felony if committed in Delaware, and who has resided or owned real property in the Town for at least one (1) year prior to the election, shall be eligible to hold the office of Council member.

3.3 – Term of Office

Council members shall be elected to serve a term of three (3) years, effective with the organizational meeting following their election, or until their successors are duly chosen.

3.4 – Council Prohibitions

Except where authorized by law, no Council member shall hold any other Town office during the term for which said member was elected to the Council, and no former Council person shall hold any full-time employment with the Town until one (1) year after the expiration of the Council term.

3.5 – Vacancies and Forfeiture of Office

(a) The office of a Council member shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

(b) A Council member shall forfeit said office for: (1) failure to possess, at any time during the term of office, any qualification for the office prescribed by this Charter or by law; (2) violation of any express prohibition of this Charter; (3) conviction of a crime involving moral turpitude or a crime which would be a felony if committed in Delaware; (4) failure to attend three consecutive regular meetings of the Council without being excused by Council; or (5) any physical, mental, or emotional disability which renders the Council member incapable of performing the functions of office.

(c) In the case of a vacancy for any cause, the Council, by a majority vote of all its members, shall appoint a qualified person to fill the vacancy until the next regular election of the Town of Leipsic, at which time the vacancy shall be filled by an election for the unexpired term, if any. The vacancy shall be announced at a regular Council meeting and the vote on a person to fill the vacancy shall not be held before the next Council meeting. Despite the quorum provisions outlined in Section 3.13, if, at any time the membership of the Council is reduced to less than four (4), the remaining members may appoint additional members by majority action to raise the membership to six (6).

3.6 - Judge of Qualifications of Members

The Council shall be the judge of the election and the qualifications of its members and of the grounds for forfeiture of office and, for such purposes, shall have the power to subpoena witnesses, take testimony, and require the production of records. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand; notice of such hearing shall be published in one or more newspapers of general circulation in the Town at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

3.7 - Compensation

The Council shall determine the annual salary of the Council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the members of Council elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months. Members of the Council shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties of office.

3.8 - Meetings of Council

(a) The members of the Town Council shall meet for the purpose of organization on the first Monday in March following the election and shall organize by the election of a President/Mayor, a Secretary, a Treasurer, a Deputy Mayor, and such other officers as shall be found necessary. The President, Secretary, Treasurer, and Deputy Mayor shall be members of Council, but no member shall hold more than one (1) elective office during any one term.

(b) Regular meetings of Council shall be held every other month on the first Monday of March, May, July, September, November, and January. Additional meetings may be called by the Mayor or upon the written request of any three (3) members of the Council which shall be presented to the Mayor. Whenever practical, each member shall receive no less than eight hours notice of such additional meetings.

(c) All Council meetings shall be open to the public; provided, however, that the Council may call an executive session in accordance with state law. The general subject matter under consideration in an executive session shall be expressed in the motion calling for such session, and final action thereon shall not be taken by the Council until the matter is placed on the agenda.

(d) If a Council member cannot attend a Council meeting, he/she shall so notify the Council President prior to the meeting. If the Council President is not available, the member shall notify another member of Council.

3.9 – Council President/Mayor

(a) The President shall be the executive of the Town of Leipsic and shall also be known as the Mayor of the Town. The President shall serve as the head of Town government for all ceremonial purposes and for purposes of military law. The President shall: preside at all meetings of the Council and have a vote therein; execute all agreements, contracts, bonds, deeds, leases, and other necessary documents on behalf of the Town when authorized by the Council; attest the seal of the Town when authorized by the Council; appoint all committees; sign all warrants authorized by the Council and drawn on the treasurer for the payment of money; issue and sign all licenses for every exhibition with the Town of Leipsic for which a license is or may be required; have all and every power conferred; and perform all duties imposed upon the office by this Charter and the ordinances of the Town of Leipsic.

(b) At the organizational meeting, a Council member shall be elected to serve as the Deputy Mayor. During the temporary absence, vacancy in office, or disability of the Mayor, the Deputy Mayor shall have all the powers and duties of the Mayor.

3.10 – Council Secretary

The Secretary shall record all the proceedings of the Council and keep a correct record of the same in a book to be provided for this purpose. The Secretary shall also keep all papers and documents relative to the affairs of the Town in a safe place and shall deliver the same to his/her successor in office. The Secretary shall perform such duties and have such other powers as may be prescribed by the Council. All records, books, papers, and documents in the custody of the Secretary shall be open for inspection by the Council and the public under such regulations as Council may prescribe.

3.11 – Council Treasurer

(a) The Council shall elect a Treasurer for a term of one (1) year or until a successor is duly elected and qualified. Before entering the duties of this office, the Treasurer – elect shall be sworn or affirmed by the President of the Town Council to perform the duties of the office honestly, faithfully, and diligently. The Town Treasurer shall be the custodian of all funds of the Town of Leipsic and shall insure that all funds are deposited in the institutions designated by Council.

(b) The Treasurer shall not pay out any money except if authorized by the President of Council shall keep a true, accurate and detailed account of all monies paid; shall preserve all vouchers for monies paid; and shall maintain books and accounts which shall be open to inspection at all times by the President or other members of Council. The Treasurer shall submit a written report of all receipts and disbursements at each regular Council meeting; this report shall be entered in the minutes of said meeting.

3.12 – Rules of Procedure

The Council shall determine its own rules of procedure and order of business and shall provide for keeping a journal of its proceedings. This journal shall constitute a public record which shall be open to public inspection. Except on procedural motions, voting may be by roll call, and the ayes and nays shall be recorded in the journal.

3.13 - Quorum and Majority Requirements

Four members of the Council shall constitute a quorum to do business, but a smaller number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. No ordinance shall be valid unless it shall have the affirmative vote of four (4) or more members of the Council. Resolutions, orders, and motions shall be valid upon the affirmative vote of a majority of the members of the Council present. No member shall be excused from voting on ordinances, resolutions, orders, or monies, except where a member of Council has a conflict of interest, in which event, said member shall disqualify himself from voting. The other members of the Town Council shall, by majority vote, be the sole judge as to whether a conflict of interest exists.

ARTICLE IV: POWERS OF COUNCIL

4.1 - General Powers

(a) All powers of the Town shall be vested in the Council, except as otherwise provided by law or by this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Town by law and this Charter.

(b) The Council members shall constitute the legislative body of the Town of Leipsic and together shall be designated as the Town Council.

(c) The Council shall have the power to adopt ordinances relating to the health, safety, and welfare of the Town population and the introduction or spread of infectious or contagious diseases or nuisances affecting the Town. This power shall extend to the area inside the Town limits and within one (1) mile from said boundaries.

(d) The Council may also pass ordinances to ascertain and fix boundaries of streets, squares, lanes, and alleys; to repair, amend the same, or provide for the paving thereof; to close, alter, extend, or widen any street, square, lane, or alley or open and lay out new ones subject to the provisions contained herein; to regulate the ascent and descent of all streets, lanes, and alleys; to fix the building lines upon the same; to direct the paving of footways and prescribe the width thereof; to direct the laying out of gutters and prescribe the depth thereof; and to prescribe the extent of steps, porches, cellar doors, and other inlets to yards and buildings.

(e) The Council shall have power to provide for police protection and the lighting of streets at the expense of the Town and to prescribe and regulate the use of the streets, lanes, and alleys of the Town and to have and exercise control over the same, subject to the provisions hereinafter contained.

(f) The Council shall have the power to provide for the regulation of auctions and auctioneers, public amusements, and other businesses conducted within the Town.

(g) The Council shall have the power to regulate the construction of all buildings, dwellings, and other structures within the Town, including but not limited to the power to regulate the height and width thereof, the types of materials to be utilized, and the means of erecting same, as well as the power to make provisions for the enforcement of such regulations.

(h) The Council shall have the power to regulate the storage of gunpowder or any other dangerous substance within the Town.

(i) The Council shall have power to lay and collect fines on the owners of any horse, cow, dog, or other animal which may be found at large in any of the streets, squares, lanes, or alleys.

(j) The said Council shall have power, also by ordinance, to appoint a Town surveyor to make a plot or map showing the ascent and descent of all streets, lanes, and alleys, the building lines upon the same, and generally to do and perform all such matters and things as they may deem necessary for carrying into effect the provisions in this Section.

(k) The Council shall have power, by ordinance or regulation, to trim, remove, or cause the owners thereof to trim or remove any and all trees, bushes, shrubbery, weeds, or other vegetation, garbage, debris, or other offensive products whatsoever situated in the said Town which Council shall deem to constitute a public nuisance or menace to the public welfare, safety, or traffic.

(l) The Council shall have the power to invest funds of the Town not required for immediate use in securities of the United States and/or in insured savings accounts.

(m) The Council shall have all other powers requisite to and appropriate for the government of the Town of Leipsic, its peace and order, its sanitation and beauty, and for the health, safety, welfare, convenience, comfort and well-being of its population, and for the protection and preservation of public and private property, and in general shall have the power to do all things necessary for the well being of said Town which shall not be in contravention of any existing laws of this State or the Constitution thereof. Nothing in this Charter shall be construed as exempting any individual or agency from the operation of this section.

4.2 – Ordinance Procedure

Every ordinance shall be introduced in writing. No ordinance shall be passed unless it shall have the concurrence of a majority of the members elected to the Council and unless it shall have been read in its entirety at least one time prior to the taking of the vote thereon. All ordinances passed after the effective date of this Charter shall be copied into the records of the Council, and an index of such ordinances shall be kept by the Secretary.

4.2.2 – Emergency Ordinances

To meet a public emergency affecting life, health, property, or the public peace or safety, the Council may adopt emergency ordinances, but such ordinances may not levy taxes or grant, renew, or extend a franchise. 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 the emergency 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 four (4) members of Council shall be required for adoption. After its adoption, the ordinance shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, including any amendments made after its adoption, shall automatically stand repealed as of the sixty-first day following the date on which it was adopted, unless extended by regular ordinance action by Council, and it shall be the duty of the Council Secretary to so notify the Council.

4.2.3 – 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.

4.3 - Power to Raise Revenues

(a) The Council shall have the power to levy and collect taxes on real property within the limits of the Town, except that which is not assessable and taxable by virtue of any law of the State of Delaware, which shall not be more than 2% of the assessed valuation of the assessable and taxable real estate within the Town in any year, provided, however, in addition thereto, the Council shall have the power to levy the taxes necessary to service the bonded indebtedness of the Town.

(b) The Council shall likewise have the power to levy and collect taxes, commonly known as a "capitation tax," upon the individual residents of the Town who are eighteen years old or over.

(c) The Council shall have the power by ordinance to allow discounts for early payment of taxes, to impose reasonable penalties and forfeitures for tax delinquencies, and to review and determine proper and appropriate properties to be exempt from taxation.

4.4 - The Town May Engage in Business

(a) The Town of Leipsic shall have the right to engage in any business or enterprise in which a person, firm, or corporation might engage by virtue of a franchise. The Town shall also have the right and power to acquire, own, and maintain, within the corporate limits of such Town, all real estate for municipal purposes for sites and right-of-ways for public utility and general welfare purposes and for the location, erection, and maintenance thereon of municipal plants and public facilities.

(b) The Town of Leipsic shall have the exclusive right to grant franchises within the Town boundaries.

(c) In any case where the Council may deem it to be in the best interests of the people of the Town of Leipsic to acquire the properties of any privately-owned utility, the Town of Leipsic shall respect the franchise rights of the owners and shall in all respects adhere to the general laws of the State of Delaware insofar as they relate to utility properties owned by municipalities.

(d) The Town may, in its discretion, distribute water throughout all the territory included within the Town boundaries and also any contiguous territory within five (5) miles of the Town limits. The Council shall determine the person or persons, firm or firms, corporation or corporations, to which the Town shall distribute water throughout said territory; 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 the Council and said person or person, firm or firms, corporation or corporations. The Town shall have and exercise all the power and authority necessary to the accomplishment of said distribution of water throughout the said territory as it now has and possesses in the installation, operation, and maintenance of its water system in the Town and in the distribution of water within the Town limits, including the authority and power to acquire by purchase or condemnation such land and any real and personal property as may be necessary therefor.

4.5 - Borrowing for Current Expenses

(a) Whenever the needs of the Town shall require more money than is, at the time, in the Town treasury from current receipts, the Council shall be authorized and empowered to anticipate current revenue by borrowing such amounts as are needed; provided, however, that the amount of such indebtedness shall not at any time exceed one (1%) percent of the assessed valuation of the assessable and taxable real property within the limits of the Town or shall not exceed Two Hundred Thousand Dollars (\$200,000.00), whichever is greater.

(b) To exercise the power aforesaid the Council shall adopt a resolution to that effect, which resolution shall be by roll call and require the affirmative vote of at least four (4) of the members of Council. The indebtedness created under this provision shall be evidenced by notes of the Town, and the full faith and credit of the Town shall be deemed to be pledged thereby. Such short-term debt shall not be considered as part of the bonded debt of the Town when limitations under indebtedness, as set forth elsewhere in this Chapter, are computed.

4.6 – Power of Council Over Streets

(a) Upon the majority vote of its members, the Council shall have the power to locate, lay out, and open any new street, lane, or alley or widen any street, lane, or alley heretofore laid out in said Town or reopen any old street, lane, or alley now closed.

(b) The owners of the property, through and over whose lands such street, lane, or alley may pass, shall receive just compensation as Council shall deem just and reasonable under all circumstances. Said compensation, if any be allowed, shall be paid by the Treasurer of the Town out of the monies of said Town upon warrants drawn by order of Council.

(c) Whenever the Town Council shall have determined to locate, lay out, or widen any street, lane, or alley and shall have fixed the compensation therefor, it shall be its duty immediately after the survey and location of the said street, lane, or alley, to notify, in writing, the owner or owners of the real estate through or over which said street, lane, or alley may run, of its determination to open or widen the same, and to furnish a general description of the location thereof and also the amount of the damages or compensation allowed to each.

(d) Any owner who may be dissatisfied with the amount of compensation or damages allowed by the Town Council may appeal within ten (10) days by serving a written notice to that effect on the President of the Council. The Council shall hold a meeting to hear from the aforesaid owner of the property and other interested residents of the Town. After this meeting, the Council shall decide whether or not to proceed with the improvements. If Council elects to proceed with the work, in order to prosecute an appeal, the appellants shall, within fifteen (15) days after the aforesaid appeal hearing before Council, make written application to the Resident Judge of the Superior Court of this State, for Kent County, for the appointment of a commission to hear and determine the matter of damages or compensation.

(e) Thereupon the said Judge shall issue a commission under his/her hand directed to five (5) qualified voters of the said county, three (3) of whom shall be residents of the Town of Leipsic and two (2) of whom shall be non-residents of said Town. The individuals named in such commission, being first sworn or affirmed on the day and at the hour and place stated in the notice shall view the premises and hear the witnesses and shall determine without delay the damages, if any, which said appellant will sustain by reason of being deprived of any property. Thereupon the said members of the commission shall make a return in writing of their proceedings to the said Resident Judge who shall cause a copy of said return to be delivered to the Council President, and such return shall be final and conclusive. The said Judge shall have the power to fill any vacancies among the members named in such commission. On application within twenty (20) days after the award, the said Judge may set aside a grossly improper award and appoint a new commission. The amount of damages being ascertained, the Town may pay or tender the same to the person entitled thereto within one (1) month after the same shall be finally ascertained or may deposit the same in any bank in the Town to the credit of the person entitled thereto, within the said period of one (1) month, and thereupon the Town may carry into effect the plan contemplated in the resolution aforesaid.

Chapter 466

Vol.72

(f) After the damages shall be fixed and ascertained by the members of the commission, the Town Council shall have the option to pay damages assessed, within the time aforesaid, and proceed with the said improvements; or, upon the payment of the costs only, the Council may abandon the proposed improvements.

(g) In the ascertainment and assessment of damages by the members of the commission, if the compensation is increased, the costs of the appeal shall be paid by the Treasurer of the Town of Leipsic. If said compensation is not increased, the costs shall be paid by the appellant. The fees paid to the members of the commission shall be set by ordinance and shall be taxed as a part of the costs.

4.7 - Sidewalks and Gutters

(a) Whenever the Town of Leipsic shall determine that public convenience or necessity requires the paving, guttering, or graveling of sidewalks or any or either or all of them, it shall notify the owner or owners of land in front of whose premises the same is to be done and shall designate the nature of the work to be done. Thereupon, it shall be the duty of said owner or owners to cause such paving, graveling, or guttering to be done in conformance with said notice.

(b) In the event any owner neglects to comply with said notice within thirty (30) days, the Council may proceed to have the same done, and when done the Treasurer of the Town of Leipsic shall, as soon as convenient thereafter, present to the said owner or owners of such lands, a bill showing the expense of paving, graveling, or guttering. If such owner or owners are not resident in the Town of Leipsic, the bill may be presented to the occupier or tenant of said land or, if there be no occupier or tenant resident in the Town of Leipsic, such bill may be sent by certified mail, return receipt requested, to such owner. If said bill is not paid by the owner or owners of such lands within thirty (30) days after presentation, then it shall be the duty of the Council to issue an order in the name of "The Town of Leipsic" under the hand of the President and the seal of the said corporation, directed to the Treasurer of the Town of Leipsic, commanding said official to proceed to collect the delinquent assessment.

(c) The claim for paving, graveling, or guttering shall be a lien on the premises in front of which the work was done and shall have the same priority and be collectible in the same manner as municipal property taxes.

(d) Any notice required by this section to one co-owner shall be notice to all; and in case no co-owner resides in the Town, notice may be served upon the occupier or tenant of said premises resident in the Town. If there be no such occupier or tenant, it shall be sufficient to send said notice by certified mail, return receipt requested, to any owner or said premises. The provisions hereinbefore contained in this section shall apply to any order made by the Council in respect to any such paving, graveling, or guttering heretofore done which the Council may deem insufficient or in need of repair. In addition to the provisions of this section, the Council shall have the power and authority to enforce, by ordinance, all the requirements of this section by imposing such fines and penalties as Council deems necessary and proper.

4.8 - Sewer and Water Improvements

(a) The Town shall have exclusive jurisdiction and control over drainage within the Town of Leipsic. The Town shall have the right to alter and change the course and direction of the natural watercourses, runs, or rivulets within the Town, and may pass ordinances for the construction of water mains, storm drains, and sanitary sewers within the Town. The Town also shall have the power and authority to regulate, maintain, cleanse, and operate such water mains, storm drains, sanitary sewers, natural water courses, runs, and rivulets within the Town in an open, clear, and unobstructed manner. For that purpose the Town may authorize the entry upon private lands and

take, condemn, and occupy the same and by regulation prescribe the mode in which they shall be altered, changed, opened, maintained, cleansed, closed, and kept open and unobstructed, and shall bear the expenses thereof and may, in its discretion, assess the costs of sanitary sewers, water lines, and storm drains upon the property particularly benefited thereby, except such real estate as is exempt from municipal assessment and taxation by virtue of any law of the State of Delaware, and prescribe the mode of collection thereof; provided, however, that nothing herein contained shall be construed to authorize the taking of private property for public use without just compensation.

(b) The Council may take land by condemnation proceedings and shall have the right to use private land, under, over, or on the surface thereof, for the proper operation or extension of its water and/or sewer systems. The method of procedure by condemnation under this section shall be the same as provided for in Section 4.7 of this Act for the opening and laying out of new streets.

(c) The Town likewise is authorized to make agreements with Kent County or other municipalities to permit the interconnection of their sewer systems. The Council shall have the right to compel the owner of any building or structure requiring sewage disposal facilities to connect to any sewer main that is available.

(d) Whenever the Council shall determine that construction, improvement, alteration, or repair of sanitary sewers is required, it shall be empowered and authorized to direct that any necessary survey and other work be undertaken and any costs be determined. Any required work may be done by contract or by Town forces.

ARTICLE V – NEW DEVELOPMENTS AND SUBDIVISIONS

(a) Whenever it is contemplated that a new real estate development shall be undertaken, the Council shall require the developer to submit plans and supporting documents to the Council for approval prior to the actual construction and/or installation of improvements and utilities.

(b) Whenever the installation of new facilities is contemplated in a partially developed area, the Council shall make a careful determination of the ability of the area to support the cost of the proposed improvements before approving it. Also, the developer shall be required to provide evidence to the Council that all applicable state and county regulations have been met.

ARTICLE VI – PROPERTY ASSESSMENTS

6.1 – Property Assessment Procedures

(a) Annually, a true, just, and impartial valuation and assessment of all real estate within the Town shall be made, except such real estate as it exempts from municipal assessment and taxation by virtue of any state law or provisions of this Charter.

(b) It shall be lawful for the Town to enter into an agreement with the Board of Assessment for Kent County to inspect and copy, or obtain copies, of the assessments made for county purposes. Annually, the Council shall make a judgement regarding whether the Town will utilize such county assessments and whether said county assessments are a true, just and impartial evaluation. The use of the county assessment for municipal purposes shall not preclude the Town from modifying the county assessment list to take into account new construction, changes in ownership or use not reflected in the county assessment list, or clear cases of inequitable assessment.

6.2 – Collection of Taxes

(a) A list containing the names of the taxables and, opposite the name of each, the amount of real property assessment and the total amount of the tax, shall be prepared as soon as practical after the beginning of the tax year

Chapter 466

Vol.72

All taxes shall be paid to the Town Tax Collector subject to such discounts, penalties, and rules as the Council may direct.

(b) It shall be the duty of the Town Tax Collector to proceed forthwith to collect all taxes in the calendar year in which assessed, as well as all delinquent taxes. In the collection of said taxes, the Tax Collector shall have all powers conferred upon or vested in the Receiver of Taxes and the Treasurer for Kent County.

(c) The provisions of Chapter 29, Title 25 of the Delaware Code with reference to tax liens, shall be deemed and held to apply to all taxes laid and imposed under the provisions of this Charter, except that any such lien imposed for taxes shall continue for ten (10) years from the date such lien commences.

7.1 - Fiscal Year

The fiscal year for the Town Leipsic shall begin with the first day of July in each year and shall end with the next succeeding thirtieth day of June. Such fiscal year shall also constitute the budget and accounting year.

7.2 - Annual Financial Statement

(a) Annually, the Council Treasurer shall prepare a financial statement of all fiscal transactions of Town government. This report shall consist of an accurate and complete annual statement of all revenues and expenditures and a list of bank accounts and balances as of the end of the fiscal year. The report shall be submitted to the Mayor within sixty (60) days after the end of the fiscal year.

(b) The annual financial statement shall be reviewed at a regular Council meeting and, if approved by Council, shall become an official part of the Council minutes.

7.3 Use of Town Funds

The Council shall have full power and authority to use all or any portion of the money in the treasury of the Town for the improvement, benefit, protection, and best interests of the Town, as Council may deem proper, and to use Town money to accomplish and carry into effect all acts and things which it has power to do by virtue of the Laws of Delaware, this Act, and all lawful ordinances and resolutions of Council.

ARTICLE VIII - COUNCIL APPOINTMENTS

8.1 - Town Tax Collector

At the annual organizational meeting of Council on the first Monday in March, the Council shall appoint a Town Tax Collector. In addition to the collection of current and delinquent taxes, the officer shall perform such other duties and services as the Council shall prescribe. The term of office for the Town Tax Collector shall be one year from the first Monday in March. The Town Tax Collector shall serve at the pleasure of Council and shall not be removed during the term of office except for cause and after a hearing before Council. Said officer shall receive such reasonable compensation as the Council shall determine.

8.2 - Town Attorney

With the approval of Council, the Mayor may appoint a Town Attorney. The Town Attorney shall be an attorney at law who shall have practiced in the State of Delaware for at least three (3) years. The Town Attorney shall be the legal adviser of the Town and shall perform in this capacity such services as may be required by the Mayor or the Council. The compensation for this office shall be determined by Council, and the Council shall also have the power to employ other legal consultants as it deems necessary from time to time.

8.3 - Town Constable

At the organizational meeting of Council on the first Monday in March, and annually thereafter, the Council shall appoint a Town Constable. The Town Constable shall serve at the pleasure of the Council and shall not be removed during the term of office except for cause and after a hearing before Council. It shall be the responsibility of the Constable to suppress all riotous, turbulent, disorderly or noisy assemblages or gathering of persons in and about any building or in the streets, lanes, squares, alleys, or sidewalks in the Town of Leipsic and to perform all other duties as assigned by Council. The compensation for the Constable shall be determined by Council.

8.4 - Authority to Employ Personnel

The Council may employ such other officers and employees as it deems necessary to execute the powers and duties provided by this Charter and to operate the Town government.

ARTICLE IX: ELECTIONS

(a) On the first Monday in March, the Town of Leipsic shall conduct its annual election and shall fill any vacancies among the Council members. At each and every election, two Council members shall be chosen, each for a term of three (3) years, to replace those Council members whose term of office shall then expire. Voters shall likewise elect Council members to fill vacancies of unexpired terms of office caused by reasons outlined in Section 3.5 herein.

(b) When the polls have closed, the election officers shall publicly count the votes and shall certify the results of the election to each of the persons elected and to the Council. For each election, the two (2) candidates for Council who have received the greatest number of votes for said office shall be declared elected. When the results of the election have been determined, the election officers shall prepare certificates of election and deliver them to the newly elected members of Council. A certificate of election shall also be given to the Council Secretary to be entered in the minutes of the Town of Leipsic.

(c) The Council shall set the compensation that the election officers shall receive in connection with the holding of said election.

9.2.3 - Polling Place

The election shall be held at the Town Hall or at such other convenient place within the Town limits as Council shall establish by resolution. The Council shall post the place and times of the election on the Town bulletin board and at another public place at least two (2) weeks prior to said election. Such notices shall be signed by the Mayor or Council Secretary.

9.2.4 - Voting Machines

In any election where one or more Council seats are contested, the polls shall remain open between the hours of 12:00 p.m. and 7:00 p.m., and the election shall be conducted with the use of voting machines obtained from the Department of Elections of Kent County.

9.2.5 - Ballots

For all Town elections, the names of the candidates shall be mechanically printed on the ballot by the Department of Elections of Kent County.

ARTICLE X: GENERAL PROVISIONS

10.1 - Performance Bonds

Chapter 466
Vol.72

The Town Tax Collector, Council Treasurer, and such other officers and employees of the Town as the Council may require shall give bonds for the faithful performance of their duties in such amounts and with such surety as may be approved by the Council. The premiums on such bonds shall be paid by the Town.

10.2 - Oath of Office

Every member of the Council, the Council President, the Council Treasurer, the Council Secretary, and such other officers or employees as Council may require by ordinance shall, before entering upon the duties of their office, take and subscribe to the following oath of affirmation, to be filed and kept in the office of the Council Secretary:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States; the Constitution of the State of Delaware; and the Charter of the Town of Leipsic, Delaware; and that I will faithfully discharge the duties of the office of _____ according to the best of my ability."

10.3 - Severability of Charter Provisions

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

10.4 - Prohibitions

It shall be unlawful for the Council or the Town's officers, agents, or employees to make or enter into any contract for materials, supplies, work, or labor for the use and benefit of the Town of Leipsic with any member of the Council or with any partnership in which any member of the Council is a partner, or with any firm or company in which any member of the Council has a financial interest, except with the unanimous consent of the entire Council. Such contract shall be considered null and void without Council's unanimous consent; provided, however, that nothing herein shall prohibit the Council, the Town's officers, agents, or employees, from entering into any contract without such approval where the amount involved in the transaction and other related transactions does not exceed the sum of one hundred dollars (\$100.00).

ARTICLE XI: TRANSITIONAL PROVISIONS

11.1 - Former Government in Force

All ordinances, resolutions, orders, rules, and regulations in force in the Town of Leipsic at the time this Charter takes effect, regardless of the authority under which originally enacted, shall continue in full force and effect until the Council otherwise provides by ordinance, notwithstanding any change in organization effected by this Charter.

11.2 - Continuance in Office

- (a) All persons holding any non-elective office or employment under the Town of Leipsic at the time this Charter goes into effect shall continue in such office or employment and shall draw the same rate of compensation as during the month preceding the adoption of this Charter until removed from office or until the compensation is changed.

- (b) The President of the Council of Leipsic shall continue as the President of the Town Council as well as the other officers of the Town of Leipsic, and the Council members shall also continue in office until their successors are elected and qualify as previously provided for in this Charter.

11.3 - Effective Date

This Act shall become effective immediately upon its enactment into law."

Approved July 18, 2000

CHAPTER 467

FORMERLY

HOUSE BILL NO. 651

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO DELAWARE TAXES.

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

Section 1. Amend Title 30 of the Delaware Code by adding to said title a new Chapter 16 to read as follows:

"CHAPTER 16. PASS-THROUGH ENTITIES, ESTATES AND TRUSTS.

SUBCHAPTER I. IN GENERAL

§ 1601. Definitions.

Whenever used in this chapter, the following terms shall have the meanings ascribed to them in this section:

- (a) 'Pass-through entity' means any person:
- (1) which is classified as a partnership under the Internal Revenue Code [26 U.S.C. § 1, et seq.], or
 - (2) which is classified as an 'S corporation' for federal income tax purposes within the meaning of § 1361 of the Internal Revenue Code [26 U.S.C. § 1361],
- (b) 'Member of a pass-through entity' or 'member' means a person treated for federal income tax purposes as either a partner in a partnership or a shareholder of an S corporation, but does not include a beneficiary of an estate or trust.
- (c) 'Distributive share' means, with respect to any member and with respect to any taxable year of such member:

In the case of a pass-through entity that is classified as a partnership under the Internal Revenue Code, the distributive share of such member for such taxable year of the pass-through entity's income, gain, loss or deduction, or items thereof, as appropriate, determined under § 704 of the Internal Revenue Code [26 U.S.C. § 704]; or

In the case of a pass-through entity that is an S corporation for federal income tax purposes, the pro rata share of such member for such taxable year of the pass-through entity's income, gain, loss or deduction, or items thereof, as appropriate, determined under § 1377(a) of the Internal Revenue Code [26 U.S.C. § 1377(a)].

- (d) 'Resident estate' means the estate of a decedent who at death was domiciled in this State.
- (e) 'Nonresident estate' means an estate which is not a resident estate.

- (f) 'Trust' means an entity classified as a trust for federal income tax purposes, other than a trust of which the grantor or another person is treated as the owner of the entire trust under §§ 672 through 679 of the Internal Revenue Code [26 U.S.C. §§ 672 - 679].
- (g) 'Resident trust' means a trust:
 - (1) created by the will of a decedent who at death was domiciled in this State, or
 - (2) created by, or consisting of property of, a person domiciled in this State, or
 - (3) with respect to which the conditions of 1 of the following subparagraphs are met during more than one-half of any taxable year:
 - (A) the trust has only 1 trustee who or which is (i) a resident individual of this State, or (ii) a corporation, partnership or other entity having an office for the conduct of trust business in this State;
 - (B) the trust has more than 1 trustee, and 1 of such trustees is a corporation, partnership or other entity having an office for the conduct of trust business in this State; or
 - (C) the trust has more than 1 trustee, all of whom are individuals and one-half or more of whom are resident individuals of this State.
- (h) 'Nonresident trust' means a trust that is not a resident trust of this State.
- (i) 'Beneficiary' has the meaning ascribed to it by common law, including, without limitation, any heir, devisee, or legatee of an estate or beneficiary of a trust.

§ 1602. Taxable year.

The taxable year of a pass-through entity, estate or trust for purposes of this title shall be the same as its taxable year determined under the Internal Revenue Code. A change in the taxable year of a pass-through entity, estate, or trust under the provisions of the Internal Revenue Code shall effect a change of its taxable year under this title.

§ 1603. Accounting Method.

The accounting method of a pass-through entity, estate or trust for purposes of this title shall be the same as its accounting method determined under the Internal Revenue Code. A change in the accounting method of a pass-through entity, estate or trust under the provisions of the Internal Revenue Code shall effect a change of its accounting method under this title.

§ 1604. Adjustments.

An adjustment made to any item of income, gain, loss or deduction reported on the federal information or tax return of a pass-through entity shall effect an adjustment to such item of income, gain, loss or deduction under this title to the extent necessary to prevent such item from being duplicated or omitted.

§ 1605. Returns.

(a) Pass-through entities.

- (1) Returns.-- Every pass-through entity having any income from sources within this State shall make a return to this State for the taxable year setting forth the information required by § 6031 or § 6037 of the Internal Revenue Code [26 U.S.C. § 6031 or § 6037] and such other information as the Director may prescribe pursuant to § 513 of this title. Such return may, to the extent prescribed by the Director, require the separate statement of any item of the pass-through entity's income, gain, loss or deduction if the separate treatment of such item could affect the liability for tax under this title of any member.
- (2) Copies to Members.-- A pass-through entity required to file a return pursuant to paragraph (1) of this subsection shall provide to each member a copy of such information shown on such return as the Director may prescribe pursuant to § 513 of this title.
- (3) Time to file return.-- A return required to be filed pursuant to paragraph (1) of this subsection shall be filed:

- (A) in the case of a pass-through entity classified as a partnership, on the 30th day of the fourth month following the end of such pass-through entity's taxable year, and
- (B) in the case of a pass-through entity classified as an S corporation, on the 30th day of the third month following the end of such pass-through entity's taxable year.

(b) Estates and Trusts.

- (1) An income tax return with respect to the tax imposed by Chapter 11 of this title shall be made to this State by:
 - (A) every resident estate or resident trust which (i) is required to file a federal income tax return for the taxable year or would be required to file a federal income tax return for the taxable year if the additions provided under § 1106 of this title were included in its federal gross income, and (ii) which has not distributed, or set aside for distribution, to nonresident beneficiaries its entire federal taxable income as modified by § 1106 of this title; and
 - (B) every nonresident estate or nonresident trust which (i) is required to file a federal income tax return for the taxable year or would be required to file a federal income tax return for the taxable year if the additions provided under § 1106 of this title were included in its federal gross income, and (ii) which has any income from sources within this State.
- (2) Copies to Members.-- An estate or trust required to file a return pursuant to paragraph (1) of this subsection shall provide to each beneficiary of such estate or trust a copy of such information shown on such return as the Director may prescribe pursuant to § 513 of this title.
- (3) Time to file return.-- A return required to be filed pursuant to paragraph (1) of this subsection shall be filed on the 30th day of the fourth month following the end of the estate's or trust's taxable year.

SUBCHAPTER II. TAXATION OF PASS-THROUGH ENTITIES AND THEIR MEMBERS

§ 1621. Taxation of pass-through entities; in general.

- (a) Income tax.-- A pass-through entity as such shall not be subject to the income tax imposed by Chapter 11 or Chapter 19 of this title. Members of a pass-through entity shall be liable for the tax imposed by Chapter 11 or Chapter 19 of this title only in their separate or individual capacities.
- (b) Incidence of business license and excise taxes.-- The incidence of the taxes imposed by Parts III through VI of this title and by Title 4 with respect to the activities of a pass-through entity engaged in business in this State shall fall upon the pass-through entity and not its members.

§ 1622. Character of items.

Each item of the income, gain, loss or deduction of a pass-through entity shall have the same character for a member of such pass-through entity under this title as it has for federal income tax purposes. Where federal income tax rules and principles are not determinative of the character or of the source of an item of income, gain, loss or deduction for purposes of this title, such item shall have the same character or source for a member of the pass-through entity as if the item were realized directly by such member from the source from which realized by the pass-through entity or incurred in the same manner as incurred by the pass-through entity. A member's distributive share of any item of the income, gain, loss or deduction of a pass-through entity shall, solely for purposes of the immediately preceding sentence, be determined by application of the principles of § 704(b) of the Internal Revenue Code [26 U.S.C. § 704(b)], including, without limitation, the principles for determining whether an allocation of such item among the members of such pass-through entity has substantial economic effect.

§ 1623. Special rules for nonresident individual members and corporate members of pass-through entities.

- (a) Nonresident individual members of pass-through entities.-- In determining the tax liability under Chapter 11 of this title of a nonresident individual member of a pass-through entity, there shall be included in such member's modified Delaware source income such member's distributive share of the items of income, gain, loss and deduction of such pass-through entity entering into such member's federal adjusted gross income, as modified by § 1106 of this title, as is derived from sources within this State as determined by the application of § 1124 of this title to such member in the same manner as if such items had been realized directly by such member.

- (b) Nonresident individual members' modifications.-- Any modification described in subsection (a), (b) or (c) of § 1106 of this title which relates to an item of pass-through entity income, gain, loss or deduction shall be made in accordance with a nonresident individual member's distributive share, for federal income tax purposes, of the item to which the modification relates, but limited to that portion of such item as is derived from or connected with sources in this State.

Corporate members of pass-through entities.--

A corporation that is a member of a pass-through entity doing business or having real or tangible personal property in this State shall be subject to the provisions of Chapter 19 of this title; provided, however, that this subsection shall not be interpreted as precluding a corporation that is a member of a pass-through entity from qualifying for exemption from taxation under Chapter 19 pursuant to § 1902(b)(8) of this title.

Allocation and apportionment of income.--

In determining the tax liability under Chapter 19 of this title of a corporation that is a member of a pass-through entity doing business or having real or tangible personal property in this State,

Such corporation's federal taxable income shall be increased or decreased, as the case may be, by its distributive share of such pass-through entity's items, if any, described in subsection (a) of § 1903 of this title;

Such corporation's distributive share of any item of such pass-through entity that is described in any of paragraphs (1) through (5) of subsection (b) of § 1903 of this title shall be included in the entire net income of such corporation only if such item is properly allocable to this State under such paragraph of subsection (b) of § 1903 of this title; and

In applying paragraph (6) of subsection (b) of § 1903 of this title to such corporation, (A) the entire business of such corporation shall not be treated as having been transacted or conducted within this State if any part of the business of such pass-through entity was transacted or conducted outside this State, and (B) the 3 ratios described in such paragraph (6) of such corporation shall be determined by including in each such ratio such corporation's distributive share of each relevant item of such pass-through entity.

SUBCHAPTER III. TAXATION OF ESTATES, TRUSTS AND THEIR BENEFICIARIES.

§ 1631. Imposition of tax.

The tax imposed by Chapter 11 of this title on individuals shall apply to the taxable income of estates and trusts.

§ 1632. Computation and payment.

The taxable income of an estate or trust shall be computed in the same manner as in the case of an individual pursuant to Chapter 11 of this title, except as otherwise provided by this subchapter. The tax shall be computed on such taxable income and shall be paid by the fiduciary.

§ 1633. Tax not applicable.

The following persons shall not be subject to tax under Chapter 11 of this title:

- (a) Associations taxable as corporations.-- An association, trust or other unincorporated organization which is taxable as a corporation for federal income tax purposes.
- (b) Exempt associations, trusts and organizations.-- An association, trust or other unincorporated organization which by reason of its purpose or activities is exempt from tax on its income under the laws of the United States or this State.
- (c) Real estate mortgage investment conduits.--An entity that is a real estate mortgage investment conduit (as defined in § 860D of the Internal Revenue Code of 1986 [26 U.S.C. § 860D], as amended).
- (d) Designated and qualified settlement funds.-- A trust that is a designated or qualified settlement fund (as defined in § 468B of the Internal Revenue Code of 1986 [26 U.S.C. § 468B], as amended, or Treas. Reg. § 1.468B-1 [26 C.F.R. § 1.468B-1]) shall be characterized as a trust for all purposes of this title and shall not be subject to tax under this chapter.

- (e) Real estate investment trusts.-- An entity that is a real estate investment trust, as defined in § 856 of the Internal Revenue Code of 1986 (26 U.S.C. § 856), as amended.
- (f) Pass-through entities.-- An association or other unincorporated organization that is a pass-through entity.

§ 1634. Fiduciary adjustment.

- (a) Fiduciary adjustment defined.-- The fiduciary adjustment shall be the net amount of the modifications described in § 1106 of this title (including subsection (c) of § 1106 if the estate or trust is a beneficiary of another estate or trust) which relate to items of income or deduction of an estate or trust.
- (b) Shares of fiduciary adjustment.-- The respective shares of an estate or trust and its beneficiaries (including solely for the purpose of this allocation, nonresident beneficiaries) in the fiduciary adjustment shall be in proportion to their respective shares of the federal distributable net income of the estate or trust. If the estate or trust has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustment shall be in proportion to the beneficiary's share of the estate or trust income for such year, under local law or the terms of the governing instrument, which is required to be distributed currently and any other amounts of such income distributed in such taxable year. Any balance of the fiduciary adjustment shall be allocated to the estate or trust.

§ 1635. Taxable income of resident estate or resident trust.

The taxable income of a resident estate or resident trust means its federal taxable income modified by the addition or subtraction, as the case may be, of its share of the fiduciary adjustment determined under § 1634 of this title.

§ 1636. Nonresident beneficiary deduction for resident estates or resident trusts.

- (a) Allowance of deduction.-- A resident estate or resident trust shall be allowed a deduction, against the taxable income otherwise computed under Chapter 11 of this title, for any taxable year for the amount of its federal taxable income, as modified by § 1106 of this title, which is, under the terms of the governing instrument, set aside for future distribution to nonresident beneficiaries.
- (b) Rules of application.-- The following rules shall apply in determining whether or to what extent income is set aside for future distribution to nonresident individual beneficiaries:
 - (1) If all or part of the federal taxable income of the estate or trust, as modified by § 1106 of this title, is distributable in future taxable years (whether or not added in the meantime to estate or trust corpus for estate or trust accounting purposes), to or for the benefit of a named individual beneficiary or beneficiaries, or a class of individual beneficiaries, and if on the last day of the taxable year of the estate or trust, 1 or more of such named individual beneficiaries, or 1 or more members of the first-named class of individual beneficiaries, is living, then the portion of the federal taxable income of the estate or trust, as modified by § 1106 of this title, considered set aside for future distribution to nonresident beneficiaries shall be computed:
 - A. In the case of a named individual beneficiary or beneficiaries, by first determining the share or shares of each such beneficiary as if the estate or trust had terminated on the last day of the taxable year and then determining the portion of such income realized by the estate or trust during the taxable year while the beneficiary was a nonresident of this State; and
 - B. In the case of the first-named class of beneficiaries, by first determining who the members of the class would be and the share of each such member if the estate or trust had terminated on the last day of the taxable year and then determining the portion of such income of each such share realized by the estate or trust while such member was a nonresident of this State.
 - (2) If all or part of the federal taxable income of the estate or trust, as modified by § 1106 of this title, is distributable in future taxable years (whether or not added in the meantime to estate or trust corpus for estate or trust accounting purposes) to or for the benefit of a named individual beneficiary or a class of individual beneficiaries, and if on the last day of the taxable year of the estate or trust no named individual beneficiary or none of the members of the first-named class of individual beneficiaries is then living, then the portion of the federal taxable income of the estate or trust, as modified by § 1106 of this title, considered as set aside for future distribution to nonresident beneficiaries, shall be determined in the manner provided in paragraph (1) of this subsection, except that it will be presumed:

- A. In the case of a named individual beneficiary or beneficiaries, that each such beneficiary was living and residing in the state where the putative parents resided during the taxable year; and
 - B. In the case of the first-named class of beneficiaries, that members of the class were living and residing with the person the relationship to whom determines or defines the membership in the class.
- (4) For purposes of determining under paragraphs (1) and (2) of this subsection the share of each beneficiary of an estate or trust in the federal taxable income, as modified by § 1106 of this title, the discretion in any person over the distribution of such income (whether or not acting in a fiduciary capacity and whether or not subject to a standard) shall be presumed not to have been exercised, unless such discretion was irrevocably exercised as of the last day of the taxable year.
- (5) For purposes of determining under paragraphs (1) and (2) of this subsection when federal taxable income, as modified by § 1106 of this title, was realized, the following rules shall apply:
- A. Interest income shall be considered realized when payable;
 - B. Dividend income shall be considered realized on the day the dividend is payable;
 - C. Gains and losses from the sale or exchange of property shall be considered realized or deductible, as the case may be, on the settlement date of the sale or the effective date of the exchange; and
 - D. Commissions on income or principal shall be deemed deductible on the date charged.
- (6) The Director is authorized to establish more detailed rules to apply paragraphs (1) through (4) of this subsection in any manner not inconsistent with the provisions of such paragraphs.

§ 1637. Credit for income tax of another state.

A resident estate or resident trust shall be allowed the credit provided under § 1111 of this title for resident individuals, except that references in that section to resident individuals shall for purposes of this section be deemed to refer to a resident estate or resident trust.

§ 1638. Accumulation distribution credit for resident beneficiary of trust.

- (a) Allowance of credit.-- A resident beneficiary of a trust whose taxable income includes all or part of an accumulation distribution by such trust as defined in § 665 of the Internal Revenue Code [26 U.S.C. § 665] shall be allowed a credit, against the tax otherwise due under Chapter 11 of this title, for all or a proportionate part of any tax paid by the trust for any preceding taxable year which would not have been payable if the trust had in fact made distribution to its beneficiaries at the times and in the amounts specified in § 666 of the Internal Revenue Code [26 U.S.C. § 666].
- (c) Limitation on credit.-- The credit under this section shall not reduce the tax otherwise due from the beneficiary to an amount less than would have been due if the accumulation distribution, or the beneficiary's part thereof, were excluded from the beneficiary's taxable income, as modified by § 1106 of this title.
- (d) Transition rule.-- The credit under this section shall apply to accumulation distributions defined by § 665 of the Internal Revenue Code [26 U.S.C. § 665] in effect for the applicable taxable period.

§ 1639. Taxable income of a nonresident estate or nonresident trust.

- (a) General rules.-- For purposes of Chapter 11 of this title, in the case of a nonresident estate or nonresident trust:
 - (1) Items of income, gain, loss and deduction mean those derived from, or connected with, sources in this State.
 - (2) Items of income, gain, loss and deduction entering into the definition of federal distributable net income include such items from another estate or trust of which the first estate or trust is a beneficiary.
 - (3) The source of items of income, gain, loss or deduction shall be determined under rules or regulations prescribed by the Director in accordance with the rules of § 1124 of this title, as if the estate or trust were a nonresident individual.

(b) Determination of taxable income.-- For purposes of Chapter 11 of this title, the taxable income of a nonresident estate or nonresident trust consists of:

- (1) Its share of items of income, gain, loss and deduction which enter into the federal definition of distributable net income;
- (2) Increased or reduced by the amount of any items of income, gain, loss or deduction which are recognized for federal income tax purposes but excluded from the federal definition of the distributable net income of the estate or trust; and
- (3) Less the amount of the deduction for its federal exemption.

§ 1640. Share of a nonresident estate, nonresident trust or its beneficiaries in income from sources within this State.

The share of a nonresident estate or nonresident trust, and the share of a nonresident beneficiary of any estate or trust, of items of estate or trust income, gain, loss and deduction for purposes of § 1124 of this title shall be determined as follows:

- (1) To the amount of items of income, gain, loss and deduction which enter into the definition of distributable net income, there shall be added or subtracted, as the case may be, the modifications described in § 1106 of this title to the extent they relate to items of income, gain, loss and deduction which also enter into the definition of distributable net income. No modification shall be made under this section which has the effect of duplicating an item already reflected in the definition of distributable net income.
- (2) The amount determined under paragraph (1) of this section shall be allocated among the estate or trust and its beneficiaries (including, solely for the purposes of this allocation, resident beneficiaries) in proportion to their respective shares of federal distributable net income. The amounts so allocated shall have the same character as for federal income tax purposes. Where an item entering into the computation of such amounts is not characterized for federal income tax purposes, it shall have the same character as if realized directly from the source from which realized by the estate or trust or incurred in the same manner as if incurred by the estate or trust.
- (3) If the estate or trust has no federal distributable net income for the taxable year, the share of each beneficiary in the net amount determined under paragraph (1) of this section shall be in proportion to such beneficiary's share of the estate or trust income distributed in such year. Any balance of such net amount shall be allocated to the estate or trust."

Section 2. Amend Title 30 of the Delaware Code by adding to said title a new § 1624 to read as follows:

"§ 1624. Special rules for certain tax credits of pass-through entities.

In general.-- The credits allowed by Chapters 18 and 20 of this title against the taxes imposed by Chapters 11 and 19 of this title on account of activities and investments of a pass-through entity shall be passed through to its members in proportion to their respective distributive shares of such entity's taxable income on the last day of such entity's taxable year.

Qualifications for credits.--The qualification of a pass-through entity for any credit allowed by Chapter 18 or Chapter 20 of this title shall be determined by treating such entity as the taxpayer for purposes of Chapter 18 or Chapter 20, as the case may be.

Limitations on credits.-- In the case of any credit allowed to a pass-through entity by Chapter 18 or Chapter 20 of this title, the limitations imposed by Chapter 18 or Chapter 20, as the case may be, shall be applied:

- (1) at the level of the pass-through entity in the case of a limitation based on (i) the value of property contributed or money invested, (ii) the total allowable credit per taxpayer per year, or (iii) the number of persons employed; and
 - (2) at the level of each member of the pass-through entity in the case of a limitation on the total amount of tax against which such credit may be applied.
- (c) Multiple pass-through entities. -- Whenever two or more pass-through entities together undertake any qualified activity at the same qualified facility as those terms are used in subchapter II or subchapter III of Chapter 20 of this title, and such combination of pass-through entities is not itself a pass-through

entity under this chapter, the qualified employees, qualified investment, and number of Delaware resident employees of such pass-through entities shall be aggregated to determine eligibility for, and computation of, credits or reductions of tax under those subchapters. Participation of the pass-through entities in the aggregate credits shall be determined by the share of each pass-through entity based upon the following:

- (1) in the case of credits calculated with respect to an increase in qualified employees, upon the ratio of new qualified employees in such pass-through entity to all new qualified employees in all the pass-through entities comprising the aggregate, such ratio not to exceed 1 or be less than zero; and
- (2) in the case of credits calculated with respect to the amount of a qualified investment, upon the ratio of qualified investment in such pass-through entity to all qualified investment in all the pass-through entities comprising the aggregate. In order to claim credits resulting from such aggregation under this subsection, the entities must first file a 'Request for Aggregation' with the Director and obtain the Director's approval to aggregate. The Request shall identify the entities to be aggregated, the qualified activity to be engaged in, the location of the qualified facility, the amount of qualified investment, the number of qualified employees, the proposed participation of each pass-through entity in credits determined under this subsection, and other information required by the Director to determine the aggregated entity and its eligibility for credits."

Section 3. Amend § 1124(a), Title 30 of the Delaware Code by striking the symbols and numbers "§ 1145" and "§ 1142" therein and substituting in lieu thereof the symbols and numbers "§ 1623" and "§ 1640", respectively.

Section 4. Amend § 2010(13), Title 30 of the Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof the following:

"(13) 'Taxpayer' means an individual, pass-through entity as defined in § 1601 of this title, or corporation."

Section 5. Amend Title 30 of the Delaware Code by deleting § 2023 thereof.

Section 6. Amend § 2024, Title 30 of the Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof the following:

"§ 2024. Credit against personal income tax.

Notwithstanding any reference in this chapter to Chapter 19 of this title, any taxpayer not subject to taxation under Chapter 19 of this title may claim the credits allowable under § 2011, § 2021, § 2041, or § 2070 of this title (including adjustments thereto under §§ 2042, 2043 and 2044 of this title) against the tax imposed by Chapter 11 of this title; provided, however, that the amount of credit claimed by an individual under Chapter 11 of this title shall not exceed 50% of the amount of tax imposed upon such individual by Chapter 11 of this title for such taxable year."

Section 7. Amend Title 30 of the Delaware Code by striking in their entirety §§ 1115, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1174, and 1175, and paragraphs (3) and (4) of § 1161 as they appear in said title.

Section 8. Sections 1, 3, 4, 5, 6 and 7 of this Act shall be effective with respect to taxable periods commencing after December 31, 1999.

Section 9. Section 2 of this Act shall be effective for qualified facilities placed in service on or after January 1, 2000.

Section 10. 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 18, 2000

CHAPTER 468

FORMERLY

HOUSE BILL NO. 680
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 1, TITLE 24, DELAWARE CODE RELATING TO EXPERIENCE AND CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS FOR PERMITS TO PRACTICE CERTIFIED PUBLIC ACCOUNTANCY.

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

Section 1. Amend § 108(c)(2)(a) of Title 24 of the Delaware Code by inserting after the phrase "of this title" the following:

"; provided further that experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, internal audit, management advisory, financial advisory, tax or consulting skills all of which was verified by a licensee, meeting requirements prescribed by the Board by rule;"

FURTHER AMEND § 108(c)(2)(b) of Title 24 of the Delaware Code by inserting after the phrase "of this title" the following:

"This experience shall include experience in engagements resulting in the issuance of financial statements including appropriate foot note disclosure and prepared in accordance with accepted accounting principles or other comprehensive bases of accounting as defined in standards established by the A.I.C.P.A., or internal audit."

Approved July 16, 2000

CHAPTER 469

FORMERLY

HOUSE BILL NO. 683
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2, 3, 4, 5, AND 7

AN ACT TO AMEND TITLE 16 AND TITLE 10 OF THE DELAWARE CODE RELATING TO THE CENTRAL CHILD ABUSE REGISTRY.

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

Section 1. Amend § 902(2), Title 16 of the Delaware Code, by deleting said subsection 2 in its entirety and by inserting in lieu thereof the following:

"(2) 'Central registry' shall mean a registry of information about persons the Division has substantiated to have committed child abuse or neglect. Substantiation may be made through civil or criminal judicial proceedings or through civil administrative decision or proceedings where the burden of proof is at a minimum a preponderance of the evidence."

Section 2. Amend Title 16 of the Delaware Code by adding a new Section 902A between the current §§ 902 and 903 to read as follows:

"§902A. Registration, Procedure, Notice.

(a) In cases where abuse or neglect is alleged, the Division shall conduct an investigation into the facts and circumstances of the alleged abuse or neglect. If the Division determines from its investigation that it is more likely than not that abuse or neglect occurred, it shall substantiate the abuse or neglect and shall advise the individual who is accused of committing the abuse or neglect that it has substantiated the

shall advise the individual who is accused of committing the abuse or neglect that is has substantiated the allegations and intends to register the individual in the central registry. The Division shall adopt regulations concerning maintenance of the registry and the placement of information in the registry.

(b) Notice to an individual which is required under subsection (a) must be in writing and sent to the individual by certified mail, receipt requested, at his or her last known address. The notice must advise the individual of the opportunity for an administrative hearing on the Division's action.

(c) Administrative proceedings shall be stayed if civil or criminal court proceedings regarding the same allegations of abuse or neglect are pending. If, upon conclusion of a criminal or delinquency proceeding involving the same allegations or facts, the accused is acquitted or the charges are dismissed and the Division intends to pursue substantiation through the administrative process, such acquittal or dismissal shall not automatically work as claim or issue preclusion against a civil finding of abuse or neglect, nor shall it prevent the taking of evidence in spite of any other law to the contrary.

(d) Administrative Hearing.

An individual who has received a notice pursuant to subsection (a) or an attorney acting on the individual's behalf may request an administrative hearing on the Division's substantiation of the abuse or neglect and its intent to register the individual. Requests for an administrative hearing must be in writing and received by the Division within twenty (20) calendar days of the date the notice was mailed. Within 20 days of the Division's receipt of a written request for an administrative hearing, the hearing officer shall schedule the date and time of such hearing, which shall be held, unless postponed for good cause shown, within sixty (60) days of the date of the receipt of such request by the hearing officer. The individual shall be afforded an opportunity to appear with or without an attorney, to submit documentary evidence, and to present witnesses. The hearing officer shall have the authority to:

- i) issue subpoenas for witnesses and other sources of evidence, either at the Division's request or at the request of the accused. Any evidence that the Division is ordered to produce and which it does not intend to rely upon at the hearing shall be considered privileged and confidential and may not be used for any other purpose but the hearing;
- ii) administer oaths to witnesses;
- iii) exclude plainly irrelevant, immaterial, insubstantial, cumulative and privileged evidence;
- iv) limit proof, rebuttal and cross examination if they are unduly repetitive; and
- v) hold prehearing conferences for the settlement or simplification of issues by consent, for the disposal of procedural requests or disputes and to regulate and expedite the course of the hearing.

The burden of proof at the hearing shall be upon the Division, which shall be required to prove by a preponderance of the evidence that abuse or neglect has occurred. A record from which a verbatim transcript can be prepared shall be made of all hearings. Copies of the transcript shall be made at the request of and expense of any party to the action. The hearing officer's decision shall contain a brief summary of the evidence and findings of fact based upon the evidence and conclusions of law. Such hearings and decisions, transcripts and records on appeal to Family Court shall be confidential and not open to the public. Neither the Administrative Procedures Act (Chapter 101 of Title 29) nor the Freedom of Information Act shall apply to such hearings, any record thereof, or any evidence or documents produced or introduced at such hearings. The Division shall have the discretion to release records, the decision, and hearing evidence pursuant to 16 Del.C. § 906(b)(1-8).

(e) Appeal to Family Court

The hearing officer shall render a written decision and order, and shall provide written notice of the decision to the individual and the Division. The decision of the hearing officer may be appealed only by the Division or by the individual against whom substantiation has been found or by an attorney acting on his or her behalf. Such appeal must be filed in writing with the Family Court of the State of Delaware within 30 days of the Hearing Officer's decision. Such appeal shall be on the record, and without a trial or hearing de novo. The scope of the Family Court's review on appeal of the Hearing Officer's decision in the absence of actual fraud or abuse of discretion shall be limited to whether there is substantial evidence to support the findings of fact, and to whether any error of law was made. The

reviewing Court shall give deference to the factual finding of the hearing officer with respect to conflicts of testimony and witness credibility.

(f) Status on Registry.

(1) The central registry shall contain the notion "substantiated for abuse" or "substantiated for neglect" for the following individuals:

- a. Individuals who have either failed to appear at or failed to timely request an administrative hearing in response to the notice contained in subsection (b), or, for cases substantiated prior to enactment of this section, a similar notice.
- b. Individuals who, based on the same allegations or facts for which they are pending substantiation or substantiated, have:
 - (i). been convicted of or pleaded guilty to any criminal offense contained in Subchapters II or V of Chapter 5 of Title 11, regardless of whether such plea was taken nolo contendere or was subsequently discharged or dismissed under the First Offenders Program pursuant to 10 Del. C. § 1024; or,
 - (ii). been adjudicated delinquent as a juvenile of any offense which would constitute any of the offenses set forth in subparagraph (i) of this paragraph if he or she had been charged as an adult; or
 - (iii). been convicted of, pleaded guilty to, or been adjudicated delinquent or pled to any offense specified in the laws of another state, the United States or any territory of the United States which is the same as or equivalent to any of the offenses set forth in subparagraphs (i). or (ii). of this paragraph; or
 - (iv). been substantiated for abuse or neglect at a civil court hearing at which the minimum standard of proof was preponderance of the evidence.

Notwithstanding any other law to the contrary, the decisions referred to above and of subparagraph c. below shall be final and binding as to a finding of abuse or neglect for the same incident and shall work as issue or claim preclusion on a pending civil administrative hearing and be reported in response to Child Abuse Registry Check, regardless of subsequent dismissal or discharge under the First Offender's Program, and regardless of subsequent juvenile or adult expungement or pardon.

- c. Individuals against whom substantiation for abuse or neglect has been made after an administrative hearing held pursuant to subsection (d) or similar administrative hearing or decision where the burden of proof was at a minimum the preponderance of the evidence that such individual committed an act or acts of abuse or neglect.

(2) Individuals against whom allegations of abuse or neglect cannot be substantiated after a civil or administrative proceeding or decision shall have their status on the registry changed to 'unsubstantiated' and responses to requests made pursuant to 11 Del.C. § 8563(b) shall indicate that there are no pending or substantiated reports of abuse or neglect for that incident.

(g) Requests for Subsequent Administrative Expungement of Substantiated Cases.

An individual whose name is entered in the central registry as substantiated may apply to the Division for an order of administrative expungement of such finding of substantiation. For the purposes of this chapter, such administrative expungement, if granted, shall mean only that the individual's name shall no longer be reported to employers pursuant to 11 Del.C. § 8563(b) in a Child Abuse Registry check as a substantiated case from the central registry. Notwithstanding the granting of a request for administrative expungement under this section, the individual's name and other case information shall remain on the central registry as substantiated for all other purposes, including, but not limited to, the Division's use of such information for historical, treatment and investigative purposes, child care licensing decisions, reporting pursuant to 31 Del. C. § 309, reporting to law enforcement authorities, or any other purpose set forth in 16 Del. C. § 906(b). The Division shall be authorized to promulgate or issue regulations or policies to address expungement from the central registry. The Division shall decide written requests for administrative expungement within 60 days of written receipt of the same. Appeals from decisions on administrative expungement may be made only by the individual substantiated or by an attorney acting on his or her behalf and must be submitted in writing to the hearing officer within 30 calendar days of the Division's decision. After the hearing officer's decision on administrative expungement, either the Division

Chapter 469
Vol.72

or the individual against whom substantiation has been made or by an attorney acting on his or her behalf may within 30 days of the date of the hearing officer's decision file a written appeal to the Family Court."

Section 4. Amend § 902(l), Title 16 of the Delaware Code, by deleting the designation "§ 468(c)(1)" appearing therein and by substituting in lieu thereof the designation "§ 468".

Section 5. Amend § 925, Title 10 of the Delaware Code, by adding a new subsection (19) to read as follows:

"(19) Decide appeals from administrative hearings of substantiated cases of abuse or neglect made pursuant to 16 Del. C. § 902A(d), and to decide appeals made pursuant to 16 Del. C. § 902A(g) for orders of administrative expungement of substantiation for the purpose of no longer reporting an individual's name pursuant to 11 Del. C. § 8563(b)."

Section 6. If any provision of this Act, or any amendment thereto, or the application thereof to any person, thing or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions of or application of this Act or such amendments that can be given effect without the invalid provisions or application, and to this end the provisions of this section and such amendments are declared to be severable. This legislation shall become effective April 1, 2001. This legislation shall not be interpreted to create any rights or privileges with respect to individuals for whom abuse or neglect was substantiated prior to the effective date.

Approved July 18, 2000

CHAPTER 470

FORMERLY

HOUSE BILL NO. 527

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO VOTING PROCEDURE.

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

Section 1. Amend § 4937(e), Title 15 of the Delaware Code, by striking the number "14" each time the same appears therein, and by substituting in lieu thereof the number "16".

Approved July 18, 2000

CHAPTER 471

FORMERLY

HOUSE BILL NO. 600
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO GRAIN INSPECTION,
CERTIFICATION, AND GRAIN CONTRACTS.

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

Section 1. Amend Title 3 of the Delaware Code by striking Chapter 16 thereof in its entirety and by substituting in lieu thereof a new Chapter 16 as follows:

"Chapter 16. GRAIN INSPECTION, CERTIFICATION, AND GRAIN CONTRACTS

Subchapter I.

Grain Inspector Licensing; Certification of Commercial Grain Elevators,
Grain Warehouses, and Other Grain Storage Facilities.

§1601. Definitions.

As used in this chapter:

- (a) 'Department' means the State of Delaware Department of Agriculture and includes, but is not limited to, its officers, inspectors, employees, agents, or representatives
- (b) 'Devices' means any grain moisture testing devices.
- (c) 'Grain' means includes, but is not limited to, corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds which standards have been established in the United States Grain Standards Act, 7 U.S.C. Chapter 3.
- (d) 'Grain Inspector' means anyone who operates grain moisture testing devices, follows standard grain inspection procedures and uses other grain inspection equipment.

§1602. Registration and approval.

- (a) All grain moisture testing devices shall be registered with the Department, on forms supplied by the Department. The devices used in the buying of grain shall be required to pass such inspections, at any time, as the Department may determine. Such inspections shall be made at the commercial grain elevator, warehouse, or other grain storage facility. Upon approval, inspected devices shall bear the Department's seal, permitting their use.
- (b) Devices which fail to pass the inspection of the Department shall be immediately removed from service and repaired. The Department shall reinspect and approve the repair of a failed device before it can be returned to service.

§1603. Installation and operation.

- (a) The grain moisture testing devices shall be installed in such a manner that there will be no vibrations of indicating dials. Devices with moving parts shall be properly maintained, and kept from of dust and dirt.
- (b) All devices shall be operated according to the manufacturer's instructions, or in accordance with instruction issued by the Department.

§1604. Licensed grain inspectors.

- (a) Any person engaged in the operation of a commercial grain elevator, grain warehouse, or other grain storage facility shall only utilize licensed grain inspectors for all grain sampling and testing.
- (b) To obtain a Grain Inspector's License applicants shall be required to furnish satisfactory evidence of good character to the Department and to pass an examination conducted by the Department.

Chapter 471
Vol. 72

The examination shall test the applicant's ability to operate grain moisture testing devices, to use grain inspecting equipment, and knowledge of grain inspection procedures.

- (c) Upon attainment of a passing score on the examination, and payment of a \$10.00 fee, the Department shall issue a Grain Inspector License to the applicant for two (2) calendar years. The license shall be renewed biennially upon successful re-examination, if the Licensed Grain Inspectors duties have been performed satisfactorily during the previous two (2) year period, and upon payment of a \$10.00 fee. Grain Inspector Licenses shall be posted at the commercial grain elevator, grain warehouse, or other grain storage facility in full view of the public.

§1605. Certification of commercial grain elevators, grain warehouses, and other grain storage facilities.

Every commercial grain elevator, grain warehouse, or other grain storage facility shall be certified by the Department to meet minimum standards of performance. These standards shall be determined by the Department.

§1606. Violations and penalties.

Failure to comply with the provisions of this Chapter shall result in the assessment of a civil penalty of not more than \$10 for the first violation and not less than \$25 nor more than \$100 for each subsequent violation.

§1607. Enforcement; administrative rules and regulations.

The Department shall enforce this Chapter, and prescribe and enforce administrative rules, regulations, definitions, penalties, fees, and standards in accordance with the Administrative Procedures Act.

Subchapter II.

Grain Contracts of Sale, Discount Rates and Test Weight Rates

§1611. Grain contracts of sale, discount rates and weight rates.

- (a) Subject to any contractual provision to the contrary and based upon whatever market the contracting parties agree to:
- (1) The discount rates for foreign material and moisture content may not be higher than the discount rates that prevail on the day the contract is formed;
 - (2) The test weight rates may not be higher than the test weight rates that prevail on the day the contract is formed
- (b) This section applies to any contract for sale of grain entered into in this State provided the date of delivery is less than 1 year after the date the contract is formed."

Approved July 27, 2000

CHAPTER 472

FORMERLY

SENATE BILL NO. 63
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2, 3, AND 4 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6 AND TITLE 11 OF THE DELAWARE CODE RELATING TO TOBACCO PRODUCTS AND PROHIBITED TRADE PRACTICES.

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 §1120, Title 11, Delaware Code by deleting the words "in sealed packages" in the Title and by designating the current §1120 as §1120(a) and by inserting a new §1120(b) to read as follows:

"(b) No person shall distribute any pack of cigarettes containing fewer than twenty (20) cigarettes."

Section 2. Amend § 1119, Title 11, Delaware Code, by adding a new subsection (c), as follows:

"(c) It shall be unlawful for any person who owns, operates, or manages a business establishment where tobacco products are offered for sale over the counter at retail to maintain such products in any display accessible to customers that is not either (1) within the line of sight of a cashier or other employee, or (2) under the control of a cashier or other employee. This prohibition shall not apply to business establishments to which persons under the age of 18 are not admitted unless accompanied by an adult, or tobacco stores. As used in this subsection, 'within the line of sight' means visible to a cashier or other employee, whether directly or by means of mirrors or monitors, and 'under the control' means within the reach of a cashier or other employee or protected by other security, surveillance or detection methods."

Section 4. Amend Chapter 25, Title 6 of the Delaware Code, by adding a new § 2507 as follows:

"Section 2507. Advertising of tobacco products On or In School Properties Prohibited.

- (a) No person, firm, corporation, partnership or other organization shall advertise or cause to be advertised any tobacco products within two hundred (200) feet of any public or private school, excluding institutions of higher education. This section shall not apply to advertisements inside of a commercial establishment, except outward-facing advertisements placed in windows.
- (b) This section shall not be construed to prohibit the display of any message or advertisement opposing the use of tobacco products. Any message or advertisement opposing the use of tobacco products that is placed within two hundred (200) feet of a school may not contain the brand name of any tobacco product or the name of any tobacco company.
- (c) This section shall not be construed to prohibit an advertisement stating that a commercial establishment sells tobacco products provided that the advertisement is on the premises or property of the commercial establishment and does not identify any tobacco product brand or any tobacco product manufacturer by name.
- (d) The Attorney General may file a complaint in the Court of Chancery or Superior Court for the county in which the alleged unlawful practice has been or is to be partially or completely performed. The Court of Chancery may enjoin any person, firm, corporation, partnership or other organization from the commission of any such act, and may award damages and costs. Whoever is found to be in violation of this section by the Superior Court shall be fined not more than \$1,000 for the first offense and not more than \$5,000 for each subsequent offense."

Section 5. This Act shall become effective on January 1, 2001.

Approved July 07, 2000

CHAPTER 473

FORMERLY

SENATE BILL NO. 184
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO CHARTER SCHOOLS

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

Section 1. Amend Title 14, Section 511(b) of the Delaware Code, by adding the following language at the end of the sentence:

"When the approving authority is the Department of Education, minor modifications to a charter that are requested by the charter school only may be approved by the Secretary, subject to rules and regulations established by the Department with the approval of the State Board. Such minor modifications shall not include any issue relating to financial matters, enrollment preferences, numbers of students, or such other matters as the State Board shall specify."

Approved July 26, 2000

CHAPTER 474

FORMERLY

SENATE BILL NO. 186
AS AMENDED BY HOUSE AMENDMENT NO. 2

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

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

Section 1. Amend §7202, Title 7, Delaware Code by striking it in its entirety and replacing it with a new §7202 to read as follows:

"§7202. Definitions.

- (a) 'Department' means the Department of Natural Resources and Environmental Control
- (b) 'Secretary' means the Secretary of the Department of Natural Resources and Environmental Control.
- (c) 'Subaqueous Lands' means submerged lands and tidelands.
- (d) 'Submerged Lands' means:

- (i) lands lying below the line of mean low tide in the beds of all tidal waters within the boundaries of the State;

- (ii) lands lying below the plane of the ordinary high water mark of non-tidal rivers, streams, lakes, ponds, bays and inlets within the boundaries of the State as established by law; and

- (iii) specific man-made lakes or ponds as designated by the Secretary.

- (e) 'Ordinary high water mark' means, for non-tidal waters, the line at which the presence and action of water are so continuous in all ordinary years so as to leave a distinct mark on a bank either by erosion or destruction of terrestrial (non-aquatic) vegetation, or that can be determined by other physical or biological means.

- (f) 'Tidelands' means lands lying between the line of mean high water and the line of mean low water.

(g) 'Maintenance' means the actions required to return a channel, bridge, culvert, stormwater basin, or water control structure to its full operational condition or to prevent a decline in its utility. These actions shall not change the purpose, scope or capacity of the channel, bridge, culvert, stormwater basin or water control structure.

(h) 'Reconstruction' means the rebuilding of a channel, bridge, culvert, stormwater basin or water control structure that requires significant renovation or repair of their major structural features. This rebuilding shall be characterized by a replacement or major restorative effort similar to the degree required in the original design and construction of the channel, bridge, culvert, stormwater basin or water control structure. This rebuilding shall not change the purpose, scope or capacity of the channel, bridge, culvert, stormwater basin or water control structure.

(i) 'Retrofitting' means a change in design, construction, or materials to an existing bridge, culvert, stormwater basin or water control structure in order to incorporate later improvements or to reflect new standards, criteria or needs not considered in the original design and construction.

Section 2. Amend §7208(a)(1) of Title 7 of the Delaware Code by deleting said subparagraph and replacing it with the following:

"(1) If a grant or lease for a period of time in excess of 20 years is sought; or"

Section 3. Amend §7201, Chapter 7, Title 7, Delaware Code by striking the word "navigable" as it appears in the first sentence thereof and substituting in lieu thereof the words "non-tidal".

Section 4. Amend Chapter 7, Title 7, Delaware Code by striking §7217 thereof and substituting in lieu thereof the following:

"§7217. Special Exemptions.

(a) This chapter shall not apply to any work performed by any state, county, municipal government or conservation district, or their designated contractor, when that work occurs in non-tidal submerged lands in the Delaware Atlantic Coastal Plain Province with a contributing drainage area of less than 800 acres.

(b) This chapter shall not apply to maintenance, reconstruction or retrofitting work performed by or with the assistance of any state, county, municipal government or conservation district when that work occurs in any non-tidal submerged lands. Such maintenance, reconstruction or retrofitting work shall comply with the standards and specifications associated with best management practices in the Delaware Erosion and Sediment Control Handbook, 1989 or as revised. (68 Del. Laws, c. 268, Section 2)

(c) This chapter shall not apply to any work in agricultural drainage ditches created from non-subaqueous lands that are designed according to reasonable drainage standards, when performed by or with the assistance of any state, county, municipal government or conservation district.

(d) This chapter shall not apply to ponds constructed in uplands when those ponds are constructed by or with the assistance of any state, county, municipal government or conservation district.

(e) This chapter shall not apply to stormwater ponds that are permitted in accordance with 7 Del. C., Chapter 40, or to farm ponds or other ponds whose only source of hydrology is groundwater.

(f) The lease provisions of this Chapter shall not apply to any wastewater conveyance or treatment works system owned or operated by the State of Delaware or any county or municipal government with the State of Delaware."

Approved July 26, 2000

CHAPTER 475

FORMERLY

SENATE BILL NO. 296
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF
CORRECTION.

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

WHEREAS, the General Assembly of the State of Delaware finds there to be no requirement that hospice services be offered by the Department of Correction to terminally ill persons who are incarcerated in this State; and

WHEREAS, although they are terminally ill, these persons must remain incarcerated in a correctional institution in the State; and

WHEREAS, it is the intent and purpose of the General Assembly by this Act to provide a place within correctional institutions in the State for terminally ill persons to live out the remainder of their lives in relative comfort and dignity.

NOW THEREFORE:

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

Section 1. Amend § 6536, Title 11 of the Delaware Code, by adding thereto a new subsection as follows:

- “(d) The Department shall provide on-site hospice services to any terminally ill inmate or defendant confined in facilities operated by the Department at the request of a care provider with whom the Department has a contract. Hospice services provided by the Department, or its contractor, must be provided in a manner consistent with the regulations of the Department of Health and Social Services (DHSS), and shall meet all licensure standards set forth therein, governing the provision of hospice services in the State to the fullest extent possible without compromising the security and safety considerations of the institutions wherein the hospice services are being provided. The Department of Correction (DOC) may require alternate procedures for the provision of hospice services in any DOC facility where strict adherence to DHSS regulations would compromise the security and safety considerations of that facility. DOC contractors need not apply for or obtain a license from DHSS in order to provide hospice services in any DOC facility. For the purposes of this section, ‘hospice’ and ‘hospice services’ shall be as defined by DHSS regulations.”

Section 2. It is recommended that the Departments of Correction and Health and Social Services consult with one another in order to determine what, if any, changes need to be made to either DHSS regulations or DOC regulations, or both, in order to ensure the effective provision of hospice services to terminally ill inmates in DOC facilities.

Section 3. It is further recommended that the Department of Correction allow inmate volunteers to serve as caregivers to assist patients and staff in the hospice facility, subject to the approval of the warden of the facility wherein the terminally ill inmate or defendant is confined. Caregiver responsibilities to patients can include, but are not limited to: reading to, talking with, feeding, assisting with hygiene and personal grooming, letter writing, providing spiritual and emotional support, and assisting with exercises.

Approved July 26, 2000

CHAPTER 476

FORMERLY

SENATE BILL NO. 302
AS AMENDED BY HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE ADULT ABUSE
REGISTRY.

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

Section 1. Amend Chapter 85, Title 11 by striking §8564 in its entirety, and by replacing it with the following:

"§ 8564. Adult Abuse Registry Check.

(a) Definitions:

(1) 'Abuse' shall have the same meaning as contained in Section 1131 (1), Title 16 of this code and shall include mistreatment and financial exploitation as defined in section 1131 (2) and section 1131 (4), Title 16 of this code respectively."

(2) 'Child care facility' means any child care facility that is required to be licensed by the Department of Services for Children, Youth and Their Families.

(3) 'Direct access' means the opportunity to have personal contact with persons receiving care during the course of one's assigned duties.

(4) 'Health care service provider' means any person or entity that provides services in a custodial or residential setting where health, nutritional or personal care is provided for persons receiving care, including but not limited to hospitals, home health care agencies, adult care facilities, temporary employment agencies and contractors that place employees or otherwise provide services in custodial or residential settings for persons receiving care, and hospice agencies. 'Health care service provider' also does not include any private individual who is seeking to hire a self-employed health caregiver in a private home.

(5) 'Neglect' shall have the same meaning as contained in section 1131 (3), Title 16 of this code.

(6) 'Nursing facility and similar facility' means any facility required to be licensed under 16 Del. C. Ch.11 This includes but is not limited to facilities commonly called nursing homes, assisted living facilities, intermediate care facilities for persons with mental retardation, neighborhood group homes, family care homes and rest residential care facilities. Also included are the Stockley Center, the Delaware Psychiatric Center and hospitals certified by the Department of Health and Social Services pursuant to Title 16 Del. C. § 5001 or § 5136.

(7) 'Person receiving care' means a person who, because of his physical or mental condition, requires a level of care and services suitable to his needs to contribute to his health, comfort, and welfare.

(8) 'Person seeking employment' means any person applying for employment with or in a health care service provider, nursing facility or similar facility or child care facility where the employment may afford direct access, *or a person applying for licensure to operate a child care facility.* It shall also include a self-employed health caregiver who has direct access in any private home.

(b) The name of any person found, after investigation by the Department of Health and Social Services, to have committed adult abuse or neglect shall be entered on the Adult Abuse Registry, provided, however, that such person may request an administrative hearing pursuant to Department of Health and Social Services regulations before such entry becomes final. The hearing officer for the administrative hearing shall have the power to compel the attendance of witnesses and the production of evidence. The finding by the hearing officer shall constitute the final decision of the Department of Health and Social Services and shall be appealable, on the record, by either party to Superior Court.

(c) No health care service provider, nursing facility or similar facility or child care facility shall hire any person seeking employment without requesting and receiving an Adult Abuse Registry check for such person from the Division of Long Term Care Residents Protection. Private individuals who are seeking to hire a self-employed

Chapter 476

Vol.72

health caregiver may request and receive an Adult Abuse Registry check on such caregiver. For purposes of this subsection, the Adult Abuse Registry check shall relate to substantiated cases of adult abuse or neglect.

- (d) Any person or entity who requests an Adult Abuse Registry check under this section shall obtain a statement signed by the person seeking employment wherein the person authorizes a full release for the employer to obtain the information provided pursuant to such a check.
- (e) Notwithstanding the provisions of this section, when exigent circumstances exist which require an employer subject to this section to fill a position in order to maintain the required or desired level of service, the employer may hire a person seeking employment on a conditional basis after the employer has requested an Adult Abuse Registry check. Any person hired pursuant to this subsection shall be informed in writing, and shall acknowledge in writing, that his or her employment is conditional and contingent upon receipt of the Adult Abuse Registry check.
- (f) Records relating to the Adult Abuse Registry are not public records and are not subject to disclosure under 29 Del. C. Ch. 100. Such records may be disclosed other than as provided in this section only when disclosure would be in the best interest of the population served by the Department of Health and Social Services according to regulations promulgated by the Department.
- (g) The Delaware Department of Health and Social Services shall be promulgate regulations to implement this section. Such regulations may include regulations for Adult Abuse Registry checks of contractors providing services in a custodial or residential setting for persons receiving care, regulations for the disclosure of Adult Abuse Registry records, regulations to establish hearing procedures and length of time on the Adult Abuse Registry, and regulations for the removal of a person from the Adult Abuse Registry before the expiration of his registration period where the Delaware Department of Health and Social Services deems that the person no longer poses a threat to any person receiving care.
- (h) Costs associated with providing an Adult Abuse Registry check shall be borne by the State.
- (i) Any employer who is required to request and receive an Adult Abuse Registry check and fails to do so shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation. The Justice of the Peace Courts shall have jurisdiction over this offense."

Section 2. The Department of Health and Social Services shall promulgate the regulations required by this Act within 120 days of this bill's enactment. The provisions of this bill shall take effect 30 days after the regulations are promulgated. Until such time, the provisions of the current §8565, Title 11, Delaware Code shall remain in effect.

Approved July 26, 2000

CHAPTER 477

FORMERLY

SENATE BILL NO. 347

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE CONCERNING DRIVER EDUCATION, LICENSES, LEARNER PERMITS, AND LICENSE CLASSIFICATIONS.

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 §2710(k), Title 21 of the Delaware Code by deleting the second sentence beginning with the words, "this permit is issued" and inserting in lieu thereof the following:

"The Division may issue a driver education learner's permit to those minors who meet the requirements of this section and need supervised driving experience before completing the road skill test. The 5-year driver license fee shall be collected at the time of the application. The permit is valid for 4 months. If for any reason whatsoever

the applicant fails to pass the required examinations during the 4-month period granted by the permit, the permit shall be void and the driver license fee shall be forfeited."

Section 2. Amend §2707(a)(1), Title 21 of the Delaware Code by deleting it in its entirety and inserting in lieu thereof the following:

"(a)(1) No Class D operator's license shall be issued to any person under the age of 16 years. A CDL Class A, CDL Class B or CDL Class C license shall not be issued to any person under 18 years of age nor to any person 18 years of age or older who has not had a least 1 year's experience as an operator of a motor vehicle."

Section 3. Amend §2710(c)(5) by adding after the first sentence, a new sentence to read as follows:

"However, the passenger restrictions of this paragraph shall not apply to immediate members of the driver's family provided the adult supervisor is in the car."

Section 4. Amend §2710(k)(3), by adding the sentence:

"However, this passenger limit does not apply to members of the driver's immediate family."

Approved July 26, 2000

CHAPTER 478

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 355

AS AMENDED BY HOUSE AMENDMENT NO. 1 AND

SENATE AMENDMENT NO. 3 AS AMENDED BY SENATE AMENDMENT NO. 1 TO SENATE AMENDMENT NO. 3.

AN ACT TO AMEND CHAPTER 17 OF TITLE 7 OF THE DELAWARE CODE RELATING TO DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

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

Section 1. Amend § 1730(3), Title 7, Delaware Code, by inserting the phrase "or any potentially dangerous dog kept or maintained in violation of § 1736(b) of this title" between the word "title" and the period ".".

Section 2. Amend § 1730, Title 7, Delaware Code, by redesignating paragraph (10) as paragraph (11), and by adding thereto a new paragraph (10) to read as follows:

"(10) 'Proper enclosure' shall mean securely confined indoors or a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the dog from escaping. Such pen or structure shall have secure sides and a secure top and shall also provide protection from the elements for the animal. If the pen or structure has no bottom secured to the sides, the sides must be embedded at least 2 feet into the ground."

Section 3. Amend § 1731(2), Title 7, Delaware Code, by striking paragraph (2) in its entirety and substituting in lieu thereof the following:

"(2) A member of 1 or more American Kennel Club licensed or member dog clubs for at least 5 years;"

Section 4. Amend § 1731(3), Title 7, Delaware Code, by striking the phrase "American Pet Dog Trainers Association" and substituting in lieu thereof the phrase "Association of Pet Dog Trainers", and by striking the word "and" as it appears after the semicolon.

Section 5. Amend § 1731, Title 7, Delaware Code, by redesignating paragraph (4) as paragraph (5), and by adding thereto a new paragraph (4) to read as follows:

Chapter 478

Vol. 72

"(4) A police officer who is a member of the Delaware State Police, a member of the New Castle County Police, or a member of the police department, bureau, or force of any incorporated city or town; and"

Section 6. Amend § 1731(b), Title 7, Delaware Code, by striking the phrase ", appointed pursuant to 3 out of the 4 paragraphs in subsection (a) of this section,".

Section 7. Amend § 1732(d), Title 7, Delaware Code, by inserting the phrase ", unless a delay is requested by the owner and approved by the Panel" between the word "dismissed" and the period.

Section 8. Amend § 1734(a), Title 7, Delaware Code, by striking the second sentence and substituting in lieu thereof the following:

"At such hearing, the owner shall have the right to appear either personally or by counsel or both, to produce witnesses and evidence on his/her own behalf and to cross-examine witnesses."

Section 9. Amend § 1734, Title 7, Delaware Code, by striking subsections (b) and (c) in their entirety and substituting in lieu thereof the following:

"(b) All hearings shall be informal and open to the public, and need not conform to standard rules of evidence. Hearsay evidence shall be allowed but may not be relied upon as the sole evidence in the Panel's determination. Deliberations of the Panel may be conducted in executive session. The Panel shall determine whether the dog in question should be declared dangerous or potentially dangerous, and shall announce its decision at the conclusion of the hearing. After announcing its decision, the Panel shall provide the owner with written notice of the action taken. The decision of the Panel is final.

(c) If a dog is determined to be dangerous, the Panel may direct the animal control agency to dispose of the dog by euthanasia in accordance with Chapter 80 of Title 3. If euthanasia is not ordered, the owner shall comply with § 1735(b) of this title, except that the animal control agency may grant said owner up to 30 days from the date of the determination to comply with § 1735(b)(1) through (3) of this title. If a dog is determined to be potentially dangerous, the owner shall comply with § 1736(b) of this title, except that the animal control agency may grant said owner up to 30 days from the date of the determination to comply with § 1736(b)(1) of this title.

(d) Notwithstanding subsection (b) of this section, if a dog is determined to be dangerous and the Panel directs the animal control agency to dispose of the dog by euthanasia, the owner may appeal the Panel's decision to the Court of Common Pleas within 10 days of the receipt of the Panel's decision. The appeal and review shall be conducted according to the provisions governing judicial review of case decisions under the Administrative Procedures Act (Chapter 101 of Title 29) that are not inconsistent with this subsection. The filing of an appeal shall act as a stay of the Panel's decision, pending final disposition of the appeal."

Section 10. Amend § 1735(a)(1), Title 7, Delaware Code, by inserting the word "or" after the semicolon.

Section 11. Amend § 1735(b), Title 7, Delaware Code, by striking the phrase "and no appeal is made of this ruling pursuant to § 1734(c) of this title,".

Section 12. Amend § 1735(b)(3), Title 7, Delaware Code, by striking the phrase "an enclosure that satisfies the enclosure requirements adopted by the Department of Agriculture pursuant to Chapter 72 of Title 3, and whenever off the premises of its owner" and substituting in lieu thereof the phrase "a proper enclosure, and whenever outside of the proper enclosure".

Section 13. Amend § 1735(b)(4), Title 7, Delaware Code, by inserting the word "and" after the semicolon.

Section 14. Amend § 1735(b), Title 7, Delaware Code, by striking paragraphs (5) and (6) in their entirety and substituting in lieu thereof the following:

"(5) The dog owner immediately notifies the animal control agency when the dog is loose, unconfined, has attacked a human being or another domestic animal, has been moved to another address or dies."

Section 15. Amend § 1735, Title 7, Delaware Code, by adding thereto a new subsection to read as follows:

"(c) It shall be unlawful for the owner of a dangerous dog to sell, offer for sale or give away said dog to any other person or entity other than an animal control agency. If a dangerous dog is given to an animal control agency, the dog shall be disposed of by euthanasia in accordance with Chapter 80 of Title 3."

Section 16. Amend § 1736(b), Title 7, Delaware Code, by striking the phrase "and no appeal is made of this ruling pursuant to § 1734(c) of this title,".

Section 17. Amend § 1736(b), Title 7, Delaware Code, by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by adding thereto a new paragraph (1) to read as follows:

"(1) The dog is spayed or neutered, provided the Panel ordered the spaying or neutering as part of its decision in declaring the dog to be potentially dangerous;"

Section 18. Amend § 1739(a), Title 7, Delaware Code, by striking the phrase "or (b)(2)" and substituting in lieu thereof the phrase ", (b)(2) or (b)(3)".

Section 19. Amend § 1739(b), Title 7, Delaware Code, by striking the phrase ", (b)(5) or (b)(6)" and substituting in lieu thereof the phrase "or (b)(5)".

Section 20. Amend § 1739(c), Title 7, Delaware Code, by striking phrase "or (b)(3)" and substituting in lieu thereof the phrase ", (b)(3) or (c)".

Section 21. Amend § 1739(d), Title 7, Delaware Code, by striking the phrase ", except that no dog may be destroyed during the pendency of an appeal".

Section 22. Amend Chapter 17, Title 7, Delaware Code, by adding thereto a new section to read as follows:

"§ 1740. Local ordinances.

Nothing in this subchapter shall be construed to prevent a county or municipality from adopting or enforcing its own program for the control of dangerous or potentially dangerous dogs."

Section 23. Amend § 1737, Title 7, Delaware Code, by striking the phrase "and no appeal has been made or all appeals have been exhausted,".

Approved July 26, 2000

CHAPTER 479

FORMERLY

SENATE BILL NO. 379

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 3, TITLE 21 OF THE DELAWARE CODE RELATING TO THE PRIVACY ACT GOVERNING THE RELEASE OF MOTOR VEHICLE DRIVING HISTORY AND LICENSE RECORDS.

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

Section 1. Amend Section 305(b)(12), Chapter 3, Title 21, Delaware Code by deleting that paragraph in its entirety.

Section 2. Amend Section 305(i), Chapter 3, Title 21, Delaware Code by deleting the third paragraph which begins with the words "Medical information..." and substituting in lieu thereof the following:

"A person's driver's license electronically digitized photograph and signature, social security number or medical or disability information shall not be releasable without the express written consent of the person to whom such information pertains, except for uses permitted under subsections (b)(1), (b)(6) or (b)(9). A signed release from the licensee whose information is sought shall constitute a permitted use if notarized. This subsection shall not in any way affect the use of organ donor information on an individual driver's license or affect the administration of organ donor initiatives by the Division."

Section 3. Amend §305(h)(2), Chapter 3, Title 21, Delaware Code by deleting that paragraph in its entirety

Section 4. Amend §305(k)(1) and (2), Chapter 3, Title 21, Delaware Code by deleting those paragraphs in their entirety and substituting in lieu thereof the following:

"(1) An authorized recipient of personal information may resell or redisclose the information for any use permitted under subsection (b) of this section."

Approved July 26, 2000

CHAPTER 480

FORMERLY

SENATE BILL NO. 386
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMES, CERTAIN SEX
CRIMES COMMITTED AGAINST CHILDREN AND CHILD PORNOGRAPHY.

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

Section 1. Amend Section 1103(e) of Title 11 of the Delaware Code by adding immediately after the phrase "age or less." as it appears in said subsection the following:

"For the purposes of §§ 1108, 1109, 1110, 1111 and 1112A of this Title, "child" shall also mean any individual who is intended by the defendant to appear to be 14 years of age or less."

Section 2. Amend Section 1103(f)(10) of Title 11 of the Delaware Code by striking the punctuation "," which appears at the end of said paragraph, and by substituting in lieu thereof the punctuation ";;".

Section 3. Amend Section 1103(f) of Title 11 of the Delaware Code by adding two new paragraphs to said subsection to be designated as paragraphs "(11)" and "(12)", to read as follows:

"(11) Lascivious exhibition of the genitals or pubic area of any child;

(12) Any other act which is intended to be a depiction or simulation of any act described in this subsection."

Section 4. Amend Section 1103 of Title 11 of the Delaware Code by adding a new subsection to said section, to be designated as subsection "(g)," to read as follows:

"(g) "Visual depiction" includes, but is not limited to:

(1) any image which is recorded, stored or contained on or by developed or undeveloped photographic film, motion picture film or videotape; or

(2) data which is stored or transmitted on or by any computer, or on or by any digital storage medium or by any other electronic means which is capable of conversion into a visual image; or

(3) any picture, or computer-generated image or picture, or any other image whether made, stored or produced by electronic, digital, mechanical or other means."

Section 5. Amend Section 1108(1) of Title 11 of the Delaware Code by inserting between the phrases "The person" and "photographs or films" as they appear in said subsection the word "knowingly," and by inserting between the phrases "such an act" and ";; or" as they appear therein the following:

", or otherwise knowingly creates a visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act".

Section 6. Amend Section 1108(2) of Title 11 of the Delaware Code by inserting between the phrases "The person" and "finances or produces" as they appear in said subsection the word "knowingly", and by striking the phrase "any motion picture which depicts" as it appears in said subsection, and by substituting in lieu thereof the phrase "any motion picture, video or other visual depiction of".

Section 7. Amend Section 1108(3) of Title 11 of the Delaware Code by striking said subsection in its entirety, and by inserting in lieu thereof the following:

"(3) The person knowingly publishes or makes available for public distribution or sale by any means, including but not limited to computer, any book, magazine, periodical, pamphlet, photograph, Internet site or web page which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly publishes or makes available for public distribution or sale by any means, including computer, any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or".

Section 8. Amend Section 1109 of Title 11 of the Delaware Code by striking the phrase "material depicting a child engaging in a prohibited sexual act" as it appears in the catchline thereof, and by substituting in lieu thereof the phrase "child pornography".

Section 9. Amend Section 1109 of Title 11 of the Delaware Code by striking the phrase "material depicting a child engaging in a prohibited sexual act" as it appears variously therein, and by substituting in lieu thereof the phrase "child pornography".

Section 10. Amend Section 1109(1) of Title 11 of the Delaware Code by striking said subsection in its entirety, and by substituting in lieu thereof the following:

"(1) The person knowingly ships, transmits, mails or transports by any means, including by computer or any other electronic or digital method, any "book, magazine, periodical, pamphlet, video, or film depicting a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly ships, transmits, mails or transports by any means, including by computer or any other electronic or digital method, any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or".

Section 11. Amend Section 1109(2) of Title 11 of the Delaware Code by inserting between the phrases "such an act" and "; or" as they appear in said subsection the following:

", or knowingly receives for the purpose of selling or sells any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act".

Section 12. Amend Section 1109(3) of Title 11 of the Delaware Code by striking the phrase "shows or viewings, any motion picture which shows " as it appears in said subsection, and by substituting in lieu thereof the following:

"computer or any other electronic or digital method, or by shows or viewings, any motion picture, video or other visual depiction of".

Section 13. Amend Section 1109(4) of Title 11 of the Delaware Code by striking the phrase "or data which depicts" as it appears variously in said subsection, and by substituting in lieu thereof the phrase ".data or other visual depiction of".

Section 14. Amend Section 1109 of Title 11 of the Delaware Code by adding a new subsection to said section, to read as follows:

"(5) The person knowingly advertises, promotes, presents, describes, transmits or distributes any visual depiction, exhibition, display or performance with intent to create or convey the impression that such visual depiction, exhibition, display or performance is or contains a depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or"

Section 15. Amend Section 1111 of Title 11 of the Delaware Code by striking said section in its entirety, and by substituting in lieu thereof the following:

§1111. Possession of Child Pornography; class F felony."

"A person is guilty of possession of child pornography when:

- (1) the person knowingly possesses any visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or
- (2) the person knowingly possesses any visual depiction which has been created, adapted, modified or edited so as to appear that a child is engaging in a prohibited sexual act or in the simulation of such an act.

Possession of child pornography is a class F felony."

Chapter 480

Vol.72

Section 16. Amend Section 4121(c)(2)a. of Title 11 of the Delaware Code by striking the phrase "Unlawfully Dealing in Material Depicting a Child Engaging in a Prohibited Sexual Act" as it appears therein, and by substituting in lieu thereof the phrase "Unlawfully Dealing in Child Pornography".

Section 17. Amend Section 4201(c) of Title 11 of the Delaware Code by striking the phrase "Unlawfully Dealing in Material Depicting a Child" as it appears in said subsection, and by substituting in lieu thereof the phrase "Unlawfully Dealing in Child Pornography".

Approved July 26, 2000

CHAPTER 481

FORMERLY

SENATE BILL NO. 391

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE REGULATION OF DENTISTS AND DENTAL HYGIENISTS.

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

Section 1. Amend Chapter 11, Section 1105, Title 24 of the Delaware Code by adding a new number 14 to read as follows:

"(14) Working in conjunction with the Board of Directors of the Delaware Institute of Dental Education and Research, develop programs to encourage and allow dentists to practice in under-served areas of the state, as designated by the Delaware Health Care Commission, in lieu of hospital-based residency training as a condition of licensure. Such programs may include preceptorships and reciprocity."

Section 2. Amend Chapter 11, Section 1122(a)(2), Title 24 of the Delaware Code by striking the words "1 year of active services as a dental officer with the armed forces of the United States or has had 5 years of active dental practice in some other state or territory of the United States" and inserting in lieu thereof the following: "has participated in a preceptorship or reciprocity program established under Section 1105 of this Chapter or has had 3 years of active dental practice in some other state or territory of the United States."

Section 3. Amend Chapter 11, Section 1152, Title 24 of the Delaware Code by striking the words "and after the completion of 1 year of practical work in an institution, school or public clinic," as they appear in the second paragraph.

Section 4. Amend Chapter 11, Section 1157, Title 24 of the Delaware Code by inserting after paragraph (c) a new paragraph (d) to read as follows: "(d) A dental hygienist may practice under the general supervision of the Delaware State Dental Director in state institutions, federally qualified health centers, non-profit organizations or other locations as designated by the Delaware Health Care Commission in consultation with DIDER."

Section 5. Amend Chapter 11, Section 1157, Title 24 of the Delaware Code by re-designating the current paragraph (d) as paragraph (e) and re-designating the current paragraph (e) as paragraph (f).

Approved July 26, 2000

CHAPTER 482

FORMERLY

SENATE BILL NO. 411
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE PROHIBITING THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL FROM ENTERING INTO ANY AGREEMENT DIRECTING THAT A THIRD PARTY PAY MONIES TO ANY ENTITY OTHER THAN THE DEPARTMENT.

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

Section 1. Amend §8003 of Title 29 of the Delaware Code by creating a new subsection to read as follows:

"(15) Not, any other law or regulation to the contrary notwithstanding, have authority to enter into any agreement with any person or entity subject to the Secretary's review or control which requires said person or entity to pay monies to any third party other than the Department as part of an enforcement action, or to induce the Department to refrain from taking an enforcement action provided said limitation shall not apply for any provision negotiated as part of a settlement agreement or conciliatory order that would allow such person to undertake a supplemental environmental project that would result in an environmental benefit beyond that which is required under existing or anticipated regulations or standards."

Approved July 01, 2000

CHAPTER 483

FORMERLY

SENATE BILL NO. 381

AN ACT TO AMEND TITLE 11 DELAWARE CODE RELATING TO ELIGIBILITY FOR RETIREMENT FOR THE "NEW" STATE POLICE PENSION PLAN.

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

Section 1. Amend §8363 (a) (3) Title 11 Delaware Code, by striking the number "25" and substituting in lieu thereof the number "20".

Section 2. Amend §8361 Title 11 Delaware Code, by striking the number "25" and substituting in lieu thereof the number "20".

Section 3. Amend §8391, Title 11, Delaware Code by striking the first sentence of said subsection in its entirety and substituting in lieu thereof a new sentence to read as follows:

"Effective January 1, 2001, member contributions to the Fund shall be 7% of monthly compensation."

Section 4. Amend §8368, Title 11 Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection to read as follows:

"§8368. Amount of ordinary service pension.

The amount of the monthly ordinary service pension payable to a retired member shall be the sum of 2.5% of final average compensation multiplied by years of service up to 20 years inclusive, plus 3.5% of final average compensation multiplied by years of service above 20 years."

Approved August 03, 2000

CHAPTER 484

FORMERLY

SENATE BILL NO. 323
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO CERTAIN NUISANCES.

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

Section 1. Amend sections 7101, 7102, 7103, 7104, 7105, 7106, 7107, 7108, 7109, 7201, 7202, 7203, 7204, 7205, 7206, 7207, 7208, 7209 and 7210 of Title 10 of the Delaware Code by striking said sections in their entirety, and by substituting in lieu thereof the following:

"§7101. Short title.

This chapter shall be known as and may be cited as the Delaware Drug Nuisance and Social Vices Abatement Act.

§7102. Purpose; construction.

(a) This chapter shall be liberally construed and applied so as to promote its underlying purposes, which are:

(1) to authorize temporary and permanent abatement relief and other remedies to abate drug nuisance or illegal drug activity as defined herein, as well as a variety of nuisances involving social vices such as lewdness, assignation, prostitution and illegal gambling;

(2) to eliminate locations that otherwise attract criminals, violence and the threat of violence associated with either illegal drug trade or any of the other nuisances involving social vices cited above;

(3) to abate drug nuisances and illegal drug activity as well as the other nuisances involving social vices cited above that otherwise reduce property values, injure legitimate businesses and commerce and erode the quality of life for law-abiding persons working or residing in or near these locations;

(4) to ensure that the civil actions and remedies authorized by this Chapter be heard by the courts on a priority basis to expeditiously identify and abate all nuisances, particularly those involving illegal drug trade or activity; and

(5) to encourage owners, landlords, operators and managers of buildings, places or premises (hereinafter referred to as 'premise') to take the affirmative steps necessary to prevent violations on their properties involving any of the above nuisances, particularly those involving illegal drug trade or activity.

(b) Any action brought pursuant to this Chapter, regardless of the remedy or remedies sought or ordered, is intended to be by the General Assembly and shall be deemed to be an action for abatement of a nuisance.

§7103. Definitions.

As used in this chapter, unless the context indicates differently:

(a) 'Illegal drug activity' means the unlawful selling, serving, storing, giving away or manufacturing (which includes the production, preparation, compounding, conversion, processing, packaging or repackaging) of any drug, including all narcotic or psycho-active drugs, cannabis, cocaine and all controlled substances as defined in Chapter 47 of Title 16 of the Delaware Code.

(b) 'Nuisance' means that which is defined and declared by statutes to be such and also means any one place or building in or upon which a drug nuisance, drug distribution event, lewdness, assignation, prostitution, illegal gambling or illegal drug activity is conducted, permitted, continued, or exists, and the personal property and contents used in conducting or maintaining any such place or building for any such purpose. The term 'lewdness' includes all manner of lewd sexual conduct or live exhibition and shall include, but is not limited to, any one place or building, in or upon which obscene films or plate negatives, film or plate positives, films designed to be projected on a screen for exhibition, films, or glass slides either in negative or positive form designed for exhibition by projection on a screen are photographed, manufactured, developed, screened, exhibited, or otherwise prepared or shown, and any place or building where obscene books, magazines or articles are the principal part of the stock in trade.

manufactured, developed, screened, exhibited, or otherwise prepared or shown, and any place or building where obscene books, magazines or articles are the principal part of the stock in trade.

(c) 'Drug distribution event' means the unlawful manufacture, distribution, sale, or possession with intent to distribute, sell or deliver a controlled substance, or any act or acts which constitute any felony set forth in Chapter 47 of Title 16 of the Delaware Code, or an unlawful attempt or conspiracy to commit such an act.

(d) 'Controlled substance,' 'manufacture,' 'distribution,' 'sale,' and 'possession with intent to sell or distribute' shall have the same meaning as those terms are used in Chapter 47 of Title 16 of the Delaware Code.

(e) 'Court' means the Superior Court of the State of Delaware.

(f) 'Drug nuisance' means a single building or premises at which:

(1) three or more separate drug distribution events have occurred within the period of one year prior to the commencement of the civil action under this Chapter, provided that at least one such event formed the basis of a criminal prosecution during which a finding of probable cause was made by either a neutral magistrate or a Grand Jury; or

(2) on three or more separate occasions within the period of six months prior to the commencement of the civil action under this Chapter, three or more persons who did not reside in or upon such site gathered for the principal purpose of unlawfully ingesting, injecting, inhaling, or otherwise using a controlled substance, whether or not any such controlled substance was unlawfully distributed or purchased at such location, provided that at least one of such events formed the basis of a criminal prosecution during which a finding of probable cause was made by either a neutral magistrate or a Grand Jury; or

(3) any amount of controlled substance has been manufactured, unlawfully stored, warehoused or otherwise kept in at least the following amounts:

(A) 5 or more pounds of marijuana; or

(B) 15 or more grams of cocaine; or

(C) 50 or more doses of LSD, or 5 or more milligrams if in liquid form; or

(D) any other controlled substance in an amount of 15 grams or more, whether or not three or more separate such unlawful acts have occurred within any prescribed period of time provided that at least one of such events described in subparagraphs (A), (B), (C), or (D) above formed the basis of a criminal prosecution during which a finding of probable cause was made by either a neutral magistrate or a Grand Jury.

(g) 'Landlord' shall have the same meaning as that term is defined in 25 Del. C. Sec. 5141.

(h) 'Neighborhood or community organization' means a group, whether or not incorporated, which consists of persons who reside, work or worship at or in a building, complex of buildings, street, block or neighborhood, any part of which is located on or within 1,000 feet of the premises alleged to be a nuisance, which has a purpose of benefiting the quality of life in its neighborhood or community, including treatment programs.

(i) 'Obscene material' is any material that:

(1) the average person applying contemporary community standards would find, taken as a whole, appeals to the prurient interest; and

(2) the material depicts or describes:

A. Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; or

B. Patently offensive representations or descriptions of masturbation, excretory functions, and/or lewd exhibitions of the genitals; and

C. The work taken as a whole lacks serious literary, artistic, political or scientific value.

(j) 'Owner' means any person in whom is vested the ownership and title of property, and who is the owner of record. 'Owner' shall include any local, city, county, state or federal governmental entity.

(k) 'Person' means any individual, corporation, association, partnership, trustee, landlord, lessee, agent, assignee, enterprise, governmental entity, and any other legal entity or group of individuals associated in fact which is capable of holding a legal or beneficial interest in property.

(l) 'Place,' 'site,' or 'premises' includes any building, structure, erection, or any separate part or portion thereof, whether used as a residence, for commercial purposes or a house of worship, or the ground itself.

§7104. Maintenance of nuisance or illegal drug activity.

Any person who uses, occupies, establishes, or conducts a nuisance or illegal drug activity as defined in §7103 of this Chapter, or aids or abets therein, and the owner, agent, or lessee of any interest in any such nuisance, together with the persons employed in or in control of any such nuisance by any such owner, agent, or lessee shall be guilty of maintaining a nuisance and shall be enjoined as provided in this chapter.

§7105. Action to abate nuisance or illegal drug activity.

Whenever a nuisance or illegal drug activity exists, the Attorney General, or any person as so defined in §7103 and §7107 of this Chapter, may bring an action in abatement in the name of the State, upon the relation of the Attorney General, or such person, to abate such a nuisance or illegal drug activity, to prohibit the commission of same or drug distribution events, to close down and physically secure premises or portions thereof which constitute nuisances and to otherwise abate such nuisances or illegal drug activity and to perpetually prohibit the person maintaining the same from further maintenance thereof as well as seek and obtain the imposition of civil penalties.

§7106. Jurisdiction; complaint; notice of lis pendens.

(a) Any action under this Chapter shall be brought in the Superior Court of the county in which the property is located.

(b) At or before the commencement of the action a verified complaint alleging the facts constituting the nuisance or illegal drug activity shall be filed in the office of the Prothonotary of Superior Court, together with a notice of the pendency of the action, containing the names of the parties, the object of the action, and a brief description of the property affected thereby. Such notice of lis pendens shall be immediately recorded by the Prothonotary.

§7107. Parties.

(a) A civil action for temporary or permanent abatement relief or for penalties pursuant to this chapter may be brought by:

- (1) the municipal or county attorney representing any municipal or county governing body which has jurisdiction over the location at which the alleged nuisance exists; or
- (2) the Attorney General; or
- (3) any neighborhood or community organization as defined in this chapter; or
- (4) any person who resides, worships or works full or part-time at or in a building, complex of buildings, street, block or neighborhood, any part of which is located on or in within 1,000 feet of the premises alleged to be a nuisance, or any person who owns or operates a business premises which is located on or in within 1,000 feet of the premises alleged to be a nuisance, or
- (5) any landlord, manager or operator of any premises alleged to be a drug nuisance.

(b) A civil action pursuant to this chapter shall be brought against the owner unless said action is brought by an owner or landlord of the premises alleged to be a nuisance, and may also be brought against any person within the jurisdiction of the court who is a landlord, tenant, occupant, manager, operator or supervisor of any premises alleged to be a nuisance. However, in any action initiated against an owner or landlord, it shall be a valid defense for the owner or landlord to establish, by a preponderance of the evidence, that said owner or landlord attempted to abate the alleged nuisance by previously notifying or contacting the local police about the alleged nuisance or by bringing an eviction action pursuant to this Chapter or a summary possession action pursuant to Chapter 57 of Title 25 of the Delaware Code. Further, the court shall have *in rem* jurisdiction over the premises alleged to be a nuisance, and the complaint initiating a civil action pursuant to this Chapter shall name as a defendant the premises involved, describing it by block, lot number and street address, or by such other means as are appropriate in the circumstances.

(c) No person or entity shall be required to post any bond or security as a condition of initiating or prosecuting any action brought pursuant to this chapter.

(d) Any person or entity who upon an oath in writing states the affiant is preparing to initiate an action pursuant to this chapter may request that the Recorder of Deeds for the county in which the premises are located promptly provide the name and address of all owners of the premises as reflected upon the current county records, without charge.

(e) The person in whose name the premises involved is recorded in the Recorder of Deeds office shall be presumed to be the owner thereof.

(f) Whenever there is evidence that a person was the manager, operator, supervisor or was in any other way in charge of the premises involved at the time of any conduct constituting the nuisance is alleged to have been committed, such evidence shall be rebuttably presumptive that he or she was an agent or employee of the owner, landlord or lessee of the premises.

§7108. Notice to interested parties.

(a) A complaint initiating an action pursuant to this chapter shall be personally served and notice to all *in personam* defendants shall be provided in the same manner as serving complaints in civil actions. Where the *in personam* defendant is an owner or landlord, notice shall also be served by leaving a copy of the complaint at the landlord's address as set forth in the lease or as otherwise provided by landlord with an adult person residing therein, or with an agent or other person in the employ of the owner or landlord whose responsibility it is to accept such notice. If the owner or landlord is an artificial entity pursuant to Supreme Court Rule 57, service of the notice or process may be made by leaving a copy thereof at its office or place of business as set forth in the lease with an agent authorized by appointment or by law to receive service of process. Where the *in personam* defendant is a tenant, notice shall also be served by leaving a copy of the complaint at the person's rental unit or usual place of abode with an adult person residing therein. After filing an affidavit that personal service cannot be had after due diligence on one or more *in personam* defendants, within twenty days after the filing of the complaint, the plaintiff may serve a copy of the complaint by registered or certified mail or First Class mail as evidenced by a certificate of mailing postage-prepaid, addressed to the owner or landlord at the owner or landlord's business address as set forth in the lease or as otherwise provided by the owner or landlord, or if the owner or landlord is an artificial entity, pursuant to Supreme Court Rule 57, at its office or place of business, or if the defendant is a tenant, to said tenant at the leased premises. The return receipt of the notice, whether signed, refused or unclaimed, sent by registered or certified mail, or the certificate of mailing if sent by First Class mail, shall be held and considered to be prima facie evidence of the service of the notice or process. The plaintiff shall also cause a copy of the complaint to be affixed conspicuously to the premises alleged to be the site of a nuisance. Service shall be deemed completed five days after filing with the court proof of such mailing and an affidavit that a copy of the complaint has been affixed to the premises.

(b) All tenants or residents of any premises which is used in whole or in part as a business, home, residence or dwelling, other than transient guests of a guest house, hotel, or motel, who may be affected by any order issued pursuant to this Chapter shall be provided such reasonable notice as shall be ordered by the court and shall be afforded opportunity to be heard at all hearings.

§7109. Substitution of plaintiff.

When the court determines in its discretion that the plaintiff bringing an action pursuant to this chapter has failed to prosecute the matter with reasonable diligence, the court may substitute as plaintiff any person or entity that consents thereto, provided that such person or entity would have been authorized pursuant to this chapter to initiate the action.

§7110. Delay and dismissal of actions.

(a) All actions brought pursuant to this Chapter shall be heard by the court on an expedited and priority basis. The court shall not grant a continuance except for compelling and extraordinary reasons, or upon the application of the Attorney General for good cause shown.

(b) The court shall not stay the civil proceedings pending the disposition of any related criminal proceeding except for compelling and extraordinary reasons or except upon the application of the Attorney General for good cause shown.

(c) The court shall not dismiss an action brought pursuant to this Chapter for want of prosecution unless the court is clearly convinced that the interests of justice require such dismissal. In that event and upon such a finding, the dismissal shall be without prejudice to the right of the plaintiff or any other person or entity authorized to bring an action pursuant to this Chapter to re-institute the action.

§7111. Issuance of ex parte temporary order to abate nuisance; temporary abatement order; procedure; hearing for nuisance.

(a) Any person or entity authorized to bring a civil action for abatement relief pursuant to this chapter may file a complaint seeking temporary relief by alleging that the premises constitute a nuisance or drug nuisance. Upon receipt of the complaint, the Court, on application of the plaintiff, may issue an ex parte temporary abatement order prohibiting the defendants and all other persons from committing or permitting any act or acts of waste to the premises, or to the personal property and contents thereof, and from knowingly tampering with any evidence likely to be used by any party in any judicial proceeding until the decision of the Court granting or refusing the temporary abatement order thereon. Absent such ex parte relief by the Court, then upon receipt of the complaint, the court shall order a preliminary hearing which shall not be later than 10 days from the date of said order. Service shall be made upon all *in personam* defendants pursuant to §7108 of this Chapter not less than five days prior to the hearing. In the event that service cannot be completed in time to give the owners or tenants the minimum notice required by this subsection, the court may set a new hearing date.

(b) If the court finds 1) that the premises constitute a nuisance or drug nuisance, 2) that at least 30 days prior to the filing of the complaint seeking temporary abatement relief, the owner or the owner's agent (or tenant, where such is an *in personam* defendant) had been notified by certified letter of the nuisance or drug nuisance, and 3) that the public health, safety or welfare immediately requires a temporary closing order and unless the owner or the owner's agent shows to the satisfaction of the court that the nuisance or illegal drug activity complained of has been abated, or that such person proceeded forthwith to enforce his or her rights under this Chapter as more fully set forth herein, the court shall issue a temporary abatement order to close the premises involved or the portions appropriate in the circumstances. The order shall direct actions necessary to physically secure the premises, or appropriate portions thereof, against use for any purpose. The temporary abatement order shall also prohibit the defendant and all persons from removing or in any manner interfering with the furniture, fixtures and movable or personal property located on or within the premises constituting the nuisance or drug nuisance. Where a tenant is a defendant, the court may issue a closing order prohibiting him or her from residing at or having contact with the premises.

(c) If the court finds that the premises constitute a nuisance or drug nuisance but that immediate closing of the premises is not required pursuant to subsection (b), the court may abate the nuisance or illegal drug activity by issuing an order prohibiting the defendants and all other persons from conducting, maintaining, aiding, abetting or permitting events constituting the nuisance or illegal drug activity, or from otherwise having contact with the premises. Additionally, the court may issue an order appointing a temporary receiver to manage or operate the premises. A temporary receiver shall have such powers and duties specifically authorized pursuant to § 7113 of this Chapter.

(d) In determining whether the public health, safety or welfare immediately requires a temporary abatement order, the court shall consider any relevant evidence presented concerning any attendant circumstances, including but not limited to whether the alleged nuisance, drug nuisance or illegal drug activity, or drug distribution events or related activities involve the use or threat of violence at or near the site alleged to be a nuisance or site of illegal drug activity, or whether the alleged distribution events in any way involve distribution or sale of a controlled substance by or to a juvenile, or whether the site alleged to be a nuisance or location of illegal drug activity is located within a drug-free zone within the meaning of §§ 4767 and 4768 of Title 16 of the Delaware Code.

(e) The abatement order shall be served pursuant to the procedures set forth in § 7108 of this Chapter, and by both such delivery and posting. The officer serving such abatement order shall forthwith make and return into Court an inventory of the personal property and contents situated in and used in conducting or maintaining the nuisance. Any violation of such abatement order shall be a contempt of court, and where such order is so posted, mutilation or removal thereof, while the same remains in force, shall be a contempt of court, provided such posted order contains thereon or therein a notice to that effect.

(f) A copy of the complaint together with a notice of the time and place of the hearing of the application for a temporary abatement order shall be served upon the defendants at least 5 days before the hearing. If the

hearing be then continued at the instance of any defendant, the temporary writ as prayed shall be granted as a matter of course.

(g) Each defendant so notified shall serve upon the complainant, or his attorney, a verified answer on or before the date fixed in the notice for the hearing and such answer shall be filed with the Prothonotary's Office wherein the cause is triable, but the Court may allow additional time for so answering, providing such extension of the time shall not prevent the issuing of the temporary writ as prayed for. The allegations of the answer shall be deemed to be denied without further pleading.

(h) If upon the hearing the allegations be sustained to the satisfaction of the Court, the Court shall issue a temporary abatement order without bond prohibiting the defendants and any other person or persons from continuing the nuisance. When the temporary abatement order has been granted, it shall be binding on the defendants. Any violation thereof shall be contempt of court, to be punished as provided in this chapter.

(i) If at the time of granting a temporary abatement order, it further appears that the person owning, in control, or in charge of the nuisance so abated has received 5 days notice of the hearing, and unless such person shows to the satisfaction of the Court that the nuisance complained of has been abated, or that such person proceeded forthwith to enforce his rights under this chapter, the Court shall forthwith issue an order closing the place against its use for any purpose until the final decision is rendered on the application for a permanent abatement order. Such order shall also continue in effect for such further period as the abatement order provided for in the section if already issued, or, if not so issued, shall include such an order prohibiting for such period the removal or interference with the personal property and contents located thereat or therein as provided in this section, and such abatement order shall be served and the inventory of such property shall be made and filed as provided in this section.

(j) The owner or owners of any real or personal property so closed or prohibited, or to be closed or prohibited, may appear at any time between the filing of the complaint and the hearing on the application for a permanent abatement order, and, upon payment of all costs incurred and upon the filing of a bond by the owner of the real property with sureties to be approved by the Court in an amount not to exceed 50% of the value of premises alleged to a nuisance, said value to be ascertained by the court conditioned that such owner or owners will immediately abate the nuisance and prevent the same from being established or kept until the decision of the Court has been rendered on the application for a permanent abatement order, then and in that case, the Court, if satisfied of the good faith of the owner of the real property and of the lack on the part of any owner of the personal property of any actual knowledge of the use of such personal property as a nuisance, and that, with reasonable care and diligence, such owner could not have known thereof, shall deliver such real or personal property, or both, to the respective owners thereof, and cancel or refrain from issuing at the time of the hearing on the application for the temporary abatement order, as the case may be, any order or orders closing such real property or prohibiting the removal or interference with such personal property.

(k) The release of any real or personal property under this section shall not release it from any judgment, lien, penalty, or liability to which it may be subjected by law.

(l) Notwithstanding any provision of this section to the contrary, no person who is a tenant of any premises which is found by the court to constitute a nuisance or drug nuisance shall be evicted or otherwise removed from said premises pursuant to an ex parte order if he or she is a tenant of such premises pursuant to a valid lease, nor shall any such person be evicted or otherwise removed from said premises unless he or she is first provided with reasonable notice of any hearing and an opportunity to be heard at any such hearing.

§7112. Enforcing ex parte and temporary abatement orders.

(a) Upon order of the court, ex parte closing orders and temporary abatement orders shall be enforced by the appropriate police agency having jurisdiction over the area where the premises are located.

(b) The officers serving an ex parte closing order or a temporary abatement order shall file with the court an inventory of the personal property situated in or on the premises closed and shall be allowed to enter the premises to make the inventory. The inventory shall provide an accurate representation of the personal property subject to such inventory including, but not limited to, photographing of furniture, fixtures and other personal or movable property.

(c) The officers serving an ex parte closing order shall, upon service of the order, demand all persons present in the premises closed, to vacate such premises or portion thereof forthwith unless the court orders

otherwise. The premises or portion thereof shall be securely locked and all keys shall be held by the agency closing the premises.

(d) Upon service of an ex parte closing order or a temporary abatement order, the officer shall post a copy thereof in a conspicuous place or upon one or more of the principal doors at entrances of the premises. In addition, where an ex parte closing order has been granted, the officers shall affix, in a conspicuous place or upon one or more of the principal entrances of such premises, a printed notice that the entire premises or portion thereof have been closed by court order, which notice shall contain a legend 'Closed by Court Order' in block lettering of sufficient size to be observed by anyone intending or likely to enter the premises. The printed notice shall also include the date of the order, the court which issued the order and the name of the office or agency posting the notice. In addition, where a temporary abatement order has been granted, the officer shall affix, in the same manner, a notice similar to the notice provided for in relation to an ex parte closing order except that the notice shall state that certain activity is prohibited by court order and that removal of furniture, fixtures or other personal or movable property is prohibited by court order.

(e) Any person who knowingly or purposely violates any ex parte closing order or temporary abatement order issued pursuant to this Chapter shall be subject to civil contempt as well as punishment for criminal contempt pursuant to §§1271-1272 of Title 11 of the Delaware Code and §7129 of this Chapter.

§7113. Permanent abatement for all nuisance actions; hearing; admissible evidence.

(a) An action, when brought under this chapter, shall be noticed for trial at a time to be fixed by the Superior Court.

(b) In the action evidence of the general reputation of the place, or an admission, or finding of guilt of any person under the criminal laws against illegal drug activity, prostitution, lewdness, illegal gambling, or assignation at any such place, shall be admissible for the purpose of proving the existence of the nuisance, and shall be prima facie evidence of such nuisance and of knowledge of and of acquiescence and participation therein on the part of the person charged with maintaining the nuisance as defined in this chapter.

(c) If the complaint is filed by a person who is a citizen of the county, or has an office therein, it shall not be dismissed except upon a sworn statement by the plaintiff and his attorney, setting forth the reasons why the action should be dismissed and the dismissal approved by the Attorney General in writing, or before the Court. If the Court is of the opinion that the action ought not to be dismissed, it may direct the Attorney General to prosecute the action to judgment at the expense of the county, and if the action is continued more than 4 months, any person who is a citizen of the county, or has an office therein, or the Attorney General, may be substituted for the plaintiff and prosecute the action to judgment.

(d) If the action is brought by a person who is a citizen of the county, or has an office therein, and the Court finds that there were no reasonable grounds or cause for the action, the costs may be taxed to such person.

(e) If the existence of the nuisance is established upon the trial, the Court shall grant permanent abatement relief which perpetually prohibits the defendants and any other person from further maintaining the nuisance at the place complained of, and the defendants from maintaining such nuisance elsewhere within the State and shall issue such other orders as are necessary to abate the nuisance and to prevent to the extent reasonably possible the recurrence of the nuisance. The Court's order may include, but need not be limited to all of the following:

(1) Directing the sheriff or other appropriate agency to seize and remove from the premises all material, equipment and instrumentalities used in the creation and maintenance of drug nuisance, and directing the sheriff to sell the property in the manner provided for the sale of property under execution in accordance with the general rules of civil procedure. The net proceeds of any such sale, after the deduction of all lawful expenses involved, shall be paid pursuant to §7114 of this Chapter.

(2) Authorizing the plaintiffs, subsequent to an order granting plaintiffs the right to seize the property in question, to make repairs, renovations and construction and structural alterations or to take such other actions necessary to bring the premises into compliance with all applicable housing, fire, zoning, health and safety codes, ordinances, rules, regulations or statutes. Such repairs, renovations or construction shall only be undertaken after the appropriate regulatory agency has first inspected the property in question, determined that code, ordinance or statutory

violations exist and has reported same to the Court. If no order of seizure is granted and the owner or owners of the property remain in possession, the Court may order said owner or owners to make the appropriate repairs as set forth herein following the inspection and determination of violations by the appropriate regulatory agency. Expenditures by the plaintiffs pursuant to this paragraph may be filed as a lien against the property.

(3) Directing the closing of the premises, or appropriate portion thereof, to the extent necessary to abate the nuisance, and directing the officer or agency enforcing the closure order to post a copy of the judgment and a printed notice of such closing order conforming to the requirements of §7111 of this Chapter. The closing directed by the judgment shall be for such a period of time as the court may direct but, subject to the provisions of §7121 of this Chapter, shall not be for a period of more than one year from the posting of the judgment provided for in this subsection.

(4) Suspending or revoking any business, operational or liquor license.

(5) Suspending or revoking any lease.

(6) Ordering the suspension of any state, city or local governmental subsidies payable to the owners of the property, such as tenant assistance payments to landlords, until the nuisance is satisfactorily abated.

(7) Appointing a temporary receiver to manage or operate the premises for such a time as the court deems necessary to abate the nuisance. A receiver appointed pursuant to this section shall have such powers and duties as the court shall direct, including but not limited to:

A. Collecting, holding and dispersing the proceeds of all rents from all tenants;

B. Leasing or renting portions of the premises involved;

C. Making or authorizing other persons to make necessary repairs or to maintain the property;

D. Hiring security or other personnel necessary for the safe and proper operation of the premises;

E. Retaining counsel to prosecute or defend suits arising from his or her management of the premises;

F. Bringing actions for summary possession of any premises; and

G. Expending funds from the collected rents in furtherance of the foregoing powers.

(8) A receiver appointed by the court pursuant to this section or §7111 of this Chapter shall upon entering upon his or her duties be sworn and shall affirm faithfully and fairly to discharge the trust committed to him or her. In addition, the receiver may be required to post a bond in an amount to be fixed by the court making the appointment, to ensure that such receiver will faithfully discharge his or her duties.

(9) If the existence of a nuisance as defined in this Chapter is admitted or established in an action under this chapter, the Court may, in addition to the aforementioned remedies or sanctions, order the removal from the place of the nuisance all personal property and contents used in conducting the nuisance and not already released under authority of the Court as provided in §7111 of this Chapter, and shall further direct the sale of such thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution.

Such order shall also require the renewal for one year of any bond furnished by the owner of the real property as provided in §7111 of this Chapter or, if not so furnished, shall continue for one year any closing order issued at the time of granting the temporary abatement order or, if no such closing order was then issued, may include an order directing the effectual closing of the place against its use for any purpose, and so keeping it closed for a period of one year unless sooner released.

(f) The owner of any place so closed and not released under bond as provided in §7111 of this Chapter and this section may now appear and obtain such release in the manner and upon fulfilling the requirements as provided in such sections. The release of the property under this section shall not release it from any judgment, lien, penalty, or liability to which it may be subject to law.

(g) Owners of unsold personal property and contents so seized must appear and claim same within 10 days after such order of abatement is made. The burden shall be on the owner to show, to the satisfaction of the Court, lack of any knowledge of the use thereof, and that with reasonable care and diligence they could not have known thereof. Every defendant in the action shall be presumed to have had knowledge of the general reputation of the place. If such innocence be so established, such unsold personal property and contents shall be delivered to the owner; otherwise it shall be sold as provided in this Chapter.

(h) If any person breaks and enters, or uses a place so directed to be closed, he shall be punished as for contempt as provided in this chapter.

(i) For removing and selling the personal property and contents, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution, and for closing the place and keeping it closed, a reasonable sum shall be allowed by the Court.

(j) Imposing any or all of the foregoing remedies in combination with each other.

§7114. Duty of Attorney General; proceeds of sale in all nuisance actions.

(a) In case the existence of facts, circumstances and/or conditions that would constitute any nuisance is established in a criminal proceeding in any court of competent jurisdiction, the Attorney General shall proceed promptly to enforce the provisions and penalties of this chapter, and the finding of the defendant guilty in such criminal proceedings, unless reversed or set aside, shall be conclusive as against such defendant as to the existence of the nuisance.

(b) All monies collected under this Chapter, including but not limited to proceeds of the sale of personal property, as provided in §7113 of this Chapter, shall first be applied in payment of the costs of the action and abatement and then in payment of reasonable attorney fees. In the event the action is brought by the Attorney General, all monies collected in excess of costs and reasonable attorney fees shall be paid to the Special Law Enforcement Assistance Fund, as established in §§4110 - 4116 of Title 11 of the Delaware Code. In actions brought under this chapter by a county or municipality, all monies collected in excess of costs and reasonable counsel fees shall be paid to said county or municipality. In all actions brought under this chapter by a person or persons other than noted above, all monies collected in excess of costs, reasonable attorney fees and damage awards shall be paid to the Special Law Enforcement Assistance Fund.

§7115. Lease void if building used for nuisance.

Notwithstanding any law, rule or regulation to the contrary, if a tenant or occupant of a building or tenement, under a lawful title, is found after a hearing at which the tenant or occupant has appeared to have used such place for the purpose of illegal drug activity, a drug nuisance, lewdness, assignation, illegal gambling, or prostitution, such use makes void the lease or other title under which the tenant or occupant holds, at the option of the owner, and, without any act of the owner, causes the right of possession to revert to vest in such owner.

§7116. Civil penalty.

Obscene matter is contraband and there are no property rights therein. All monetary consideration received in exchange therefore, or as admission price to exhibitions thereof, and the subject matter itself, are the subject of forfeiture in the manner and under the terms set forth in §7114 of this Chapter and are recoverable as damages in the county wherein such matter is sold or exhibited.

§7117. Immunity.

The provisions of any criminal statutes with respect to the exhibition of, or the possession with the intent to exhibit, any obscene film shall not apply to a motion picture projectionist, usher or ticket taker acting within the scope of employment, provided that such projectionist, usher or ticket taker has no financial interest in the place wherein so employed. Such person shall be required to give testimony regarding such employment in all judicial proceedings brought under this chapter when granted immunity by the Court. The procedure for determining granting of immunity shall be the same procedure used by the Superior Court in criminal actions pursuant to §3506 of Title 11 of the Delaware Code.

§ 7118. Notification and provision of treatment resources.

- (a) The officers serving an ex parte closing order as provided in §7111 of this Chapter shall provide outreach information and referral materials to all residents present on how to obtain alcohol and other drug treatment.
- (b) In any case in which the court orders the removal of any person from any dwelling pursuant to this Chapter, the Court shall cause notice to be provided to the local alcohol and drug agency, the Division of Family Services, and other appropriate social services agencies.
- (c) A one-page summary of such information and materials shall be posted next to any ex parte closing order or temporary abatement order posted in accordance with §7112 of this Chapter.
- (d) The State Division of Alcoholism, Drug Abuse and Mental Health or its designee shall prepare all materials described in subsections (a) and (b), and shall disseminate them to all which are empowered to enforce closing orders under this Chapter.

§7119. Premises involving multiple residences or businesses.

- (a) Where the premises constituting the nuisance includes multiple residences, dwellings or business establishments, a temporary or permanent closing order issued pursuant to any provision of this Chapter shall, so far as is practicable, be limited to that portion of the entire premises necessary to abate the nuisance and prevent the recurrence of drug distribution events.
- (b) In addition to any other relief expressly authorized by this Chapter, the court may order a defendant who actually knew or, based on information provided to said defendant had reason to know of the nuisance, to provide relocation assistance to any tenant ordered to vacate a premises pursuant to this Chapter, provided that the court determines that such tenant was not involved in the nuisance or any drug distribution event constituting the nuisance and did not knowingly aid in the commission of any such drug distribution event. Relocation assistance shall be in the amount necessary to cover moving costs, security deposits for utilities and comparable housing, any lost rent, and any other reasonable expenses the court may deem fair and reasonable as a result of the court's order to close a premises or any portion thereof pursuant to this Chapter.

§7120. Defense application to vacate or modify closing order prior to trial.

- (a) The court upon application of a defendant may, at any time before trial, vacate or modify a closing order, after notice to the person or entity bringing the action pursuant to this Chapter, where the defendant, by a preponderance of the evidence shows that he or she was not in any way involved in the commission of the nuisance or any drug distribution event constituting the nuisance, and where he or she further:

- (1) provides payment of all costs, and further, provides a bond with sureties to be approved by the court in the full value of the premises or portion thereof subject to the closure order as ascertained by the court and the court determines that the public safety or welfare will be adequately protected thereby; or
- (2) submits clear and convincing proof to the court that the nuisance has been satisfactorily abated and will not recur. In determining whether the nuisance has been satisfactorily abated and will not recur, the court shall consider the nature, severity and duration of the nuisance and all other relevant factors, including but not limited to the following:

A. whether the defendant through the exercise of reasonable diligence should have known that the nuisance or drug nuisance events were occurring on the premises, and whether the defendant took steps necessary and appropriate in the circumstances to prevent the commission of such events;

B. whether the defendant has in good faith initiated and litigated eviction or removal actions pursuant to either this Chapter or a summary possession action pursuant to Chapter 57 of Title 25 of the Delaware Code against tenants or other persons who committed the nuisance or drug distribution events on the premises involved, immediately upon learning of a factual basis for initiating such eviction or removal action;

C. whether the defendant has developed an abatement plan which has been agreed to by the person or entity bringing the action pursuant to this Chapter and has been approved by the court. Such abatement plan may provide for:

- (i) Hiring an on-site manager to prevent the recurrence of the nuisance or drug distribution events;
- (ii) Making capital improvements to the property, such as security gates;
- (iii) Installing improved interior or exterior lighting;
- (iv) Employing security guards;
- (v) Installing electronic security or visual monitoring systems;
- (vi) Establishing tenant-approved security procedures;
- (vii) Attending property management training programs;
- (viii) Making cosmetic improvements to the property;
- (ix) Providing, at no cost, suitable space and facilities for a local enforcement agency to establish a police substation on or near the site of the nuisance; or
- (x) Establishing any other program or initiative designed to enhance security and prevent the recurrence of the nuisance or drug distribution events on or near the premises involved.

(b) Where the court accepts a bond pursuant to subsection (a), and conduct constituting a nuisance recurs, the bond shall be forfeited unless the court finds compelling and extraordinary reasons why such forfeiture would not be in the interests of justice. Any monies forfeited pursuant to this section shall be paid in the manner set forth in §7114 of this Chapter

§7121. Presumption against closure; vacating closure after abatement of nuisance and proof nuisance is not likely to occur.

(a) Where the court after trial determines that a premises constitutes a nuisance, the court shall not order the closure of the premises or appropriate portion or portions thereof pursuant to §7111 of this Chapter unless no less onerous penalty is likely to provide for the abatement of the nuisance. Further, no order of closure shall occur if the court is clearly convinced that any vacancy resulting from the closure would exacerbate rather than abate the nuisance or would otherwise be extraordinarily harmful to the community or the public interest.

(b) The court at any time after trial may vacate the provisions of the judgment that direct the closing of the premises or any portion thereof provided that the defendant submits clear and convincing proof to the court that the nuisance has been satisfactorily abated and is not likely to recur. In determining whether the nuisance has been satisfactorily abated and is not likely to recur, the court shall consider the nature, severity and duration of the nuisance and all other relevant factors, including but not limited to those factors set forth in §7113 of this Chapter.

§7122. Standard of Proof.

Except as may otherwise be expressly provided, the civil causes of action established in this Chapter shall be proved by a preponderance of the evidence.

§ 7123. Admissibility of evidence to prove nuisance.

(a) In any action involving any nuisance, evidence of the general reputation of the place or an admission or finding of guilty of any person under the criminal laws against illegal drug activity, a drug nuisance, prostitution, lewdness, illegal gambling or assignation at any such place is admissible for the purpose of proving the existence of said nuisance and is prima facie evidence of such nuisance and of knowledge of and of acquiescence and participation therein on the part of the person charged with maintaining said nuisance.

(b) In any action brought pursuant to this Chapter, any evidence of any prior efforts or lack of efforts by the defendant to abate the nuisance shall be admissible, and shall be considered by the Court in its decision as to what, if any, remedies or penalties shall be imposed.

(c) Where a criminal prosecution or juvenile delinquency proceeding, including those involving a drug distribution event constituting the drug nuisance, results in a criminal conviction or adjudication of delinquency, such conviction or adjudication shall create a reputable presumption that the nuisance or drug distribution event occurred. Any evidence or testimony admitted in the criminal or juvenile proceedings, including transcripts or a court reporter's notes of the transcripts of the adult or juvenile criminal proceedings, whether or not they have been transcribed, may be admitted in the civil action brought pursuant to this Chapter.

(d) In the event that the evidence or records of a criminal proceeding which did not result in a conviction or adjudication of delinquency have been sealed in accordance with 29 Del. C. §10002(d), 11 Del. C. §4322(a), and 10 Del. C. §§ 1001-1002, 1063; the court, in a civil action brought pursuant to this Chapter may, notwithstanding any other provision of this Chapter, order such evidence or records to be unsealed if the court finds that such evidence or records would be relevant to the fair disposition of the civil action.

(e) If proof of the existence of the nuisance depends, in whole or in part, upon the affidavits or testimony of witnesses who are not peace officers, the court may upon a showing of prior threats of violence or acts of violence by any defendant or any other person, issue orders to protect those witnesses including, but not limited to, the non-disclosure of the name, address or any other information which may identify those witnesses.

(f) A law enforcement agency may make available to any person or entity seeking to secure compliance with this Chapter any police report, or edited portion thereof, or forensic laboratory report, or edited portion thereof concerning the alleged nuisance or any alleged drug distribution events committed on or within the premises involved. A law enforcement agency may also make any officer or officers available to testify as a fact or expert witness in a civil action brought pursuant to this Chapter. The agency shall not disclose such information where, in the agency's opinion, such disclosure would jeopardize an investigation, prosecution, or other proceeding, or where such disclosure would violate any federal or state statute.

§7124. Relationship to criminal proceedings.

A civil action may be brought and maintained pursuant to this Chapter, and the court may find the existence of a nuisance, notwithstanding that an event or events used to establish the existence of the nuisance have not resulted in an arrest, prosecution, conviction or adjudication of delinquency.

§7125. Release of premises upon inspection or repair.

(a) Subject to the provision of §7120 of this Chapter and unless the court expressly orders otherwise, no premises or portion thereof ordered to be closed pursuant to any provision of this Chapter shall be released or opened unless it has been inspected by the appropriate license and inspection authority or agency and found to be in compliance with applicable local or state housing, building, fire, zoning, health and safety codes, ordinances, rules, regulations or statutes. Where the inspection reveals violations of any such code, ordinance, rule, regulation or statute, the court shall issue such orders or grant such relief as may be necessary to bring the premises or portion thereof into compliance. In that event, the court may order the premises or portion thereof to remain closed pending such necessary repairs or modification, notwithstanding that the order of closure may exceed the one year time limit prescribed in §7113 of this Chapter.

(b) The court may authorize any person or government official to enter a premises or portion thereof closed pursuant to this Chapter for the purpose of conducting an inspection or making any repairs or modifications necessary to abate the nuisance or to bring the premises or portion thereof into compliance with any applicable housing, building, fire, zoning, health or safety code, ordinance, rule, regulation or statute.

(a) Where the court after trial finds that a premises is a nuisance, the court in addition to granting appropriate abatement relief shall impose a civil penalty against a defendant who knowingly conducted, maintained, aided, abetted or permitted the nuisance. The penalty shall be \$25,000.00 or the market value of the entire premises involved, whichever is greater, unless the court finds, based on the evidence, that imposition of such penalty would constitute a miscarriage of justice under the totality of the circumstances. In such case, it may lower the penalty amount to the extent necessary to avoid such miscarriage of justice. In any event, the Court shall, in each and every case initiated under this Act, impose the least onerous penalty possible.

(b) For the purpose of imposing a civil penalty pursuant to this section, the following shall be prima facie evidence that the defendant knowingly permitted the nuisance:

(1) the defendant failed to initiate an eviction action, pursuant to the provisions of this Chapter or a summary possession action pursuant to Chapter 57 of Title 25 of the Delaware Code or against a tenant after being notified by certified or registered mail of the facts pertaining to the tenant's alleged illegal activities constituting a nuisance, including but not limited to drug activities, involvement with a drug nuisance or drug distribution events committed on the leased premises which would in turn cause a reasonable person to believe the allegations are likely to be true; or

(2) a closure order was vacated under §7121 of this Chapter within two years before the occurrence of the instant nuisance.

(c) The court at any time shall waive, suspend or revoke any unpaid civil penalty imposed pursuant to this section where it is satisfied that:

(1) the defendant against whom the penalty has been imposed has not violated any order issued pursuant to any provision of this Chapter; and

(2) the defendant has transferred title to the plaintiff, a government agency, or any other neighborhood or community organization approved by the court, provided that the recipient is a nonprofit incorporated organization or association which is exempt from taxation under 26 U.S.C. 501(c) and which is authorized by its corporate charter or bylaws to rehabilitate, restore, maintain, manage or operate any commercial or residential premises. Unless otherwise agreed to by the recipient organization, the defendant shall personally retain all state and local tax liability and the obligation shall attach to any other real property in the county owned by the defendant.

§7127. Settlements.

(a) Nothing in this Chapter shall be construed in any way to prevent the parties to the action at any time before or after trial from negotiating and agreeing to a fair settlement of the dispute, subject to the approval of the court.

(b) The court, on application of a plaintiff may vacate a closing order issued pursuant to this Chapter where the defendant has transferred title to the premises to the plaintiff, a government agency, or any other neighborhood or community organization approved by the court, provided that the recipient is a nonprofit incorporated organization or association which is exempt from taxation under 26 U.S.C. 501(c) and which is authorized by its corporate charter or bylaws to rehabilitate, restore, maintain, manage or operate by commercial or residential premises. In that event, the requirements for pre-release inspection set forth in §7125 of this Chapter shall not apply.

§7128. Recovery of Costs.

(a) Whenever an action for abatement relief or penalties brought pursuant to this Chapter terminates in a settlement or judgment favorable to the plaintiff, the plaintiff and any other governmental entity shall be entitled to recover the actual cost of the suit, including but not limited to reasonable attorney fees and expenses and disbursements by the plaintiff or any governmental entity in investigating, bringing, maintaining, and enforcing the action and any court orders issued pursuant thereto. All defendants shall be jointly and severally liable for the payment of taxed costs imposed pursuant to this section.

(b) A judgment awarding a permanent abatement pursuant to this Chapter shall be a lien upon the premises declared to be a drug nuisance unless title thereto has been transferred pursuant to §§7126 and 7127 of this Chapter. In addition, a judgment against an in personam defendant imposing a civil penalty or bill of taxed costs pursuant to this Chapter shall be a lien upon the real estate owned by the defendant at the time of such rendition, and also upon all real estate the defendant may subsequently acquire, for a period of ten years from the date of the judgment, subject to renewal of the judgment pursuant to §4711 of Title 10 of the Delaware Code.

§7129. Contempt

(a) Any person who knowingly violated any order issued pursuant to this Chapter shall be subject to civil contempt as well as punishment for criminal contempt under 11 Del. C. §§ 1271-1272. Nothing in this Chapter shall be construed in any way to preclude or preempt a criminal prosecution for violation of a controlled substance offense or any other criminal offense.

(b) In case of the violation of any abatement or closing order granted under this Chapter, or the commission of any contempt of court in proceedings under this Chapter, the court may summarily try and punish the offender.

(c) The proceeding shall be commenced by filing in the pending action with the Prothonotary's Office a Motion for A Rule to Show Cause pursuant to Superior Court Civil Rule 64.1, accompanied by an affidavit showing service on the defendant and setting forth the facts constituting the violation. The court shall thereupon cause a subpoena to issue under which the defendant shall be required to appear and defend the allegations. The hearing shall be oral before the court, unless otherwise ordered by the court and either party may demand the production and oral examination of the witnesses.

(d) A party found guilty of contempt under this Chapter shall be fined not less than \$500.00 nor than \$10,000.00, or imprisoned not less than 3 months nor more than 1 year, or both. In addition, the court may impose an order of restitution or other conditions as the court deems appropriate.

§7130. Cumulative remedies.

The causes of action and remedies authorized by this Chapter shall be cumulative with each other and shall be in addition to, not in lieu of, any other causes of action or remedies which may be available at law or equity. Further, nothing herein shall be construed as to limit the power or authority of the Court in the enforcement of this chapter. However, in every case initiated under this Act, the Court shall impose the least onerous remedy possible.

§7131. Liability for damage to closed properties.

(a) A court-ordered closing of a premises or portion thereof pursuant to this Chapter shall not constitute an act of possession, ownership or control by the court, the plaintiff or any government official or entity responsible for enforcing the court order.

(b) Any person or entity bringing, maintaining or enforcing any civil action or order issued in accordance with the provisions of this Chapter shall have immunity from any civil liability that might otherwise be incurred for any theft of, or loss, damage or injury to any premises constituting the drug nuisance, or to any fixture, furniture, personal or movable property located in or on any such premises.

§ 7132. Civil immunity.

Any person or entity who, in good faith, institutes, participates in, testifies in, or encourages any person or entity to institute, participate in or testify in a civil action brought pursuant to this Chapter or who in good faith provides any information relied upon by any person or entity in instituting or participating in a civil action pursuant to this Chapter, including but not limited to those persons defined or otherwise identified in §§7103 and 7107 of this Chapter, shall have immunity from any civil liability that might otherwise be incurred or imposed.

§ 7133. Civil action for damages resulting from nuisance.

(a) Notwithstanding the provisions of §7107 of this Chapter, any person damaged in his or her business or property by reason of a nuisance may bring a separate civil action for actual damages in the Superior Court against any person who knowingly conducted, maintained, aided, abetted or permitted any illegal drug activity or other nuisance as defined in this Chapter or any drug distribution event constituting the drug nuisance.

(b) In a civil action for damages pursuant to this section, the failure of an owner or landlord to initiate an eviction action against a tenant in accordance with the provisions of Chapter 57 of Title 25 of the Delaware

Chapter 484
Vol.72

Code, if the owner or landlord has been notified by certified or registered mail of the tenant's illegal drug activity or nuisance as defined in this Chapter or any drug distribution events committed on the leased premises, shall be prima facie evidence that the owner knowingly gave permission to engage in conduct constituting the drug nuisance.

(c) In a civil action for damages pursuant to this section, expert testimony may be used to determine the amount of any actual damage or loss incurred by reason of the nuisance or illegal drug activity or drug nuisance.

(d) Whenever an action for damages brought pursuant to this section terminated in a settlement or judgment favorable to the plaintiff, the plaintiff shall be entitled to recover the actual cost of the suit, including but not limited to reasonable attorney fees and all expenses and disbursements by the plaintiff in investigating, bringing and maintaining the action. All defendants shall be jointly and severally liable for the payments of taxed costs imposed pursuant to this section.

(e) In any civil action for damages brought pursuant to this section, any evidence admitted or admissible in a civil action for abatement relief or penalty pursuant to this Chapter shall be admissible."

Section 2. If any provision of this Act or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 3. The repeal or amendment of any statute by this Act shall not have the effect of releasing or extinguishing any penalty, forfeiture or liability incurred under such statute, and such statute shall be treated as remaining in full force and effect for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability. Any action, case, prosecution, trial or other legal proceeding in progress under or pursuant to any statute repealed or amended by this Act shall be preserved and shall not become illegal or terminated, irrespective of the stage of such proceeding. For the purpose of such proceedings, the prior law shall remain in full force and effect.

Section 4. This Act shall be effective upon the signature of the Governor.

Approved August 04, 2000

CHAPTER 485

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 325

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO COMPLIANCE WITH THE
MILITARY SELECTIVE SERVICE ACT.

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

Section 1. Amend §2611, Title 21, Delaware Code by adding thereto the following:

"(h) Compliance with the Military Selective Service Act

(1) Any male applicant who applies for a commercial driver license instruction permit or license or a renewal of any such permit or license and who is at least eighteen years of age but less than twenty-six years of age shall be registered in compliance with the requirements of Section 3 of the 'Military Selective Service Act', 50 U.S.C. App. sec. 453, as amended.

(2) The Department shall forward in an electronic format the necessary personal information of the applicants identified in paragraph (1) of this subsection to the selective service system. The applicant's signature on the application shall serve as an indication that the applicant either has already registered with the selective

service system or that he is authorizing the Department to forward to the selective service system the necessary information for such registration. The Department shall notify the applicant at the time of application that his signature constitutes consent to registration with the selective service system, if he is not already registered."

Section 2. Amend §2711, Title 21, Delaware Code by adding thereto the following:

"(d)(1) Any male applicant who applies for an instruction permit or driver's license or a renewal of any such permit or license and who is at least eighteen years of age but less than twenty-six years of age shall be registered in compliance with the requirements of Section 3 of the 'Military Selective Service Act', 50 U.S.C. App. sec. 453, as amended.

(2) The Department shall forward in an electronic format the necessary personal information of the applicants identified in this subsection to the selective service system. The applicant's signature on the application shall serve as an indication that the applicant either has already registered with the selective service system or that he is authorizing the Department to forward to the selective service system the necessary information for such registration. The Department shall notify the applicant at the time of application that his signature constitutes consent to registration with the selective service system, if he is not already registered."

Section 3. Amend §3102, Title 21, Delaware code by adding thereto the following:

"(d)(1) Any male applicant who applies for an identification card or a renewal of any such document and who is at least eighteen years of age but less than twenty-six years of age shall be registered in compliance with the requirements of Section 3 of the 'Military Selective Service Act', 50 U.S.C. App. sec. 453, as amended.

(2) The Department shall forward in an electronic format the necessary personal information of the applicants identified in this subsection to the selective service system. The applicant's signature on the application shall serve as an indication that the applicant either has already registered with the selective service system or that he is authorizing the Department to forward to the selective service system the necessary information for such registration. The Department shall notify the applicant at the time of application that his signature constitutes consent to registration with the selective service system, if he is not already registered."

Section 4. This Act shall become effective within 180 days after its enactment into law.

Approved August 03, 2000

CHAPTER 486

FORMERLY

HOUSE BILL NO. 660

AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NOS. 1, 3, 4 AND 5

AN ACT TO AMEND TITLES 4 AND 29 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS AND TOBACCO ENFORCEMENT.

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

Section 1. Amend § 101 of Title 4 of the Delaware Code by deleting the current subsection 11 and renumbering subsections 12 through 15 as subsections 11 through 14.

Section 2. Further Amend § 101 of Title 4 of the Delaware Code by amending the renumbered subsection (11) entitled "Commissioner" by deleting the phrase "the member appointed to constitute the Commission" and replacing thereto as follows "the person appointed by the Governor and confirmed by the Senate who serves as the Alcoholic Beverage Control Commissioner for the State."

AMEND §101 Title 4 of the Delaware Code by adding a new subsection "(3)" which shall read as follows and renumbering the sections thereafter:

"(3) 'Appeals Commission' shall mean 3 persons, one from each County, appointed by the Governor with the advice and consent of a majority of the Senate;"

Chapter 486
Vol.72

Section 3. Further Amend § 101 of Title 4 of the Delaware Code by inserting the following as a new subsection (15) as follows:

"(15) 'Division' means 'Division of Alcoholic Beverage Control & Tobacco Enforcement.'"

Section 4. Further Amend § 101 of Title 4 of the Delaware Code by deleting the word "Commission" as it appears in Sections (20), (21), (24) and (25) and replacing thereto with the word "Commissioner".

Section 5. Amend § 103 of Title 4 of the Delaware Code by deleting the word "Commission" as it appears in subsection (b) and replacing thereto with the word "Commissioner".

Section 6. Further Amend Title 4 of the Delaware Code by adding a new Chapter 2 as follows:

"CHAPTER 2. Transition Provisions.

§ 201. Transition provisions.

- (a) All definitions and references to any commission, division, or agency which appear in any other act or law are to be construed, to the extent they are consistent with this Act and in connection with the function transferred by this act, as referring or relating to the agency, department, division, office or subdivision to which the function is transferred.
- (b) All orders, rules and regulations made by any commission, division or agency which govern the functions of such commission, division or agency, and which are in effect on December 1, 2000, shall remain in full force and effect until revoked or modified in accordance with law by the agency, department, division, office or subdivision to which the functions are transferred.
- (c) All investigations, petitions, hearings and legal proceedings pending before or instituted by, any agency, commission or division from which functions are transferred by this act and which are not concluded by December 1, 2000, shall continue unabated and remain in full force and effect to be completed by the agency, department, division, office or subdivision assigned under this act."

Section 7. Further Amend Title 4 of the Delaware Code by deleting the current Chapter 3 and replacing it as follows:

"CHAPTER 3. Delaware Alcoholic Beverage Control Commissioner.

§ 301. Delaware Alcoholic Beverage Control Commissioner; Appeals Commission; qualifications; appointment; term; compensation.

- (a) The Commissioner shall be a resident of Delaware and suitably educated and experienced to carry out the duties and responsibilities set forth in this Act.
- (b) The Commissioner and three members of the Appeals Commission, one from each County, shall be appointed by the Governor and confirmed by a majority of the members elected to the Senate and shall serve at the pleasure of the Governor.
- (c) Until a Commissioner is confirmed by the Senate, the Secretary of Public Safety or his or her designee shall serve in this capacity on an acting basis.
- (d) The Commissioner shall be compensated as provided for in the Annual Budget Act.
- (e) The members of the Appeals Commission shall be compensated at the rate of \$150 per meeting together with the reasonable expenses for no more than 12 meetings per year.
- (f) The Appeals Commission shall meet and elect a chairperson who shall convene meetings of the Commission as frequently as needed to consider appeals of the Commissioner's decision.

§ 302. Location of office.

The Office of the Commissioner shall be located in New Castle County.

§ 303. Employees.

Necessary staff as required shall be employed as required to carry out the work under the Act. After December 1, 2001, the Joint Sunset Committee will review the duties and responsibilities of the Commissioner to determine if additional staff, including hearing officer(s), is necessary. The Personnel Section of the Department of Public Safety shall provide personnel services and other necessary support services for the Office of the Commissioner and the Appeals Commission.

§ 304. Duties and powers of the Commissioner.

(a) The Commissioner, in accordance with the Delaware Administrative Procedures Act, shall:

- (1) Adopt and promulgate rules and regulations not inconsistent with this Title or of any other law of the State, and all such rules and regulations shall have the force and effect of law; provided, however, that no such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof and provided further, however, that such rules and regulations, as established by the Commissioner, shall focus primarily on public safety and the best interests of the consumer and shall not unduly restrict competition within the alcoholic beverage industry;
- (2) Establish by rules and regulations an effective control of the business of manufacture, sale, dispensation, distribution and importation of alcoholic liquors within and into the State, including the time, place and manner in which alcoholic liquors shall be sold and dispensed, not inconsistent with this Title or with any other law of this State. However, such rules and regulations, as established by the Commissioner, shall not control or regulate:
 - a. Recreational equipment located on the business premises of any business selling alcoholic beverages;
 - b. Credit transactions between licensed wholesalers and licensed retailers, to the extent permitted by federal law;
 - c. Purchases of 1 case not to exceed 20 gallons of alcoholic beverages per day by the holder of a retail license from another holder of a retail license;
- (3) Control the manufacture, possession, sale and delivery of alcoholic liquors in accordance with this Title; and control the purchase, possession, transportation and sale of alcoholic liquors by those licensed to manufacture or to sell; provided, however, that the Commissioner's power to control the sale of alcoholic liquors shall not be exercised in such a manner as to prevent any holder of a retail license for the sale of alcoholic liquors not for consumption on the premises where sold from giving a retail purchaser of a case or more of spirits and/or wine a discount not to exceed 10% of the total dollar sale;
- (4) Grant, refuse or cancel licenses required by this Title for the manufacture or sale of alcoholic liquor, or other licenses required by this Title in regard thereto, and to transfer any license granted;
- (5) On petition signed by at least 10 individuals who are residents of the neighborhood, hear complaints in regard to the appointments of, or the conduct of business in, any establishment where alcoholic liquor is licensed to be sold. Ten days' notice of such hearings, together with a recital of the complaint, shall be sent by registered mail by the Commissioner's office to the address of the holder of the license for the establishment and like notice shall be delivered at the establishment by affixing the notice addressed to the holder of the license to the outside of an entrance door to the establishment. The hearings shall be conducted by the Commissioner and shall be public. The Commissioner shall for the purpose of such hearings have power to issue subpoenas, compel the attendance of witnesses,

administer oaths, take testimony and compel the production of pertinent books, payrolls, accounts, papers, records and documents. In case any person summoned to testify or to produce any such written or printed evidence shall refuse, without reasonable cause, to be examined or to answer a legal and pertinent question or to produce any such written or printed evidence, the Commissioner conducting the hearing may certify the fact of any such refusal to the Superior Court of the county in which such hearing is held and the Court may proceed against the person so refusing as for a contempt and punish such person in the same manner as persons are punished for contempt of Court;

- (6) Determine and publish standards for the manner in which the dining room or dining rooms of a hotel, restaurant or club shall be equipped in order to be allowed to exercise the privilege of the sale of alcoholic liquors therein; and examine the plans or premises proposed for use as a dining room and authorize their use in connection with a license to sell alcoholic liquors, but such authorization shall not prevent the requirement by the Commissioner of future alterations in accordance with published standards;
- (7) Compel the attendance of witnesses and the production of contracts, papers, books, accounts and other documents. Subpoenas issued shall be signed by the Commissioner and may be served by any sheriff, deputy sheriff, constable or any agent of the Division and return thereof made to the Commissioner. The Commissioner may enforce compliance with a subpoena issued pursuant to this subsection by filing a motion to compel in the Superior Court, which shall have jurisdiction over the matter. The Court may award costs and attorney fees if it determines that noncompliance with a Commissioner subpoena was unjustified, intentional, or in bad faith.
- (8) Act, for purposes of this Title, as the competent authority in connection with other matters pertinent thereto;
- (9) Make an annual report submitted to the Governor and members of the General Assembly setting forth all matters of interest and all statistics concerning liquor regulation and control in the State, including:
 - a. The number of licenses of each variety issued within the State;
 - b. The name and address of each person licensed to manufacture or to sell alcohol, spirits, wine and beer;
 - c. The amount of alcohol, spirits, wine and beer sold within the State;
 - d. The number of licenses of each kind granted and the number cancelled during the year; and
 - e. Such other data as may make a complete report to the people of this State;
- (10) Negotiate and, with the approval of the Governor, enter into reciprocal agreements with the duly authorized officials of other states of the United States relative to the manufacture, importation, sale and transportation of alcoholic liquors in the several states;
- (11) Provide such special seals, labels and wrappers as deemed necessary for protection of the public against imitations, adulterations and frauds, and prescribe the proper use of the seals, labels and wrappers; and
- (12) Provide such warning signs as may be required by § 903(16) of this Title and distribute such signs to license holders and promulgate regulations with respect to the posting of said signs. A nominal fee may be

charged by the Commissioner to cover printing, handling and distribution costs.

(b) The Commissioner's decision shall be final and conclusive unless within 20 days after notices thereof a party to such hearing files an appeal in the Office of the Commissioner. Upon receipt of the appeal, the Commissioner shall cause the Chairperson of the Appeals Commission to be advised of the pending appeal and the Chairperson shall cause the Commission to be convened with at least 20 days notice to all parties. The appeal shall be heard by the Appeals Commission, who shall, in accordance with the Administrative Procedures Act, Title 29 of the Delaware Code, review the matter on the record and affirm, reverse or modify the decision of the Commissioner.

§ 305. Oath of Office of Commissioner and employees.

The Commissioner, Appeals Commission, and any hearing officer(s) shall, on entering office, take the oath of the Constitution of the State. Any other employee may be required to take the oath of the Constitution of the State at the discretion of the Secretary of Public Safety.

§ 306. Conflict of interest.

- (a) The Commissioner, Appeals Commission, and any hearing officer(s) or such person's spouse, or such person's son or daughter residing at such person's residence, shall not have a financial interest in any entity that sells, manufactures, or uses alcohol; provided, however, such persons may invest in mutual funds or similar financial instruments that hold no more than a 10% interest in any such entity.
- (b) Neither the Commissioner nor any person employed in the Office of the Commissioner shall receive any commission or profit whatsoever from, or have any interest whatsoever in a business licensed under this act to purchase or sell alcoholic liquors; provided, however, that nothing in this section shall prevent the Commissioner, Appeals Commission, hearing officer (s) or employee from purchasing and keeping alcoholic liquors in his or her possession for the personal use of him or herself, members of his or her family or his or her guests if such purchase is otherwise permitted by this Title.
- (c) The Commissioner and the Appeals Commission shall annually file with the Public Integrity Commission the Financial Report pursuant to Title 29, Section 5813.

§ 307. Commissioner's statement of interest in liquor business.

When notified of appointment as Commissioner or Appeals Commission, the individual so notified shall furnish in duplicate and in writing to the Governor and to the President Pro Tempore of the Senate a statement of every interest, direct or indirect, and however small, held or owned by him or her as a member or as a stockholder in any partnership, corporation or other association engaged in the sale or in the manufacture of alcoholic liquors or in any undertaking, industry or business in which alcoholic liquors are used or required and prior to taking the oath of office the Commissioner and Appeals Commission must wholly and fully dispose of all interests. One copy of the statement shall be inserted in the permanent records of the Office of the Commissioner open to public inspection.

§ 308. Promulgation, repeal and amendment of rules and regulations.

- (a) All rules and regulations of the former Alcoholic Beverage Control Commission currently in place as of the effective date of this act shall remain in full force and effect until revoked or modified in accordance with the procedures set forth in this act.
- (b) The Commissioner may make any regulation and may amend or repeal any regulation as the Commissioner deems necessary for carrying out this Title respecting internal economy and the conduct of business, and may amend or repeal any such regulation. Such regulations shall be published in form open to public inspection at the Office of the Commissioner and in accordance with the Administrative Procedures Act.
- (c) Any regulation made by the Commissioner and approved and published as provided by this chapter may be repealed or amended either by another regulation of the Commissioner, approved and published as so provided, or by an act of the General Assembly of this State.

§ 309. Bond.

The Commissioner shall give security by means of a corporate surety bond in the sum of not less than \$10,000 and every other person employed in the Office of the Commissioner shall, upon entering office, give security by means of a corporate surety bond in the sum of not less than \$2,000; conditioned that the Commissioner and persons employed will perform all the services imposed upon them by law or to which they are directed by the Commissioner and that they will not knowingly violate this Title or of any other law relating to the manufacture, sale, disposition or transportation of alcoholic liquors. The requirements of this section may be covered by a blanket surety bond covering the performance of the services imposed upon the Commissioner and the persons employed in the Office of the Commissioner. The cost of such bonds shall be borne by the Office of the Commissioner as part of the office's operating expense.

§ 310. Deposit of receipts with Division of Revenue.

All moneys received by the Commissioner shall be paid to the Division of Revenue of the Department of Finance. A monthly report of all receipts of the Commissioner shall be made to the State Treasurer.

§ 311. Property and profits of the Office of the Commissioner.

All property owned by the Office of the Commissioner and all associated profits shall be the property of the State.

§ 312. Financial statements of the Commissioner.

The Commissioner shall render an account to the State Treasurer, in the manner and at the time required by the latter, of its receipts and disbursements, and of its assets and liabilities. The State Treasurer will not, however, require such reports to be rendered more often than quarterly.

§ 313. Annual audit.

The operation of the Office of the Commissioner shall annually be examined and audited by the State Auditor of Accounts."

chapter:

Section 8. Further Amend Title 4 of the Delaware Code by enacting the following as a new

"CHAPTER 4. Division of Alcoholic Beverage Control and Tobacco Enforcement.

§ 401. Division of Alcoholic Beverage Control and Tobacco Enforcement.

The Division of Alcoholic Beverage Control and Tobacco Enforcement of the Department of Public Safety is established as follows for the administrative, ministerial, budgetary and clerical functions for the enforcement of the alcohol laws of this Code and youth access to tobacco laws in Title 11, Sections 1115 through 1127.

§ 402. Location of office.

The main office of the Division shall be in New Castle County.

§ 403. Duties and powers of the Division.

The Division shall:

- (a) Investigate, prevent, and arrest for violations of this Title, make seizure of alcoholic liquor, manufactured, sold, kept or transported in contravention thereof, and confiscate such alcoholic liquor whenever required by any provision of this Title;
- (b) Arrange for the proper sampling, testing and analyzing of alcoholic liquor offered for sale in this State upon receipt of a complaint regarding health by entering into an agreement with the Director of Forensic Science Laboratories of the Department of Health and Social Services to test alcoholic liquor product when requested by the Division. This subsection does not apply to home breweries.
- (c) Only require an inventory by a package store licensee if it has evidence to support a finding that such licensee has violated this title.

§ 404. Employees of the Division.

The Department of Public Safety shall appoint, employ or dismiss every officer or employee necessary for carrying out the work of the Division, establish salaries, subject to the Annual Appropriation in the Budget Act, and assign them their official titles and duties, and engage the services of experts and persons engaged in the practice of a profession at the discretion of the Secretary of Public Safety. At the discretion of the Secretary of Public Safety, officers and employees appointed by the Department of Public Safety shall have the police powers of constables and other police officers of the State, counties and other subdivisions of the State, and they shall be conservators of the peace throughout the State, and they shall be eligible for certification by the Council on Police Training, and may suppress all acts of violence and enforce the provisions of this Title."

Section 9. Further Amend Title 4 of the Delaware Code by deleting the word "commission" wherever it appears in Chapter 5 and replacing it thereto with the word "Commissioner".

Section 10. Further Amend Title 4 of the Delaware Code by deleting the word "commission" wherever it appears in §§ 704(a)(4), 708(b), 901(3), 902(4), 903(3), 903(10), 906(c), 912 and 916 and replacing thereto with "Commissioner and/or Division".

Section 11. Further Amend Title 4 of the Delaware Code by deleting the word "commission" whenever it appears in §§ 701, 702, 703, 704, 707, 709, 710, 714, 715, 717, 718, 719, 721, 723, 724, 725, 905(a), 908, 909, 910, 913, 914, 915, 1103 and 1104 and replacing thereto with the word "Commissioner".

Section 12. Further Amend Title 4 of the Delaware Code by deleting the word "commission" wherever it appears in § 907 and replacing thereto with "Director".

Section 13. Further Amend Title 4 of the Delaware Code by deleting the word "commission" wherever it appears in §§ 1101, 1102, 1106, 1107, 1108, 1109 and 1110 and replacing thereto with "Division".

Section 14. Further Amend Title 4 of the Delaware Code by deleting the current Section 1105 and replacing as follows:

"§ 1105. Retention of seized property; return to owner; disposition of alcoholic liquor.

All property seized and delivered into the possession of the Division shall be disposed of in the following manner:

- (1) The enforcement officers of the Division or the peace officers who seized the property shall give written notice to the person whom they reasonably believe to be the owner of the property, and to the person from whom the property was seized, if they reasonably believe such person is not the owner, that such person may within 10 days of the date of notice and upon proof, satisfactory to the Commissioner that such property had not been used in connection with any violation of any of the provisions of this title, or of the rules of the Commissioner or both, if so used, that the use was without the knowledge, acquiescence or consent of the rightful owner, his agent, employee or servant, return said property to the rightful owner. Any dispute between the enforcement personnel of the Division and the person believed to be the rightful owner or the person from whom the property was seized, shall be resolved by a hearing before the Commissioner. The Commissioner's decision shall be final and conclusive unless any party, having appeared before the Commissioner, appeals to the Superior Court of the State within 10 days of the date of the written decision.
- (2) Any property seized pursuant to this chapter which consists of alcoholic liquor and its container may, after the provisions of subdivision (1) of this section have been complied with, be offered for sale to the licensed Delaware importers of alcoholic liquor at the prevailing price paid by the importers for like brands and quality. If the alcoholic liquor is distributed in this State by more than 1 licensed importer, then the Commissioner shall offer said seized alcoholic liquor to all importers who engage in the sale of such brand of alcoholic liquor. If the seized alcoholic liquor is purchased by a licensed Delaware importer, the importer shall issue to the Commissioner a voucher showing at least the following facts:
 - a. The date of the purchase;
 - b. The purchase price of each item purchased;
 - c. The quantity and nature of the item purchased.

At the subsequent direction of the Commissioner, the licensed Delaware importer which purchased the liquor shall:

1. If the owner of the alcoholic liquor or the person from whom the liquor was seized, if different from the person reasonably believed to be the owner, shall be found guilty of the offenses in violation of the Liquor Control Act or the rules of the Office of the Commissioner or both, issue its check payable to the Office of the Commissioner in the amount of the total purchase price shown on the voucher, which amount shall be applied by the Commissioner as provided in § 1110 of this chapter as proceeds of a sale authorized by order of Court; or
2. If the owner of the alcoholic liquor and the person from whom the liquor was seized, if different from the person reasonably believed to be the owner, shall be acquitted of the offenses alleged to have been in violation of the Liquor Control Act or the rules of the Commissioner, or both, issue its check payable to such person, or, at such person's election, deliver alcoholic liquor of the same or similar nature and quantity described in the voucher to such person.
- (3) The enforcement officers of the Division with the advice of other peace officers of this State and/or the Department of Justice may retain all or part of the alcoholic liquor and its containers seized for use as evidence for as long a period as they deem necessary. Thereafter it may be disposed of pursuant to this chapter.
- (4) All other such seized property shall be disposed of as is provided in this chapter."

Section 15. Further Amend Title 4 of the Delaware Code by deleting the word "commission" wherever it appears in Chapter 12 and replacing it thereto with the word "Commissioner".

Section 16. Further Amend Title 4 of the Delaware Code by deleting the current language of § 541(a) and replacing thereto as follows:

"The Commissioner shall distribute and receive all of the applications for licensure under this chapter, and shall refer the application to the Division for investigation, and if it appears that any application should not be granted, the Commissioner shall so notify the applicant stating the cause for denial."

Section 17. Further Amend Title 4 of the Delaware Code by deleting in Section 541 subsection (c) and replacing thereto as follows:

"(c) The decision of the Appeals Commission shall be final unless within 10 days after notice thereof a party to such hearing shall appeal to the Superior Court of the county in which the license would operate. Unless otherwise agreed by all parties, in every appeal the cause shall be first decided by an arbitration conducted pursuant to the Superior Court Rules of Civil Procedure by a Superior Court Commissioner from the record, and the Superior Court Commissioner may affirm, reverse or modify the Appeals Commission's decision. The Appeals Commission's findings of fact shall not be set aside unless the Superior Court Commissioner determines that the record contains no substantial evidence that would reasonably support the findings. If the Superior Court Commissioner finds that additional evidence should be taken, the Superior Court Commissioner may take the additional evidence or remand the cause to the Commissioner for taking additional evidence on the record. If the Superior Court Commissioner finds that the Appeals Commission has made an error of law, the Superior Court Commissioner shall reverse or modify the Appeals Commission's decision and render an appropriate judgment."

Section 18. Further Amend Title 4 of the Delaware Code by inserting in Section 541 the following new subsection (d) as follows:

"(d) The Superior Court may affirm, reverse or modify the decision of the Superior Court Commissioner or the Appeals Commission. The findings of fact by the Superior Court Commissioner or the Appeals Commission 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 Superior Court Commissioner or the Appeals Commission for taking additional evidence on the record. If the Court finds that the Superior Court Commissioner or Appeals Commission has made an error of law, the Court shall reverse or modify the decision of the Superior Court Commissioner or Appeals Commission and render an appropriate judgment."

Section 19. Further Amend Title 4 of the Delaware Code by deleting in Section 562 subsection (d) and replacing thereto as follows:

"(d) In such action, a petition, which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon the Commissioner. After the petition is filed, service shall be made by the Sheriff upon the Commissioner. With the answer, the Commissioner shall certify and file with the Court all documents and papers and a transcript of all testimony taken in the matter, together with the Commissioner's findings therein. Unless otherwise agreed to by all of the parties, in every appeal the cause shall be first decided by arbitration conducted by a Superior Court Commissioner pursuant to the Superior Court Rules of Civil Procedure. The decision of the Superior Court Commissioner may be reviewed by the Superior Court in the same manner as is provided in civil cases."

Section 20. Further Amend Title 4 of the Delaware Code by inserting in Section 562 the words "arbitrator or the" between "the" and "Court" in the second sentence of subsection (e).

Section 21. Further Amend Title 4 of the Delaware Code by deleting the phrase "Alcoholic Beverage Control Commission" wherever it appears in Chapter 12 and replacing it thereto with the phrase "Alcoholic Beverage Control Commissioner".

Section 22. Further Amend Section 8204, Title 29 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§ 8204. Division of Alcoholic Beverage Control and Tobacco Enforcement.

The Division of Alcoholic Beverage Control and Tobacco Enforcement is established having powers, duties and functions as set forth in the new Chapter 4, Title 4 of the Delaware Code and the youth access to tobacco laws in Title 11, Sections 1115 through 1127."

Section 23. Further Amend Section 10161, Title 29 of the Delaware Code by deleting the phrase "Alcoholic Beverage Control Commission" and replacing it thereto with the phrase "Alcoholic Beverage Control Commissioner".

Section 24. The Commission and the Division shall be subject to review under Chapter 102, Title 29, The Delaware Sunset Act.

Section 25. This Act takes effect December 1, 2000.

Section 26. Amend §8203(2)e of Title 29 of the Delaware Code by deleting the phrase "Alcoholic Beverage Control" in the 2 places it is found and replace the phrase with the phrase "Alcoholic Beverage Control and Tobacco Enforcement".

Section 27. Amend §8214(6) of Title 29 of the Delaware Code by adding at the end of said sentence the words "and Tobacco Enforcement".

Approved August 04, 2000

CHAPTER 487

FORMERLY

SENATE BILL NO. 396

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO TELECOMMUNICATIONS
AND PROVIDING FOR THE REGULATION OF CERTAIN PRACTICES.

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

Section 1. Amend Chapter 9, Title 26 of the Delaware Code by adding thereto a new subchapter III as follows:

"SUBCHAPTER III. CHANGES IN CUSTOMER SELECTION
OF TELECOMMUNICATIONS SERVICE PROVIDERS

§922. Statement of Purpose.

The General Assembly finds that competition in the telecommunications industry provides opportunities for initiating the unauthorized switching of a customer's telephone service provider without the customer's agreement or authorization, or the addition to a customer's bill of a product or service not authorized or requested by the customer. It is the purpose of this subchapter to protect telecommunications consumers from unauthorized changes in providers and unauthorized charges, and to protect ethical providers from unfair competition.

§923. Definitions.

As used in the subchapter, unless the context otherwise requires:

(a) "Carrier" shall mean any person or entity offering to the public telecommunications service that originates or terminates within the State of Delaware; provided, however, that the term Carrier shall not include:

(1) Any political subdivision, public or private institution of higher education or municipal corporation of this State or operated by their lessees or operating agents that provides telephone service for the sole use of such political subdivisions, public or private institutions of higher learning or municipal corporations;

(2) A company that provides telecommunications services solely to itself and its affiliates or members or between points in the same building, or between closely located buildings which are affiliated through substantial common ownership, and does not offer such services to the available general public;

(3) Providers of domestic public land mobile radio service provided by cellular technology; and

(4) Payphone service providers.

(b) "Change Order" shall mean any order changing a Customer's designated Carrier for local exchange service, intraLATA intrastate toll service or both.

(c) "Commission" shall mean the Delaware Public Service Commission.

(d) "Customer" shall mean a person who subscribes to local exchange services, intraLATA intrastate toll service or both.

(e) "Executing Carrier" shall mean a Carrier that effects a request that a Customer's Carrier be changed.

(f) "Letter of Agency" shall mean a separate document, or easily separable document, signed and dated by the Customer or prospective Customer, the sole purpose of which is to authorize a Carrier to initiate a Preferred Carrier change.

(g) "Preferred Carrier" shall mean any Carrier providing service to a Customer at the time this subchapter is enacted, or such Carrier as the Customer thereafter designates as the Customer's Preferred Carrier.

(h) "Submitting Carrier" shall mean any Carrier that requests on behalf of a Customer that the Customer's Carrier be changed, and seeks to provide retail services to an end user Customer.

§924. Prohibitions and Changes in Preferred Carrier Selection.

(a) No Carrier shall bill for intrastate telecommunications services, nor solicit to provide intrastate telecommunication services, within the State, unless such Carrier has received a certificate of public convenience and necessity from the Commission.

(b) No Submitting Carrier shall submit a change in the Customer's selection of a Carrier prior to obtaining:

(1) Authorization from the Customer; and

(2) Verification of that authorization in accordance with the procedures prescribed in this subchapter and implementing regulations of the Commission.

(c) No Carrier shall bill or collect from any person a charge for any product or service to which such person has not agreed or subscribed, nor for any amount in excess of that specified in the tariff, price list or contract governing the charges for such services.

§925. Verification of Orders for Telecommunications Service.

(a) No Carrier shall submit a Preferred Carrier Change Order unless and until the Change Order has first been confirmed in accordance with one of the following procedures:

(1) The Carrier has obtained the Customer's written authorization;

(2) The Carrier has obtained the Customer's electronic authorization; or

(3) An appropriately qualified independent third party has obtained the Customer's oral authorization to submit the Change Order.

(b) The Commission shall promulgate regulations governing the form and content of all authorizations permitted by this Section.

§926. Duty of Executing Carrier.

An Executing Carrier shall not verify the submission of a change in a Customer's selection of a provider of telecommunications service received from a Submitting Carrier. For an Executing Carrier, compliance with the procedures prescribed in this subchapter shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a Submitting Carrier.

§927. Letter of Agency.

(a) A Carrier may use a Letter of Agency to obtain written authorization and verification of a Customer's request to change his or her Preferred Carrier selection.

(b) The Commission shall promulgate regulations governing the form and content of Letters of Agency.

§928. Preferred Carrier Freezes.

(a) A Customer may institute a Preferred Carrier freeze to prevent a change in such Customer's Preferred Carrier selection without his or her express consent.

(b) The Commission shall promulgate regulations governing the procedures for implementing and lifting Preferred Carrier freezes and the form and contents of solicitations or other materials provided to the Customer regarding Preferred Carriers freezes.

§929. Customer Protections.

The Commission shall promulgate regulations governing the procedures to be followed by the Customer and Carrier in the event that a Customer believes that his or her Carrier has been changed without his or her authorization or has caused or allowed the Customer to be billed for unauthorized charges and remedies available for violations of the subchapter.

§930. Commission Authority.

(a) The Commission is authorized to supplement the provisions hereof by promulgating such additional regulations that it deems necessary to achieve the purposes set forth in §922 of this subchapter.

(b) All Commission regulations promulgated pursuant to this subchapter shall be consistent with federal law.

Approved August 01, 2000

CHAPTER 488

FORMERLY

SENATE BILL NO. 425

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO DEFERRED COMPENSATION
FOR PUBLIC OFFICERS AND EMPLOYEES OF THE STATE.

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

Section 1. Amend Title 29 of the Delaware Code, Section 6052 by adding a new subsection to read as follows:

"(4) 'Qualified Participant' is defined as an employee of the State, including school districts, who has deferred compensation under the provisions of this chapter and satisfies either of the following conditions:

- (a) Employee must be enrolled in the deferred compensation program for no less than six (6) consecutive months immediately preceding receipt of the match;
- (b) Employee has deferred the maximum allowable by the Internal Revenue Service within the six (6) months preceding receipt of the match."

Section 2. Amend Title 29 of the Delaware Code by adding a new section 6060 to read as follows:

"§6060. Employer Match Plan.

The Deferred Compensation Council is hereby authorized and directed to establish a plan pursuant to §401(a) of the Internal Revenue Code of 1986, as amended."

Section 3. Amend Title 29 of the Delaware Code by adding a new section 6061 to read as follows:

"§6061. Employer contribution to qualified participants.

Commencing January 1, 2001, and each pay period thereafter, an amount equal to one-hundred (100) percent of the voluntary contribution of every qualified participant, not to exceed ten (10) dollars per pay period, shall be credited to the §401(a) account of each qualified participant making a voluntary deferral under the provisions of this chapter. The employer contribution shall be remitted each pay period by the State Treasurer from an appropriation authorized for this purpose.

Modifications to the match amount per pay period, percentage of contribution matched, number of pay periods per year to be matched and other fiscal and operational aspects of the program are contingent upon funding by the General Assembly and may be administered through rules and regulations promulgated by the Deferred Compensation Council and pursuant to §401(a) of the Internal Revenue Code."

Approved August 10, 2000

CHAPTER 489

FORMERLY

HOUSE BILL NO. 700

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES FOR THE FISCAL YEAR ENDING JUNE 30, 2001; 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 (Three-fourths of all members elected to each house thereof concurring therein):

Section 1. Fiscal Year 2001 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 2001 Governor's Recommended Capital Budget and Project Information document. Any authorization balance (excluding Transportation Trust Fund balances) remaining unexpended or unencumbered by June 30, 2003, shall be subject to reversion or reauthorization.

Approved August 28, 2000

SECTION 1 ADDENDUM
FISCAL YEAR 2001 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. REVERSION & REPRO-GRAMMING		STOPPER WELL	TRANS. TRUST FUND REAUTH.		TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUNDS	TOTAL		
OFFICE OF THE BUDGET EMS Information Systems/Deliberators Job Corps Site 800 MHz Technology Fund Local Law Enforcement	10-02-01	00001200	-	-	-	-	-	-	-	-	-	-	450,000	-	450,000		
	10-02-01	00012200	-	-	-	-	-	-	-	-	-	-	150,000	-	150,000		
	10-02-01	00002200	-	-	-	-	-	-	-	-	-	-	4,500,000	-	4,500,000		
	10-02-01	01001200	-	-	-	-	-	-	-	-	-	-	5,500,000	-	5,500,000		
	10-02-01	01002200	-	-	-	-	-	-	-	-	-	-	1,000,000	-	1,000,000		
	Subtotal:			\$	-	\$	-	\$	-	\$	-	\$	-	\$	11,600,000	\$	-
DELAWARE ECONOMIC DEVELOPMENT OFFICE Delaware Strategic Fund Riverfront Development Corporation Biotechnology Institute Information Technology Kalamir Myctar (DREBA) High Tech Business Incubator (HSU) Delaware City Riverfront Seaford Riverfront Laurel Riverfront	10-03-03	04001200	-	-	-	-	-	-	-	-	-	-	10,000,000	-	10,000,000		
	10-03-03	00004200	-	-	-	-	-	-	-	-	-	-	9,000,000	-	9,000,000		
	10-03-03	00005200	-	-	-	-	-	-	-	-	-	-	5,000,000	-	5,000,000		
	10-03-03	01003200	-	-	-	-	-	-	-	-	-	-	500,000	-	500,000		
	10-03-03	01004200	-	-	-	-	-	-	-	-	-	-	150,000	-	150,000		
	10-03-03	01005200	-	-	-	-	-	-	-	-	-	-	1,500,000	-	1,500,000		
	10-03-03	00010200	-	-	-	-	-	-	-	-	-	-	300,000	-	300,000		
	10-03-03	00008200	-	-	-	-	-	-	-	-	-	-	300,000	-	300,000		
	10-03-03	00006200	-	-	-	-	-	-	-	-	-	-	100,000	-	100,000		
	Subtotal:			\$	-	\$	-	\$	-	\$	-	\$	-	\$	26,850,000	\$	-
STATE Delaware Auto Terminal Art Collection Completion Georgetown Public Library Dover Public Library Bridgeville Public Library Seabysville Public Library Laurel Public Library	20-01-01	00014200	-	-	-	-	-	-	-	-	-	-	2,500,000	-	2,500,000		
	20-01-01	00015200	-	-	-	-	-	-	-	-	-	-	200,000	-	200,000		
	20-08-01	00016200	-	-	-	-	-	-	-	-	-	-	1,238,700	-	1,238,700		
	20-08-01	00030200	-	-	-	-	-	-	-	-	-	-	418,700	-	418,700		
	20-08-01	01006200	-	-	-	-	-	25,000	-	-	-	-	-	25,000	-	25,000	
	20-08-01	01007200	-	-	-	-	-	25,000	-	-	-	-	-	-	25,000	-	25,000
	20-08-01	01008200	-	-	-	-	-	40,000	-	-	-	-	360,000	-	360,000		
	20-08-01	01009200	-	-	-	-	-	-	-	-	-	-	-	-	400,000	-	400,000

CHAPTER 489

Chapter 489
Vol. 72

FORMERLY

HOUSE BILL NO. 700

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES FOR THE FISCAL YEAR ENDING JUNE 30, 2001; 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 (Three-fourths of all members elected to each house thereof concurring therein):

Section 1. Fiscal Year 2001 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 2001 Governor's Recommended Capital Budget and Project Information document. Any authorization balance (excluding Transportation Trust Fund balances) remaining unexpended or unencumbered by June 30, 2003, shall be subject to reversion or reauthorization.

Approved August 28, 2000

1068

SECTION 1 ADDENDUM
FISCAL YEAR 2001 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. REVERSION & REPRO- GRAMMING	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	00001ZGO	-	-	-	-	-	-	450,000	-	450,000
Job Corps Site	10-02-01	00012ZGO	-	-	-	-	-	-	150,000	-	150,000
800 MHz	10-02-01	00002ZGO	-	-	-	-	-	-	4,500,000	-	4,500,000
Technology Fund	10-02-01	01001ZGO	-	-	-	-	-	-	5,800,000	-	5,800,000
Local Law Enforcement	10-02-01	01002ZGO	-	-	-	-	-	-	1,000,000	-	1,000,000
Subtotal:			\$	\$	\$	\$	\$	\$	11,800,000	\$	11,800,000
DELAWARE ECONOMIC DEVELOPMENT OFFICE											
Delaware Strategic Fund	10-03-03	04001ZGO	-	-	-	-	-	-	10,000,000	-	10,000,000
Riverfront Development Corporation	10-03-03	00004ZGO	-	-	-	-	-	-	9,000,000	-	9,000,000
Biotechnology Institute	10-03-03	00005ZGO	-	-	-	-	-	-	8,000,000	-	8,000,000
Information Technology	10-03-03	01003ZGO	-	-	-	-	-	-	800,000	-	800,000
Kalmer Nyckel (DRBA)	10-03-03	01004ZGO	-	-	-	-	-	-	150,000	-	150,000
High Tech Business Incubator (DSU)	10-03-03	01008ZGO	-	-	-	-	-	-	1,800,000	-	1,800,000
Delaware City Riverfront	10-03-03	00010ZGO	-	-	-	-	-	-	300,000	-	300,000
Seaford Riverfront	10-03-03	00008ZGO	-	-	-	-	-	-	300,000	-	300,000
Laurel Riverfront	10-03-03	00008ZGO	-	-	-	-	-	-	100,000	-	100,000
Subtotal:			\$	\$	\$	\$	\$	\$	26,850,000	\$	26,850,000
STATE											
Delaware Auto Terminal	20-01-01	00014ZGO	-	-	-	-	-	-	2,500,000	-	2,500,000
Art Collection Completion	20-01-01	00018ZGO	-	-	-	-	-	-	200,000	-	200,000
Georgetown Public Library	20-08-01	00018ZRC	-	-	-	-	-	-	1,238,700	-	1,238,700
Dover Public Library	20-08-01	00020ZRC	-	-	-	-	-	-	418,700	-	418,700
Bridgeville Public Library	20-08-01	01006ZRP	-	-	25,000	-	-	-	-	-	25,000
Selbyville Public Library	20-08-01	01007ZRP	-	-	25,000	-	-	-	-	-	25,000
Laurel Public Library	20-08-01	01008ZRC	-	-	40,000	-	-	-	360,000	-	400,000
	20-08-01	01008ZGO	-	-	-	-	-	-	-	-	-

SECTION 1 ADDENDUM
FISCAL YEAR 2001 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL		BOND AUTHOR-	DEAUTHOR-	NON-TRANS.	TRANS.						
	PROGRAM		IZATIONS AND	IZATION OF	REVERSION		TRUST FUND		GENERAL	21st CENTURY		
	UNIT	DFMS NO.	REAUTHOR-	STATE GUAR-	& REPRD-	STRIPPER	TRUST FUND	TRANS.	FUNDS	FUNDS	TOTAL	
			IZATION	ANTEED BONDS	GRAMMING	WELL	REAUTH.	TRUST FUNDS				
Rahoboth Library	20-08-01	01008ZGE	-	-	-	-	-	-	100,000	-	100,000	
Delaware City Library	20-08-01	01010ZGP	-	-	-	-	-	-	25,000	-	25,000	
Seaford Library	20-08-01	01011ZGP	-	-	-	-	-	-	25,000	-	25,000	
Wilmington Library	20-08-01	01012ZGC	-	-	-	-	-	-	275,000	-	275,000	
Millsboro Library	20-08-01	01013ZGM	-	-	-	-	-	-	95,100	-	95,100	
Wesley College - Parker Library	20-08-01	01014ZGC	-	-	-	-	-	-	800,000	-	800,000	
Delaware Stadium Corporation	20-01-01	99010ZGD	-	-	-	-	-	-	700,000	-	700,000	
DeBraak Collection	20-01-01	01018ZGP	-	-	-	-	-	-	290,600	-	290,600	
World War II Monument	20-01-01	01018ZGD	-	-	-	-	-	-	160,000	-	160,000	
Subtotal:			\$	-	\$	90,000	\$	-	\$	7,120,100	\$	7,210,100
ADMINISTRATIVE SERVICES												
MC/Equipment Supplement - DAS	30-05-10	82021ZGM	-	-	-	-	-	-	1,135,000	-	1,135,000	
Maintenance and Restoration	30-05-10	00026ZGD	-	-	-	-	-	-	885,000	-	885,000	
Environmental Compliance (UST/Asbestos)	30-05-10	00027ZGM	-	-	-	-	-	-	1,000,000	-	1,000,000	
New Castle County Courthouse	30-05-10	98002ZBC	32,043,000	-	-	-	-	-	-	-	32,043,000	
Kent County Courthouse/O'Brien Building/Acquisition/	30-05-10	00028ZGR	-	-	3,000,000	-	-	-	580,000	-	3,580,000	
Addition/Renovation	30-05-10	00028ZGR	-	-	-	-	-	-	-	-	-	
Land Acquisition - Georgetown Courts	30-05-10	01017ZGL	-	-	-	-	-	-	400,000	-	400,000	
MC/Equipment Supplement - Judicial	30-05-10	98013ZGM	-	-	-	-	-	-	250,000	-	250,000	
Architectural Barrier Removal	30-05-10	91018ZGM	-	-	-	-	-	-	150,000	-	150,000	
Energy Efficiency Program	30-05-10	98014ZSM	-	-	-	200,000	-	-	-	-	200,000	
Carvel Building Plaza Deck	30-05-10	99021ZGR	-	-	-	-	-	-	980,000	-	980,000	
Department of State Projects										-		
Buena Vista Conference Center Renovations	30-05-10	00030ZBR	-	-	-	-	-	-	850,000	-	850,000	
Delaware Archives - Moving Costs/construction	30-05-10	98015ZGD	-	-	-	-	-	-	550,000	-	550,000	
MC/Equipment Supplement - State	30-05-10	98003ZGM	-	-	-	-	-	-	1,000,000	-	1,000,000	
Department of Health and Social Services Projects										-		
Holloway Campus Renewal	30-05-10	87036ZGR	-	-	-	-	-	-	350,000	-	350,000	
Belvedere Service Center	30-05-10	01018ZGC	-	-	-	-	-	-	1,300,000	-	1,300,000	
MC/Equipment Supplement -DHSS	30-05-10	83028ZGM	-	-	-	-	-	-	600,000	-	600,000	

PAGE A - 2

SECTION 1 ADDENDUM
FISCAL YEAR 2001 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL PROGRAM	DFMS NO.	BOND AUTHOR-	DEAUTHOR-	NON-TRANS.	STRIPPER WELL	TRANS.	GENERAL FUNDS	21st CENTURY FUNDS	TOTAL
			IZATIONS AND REAUTHOR-IZATION	IZATION OF STATE GUAR-ANTEED BONDS	& REPROGRAMMING		TRUST FUND REAUTH.			
ADMINISTRATIVE SERVICES - Continued										
Department of Services for Children, Youth and Their Families Projects										
Stevenson House Secure Care Facility	30-05-10	00036ZBC	12,500,000	-	-	-	-	-	-	12,500,000
Harlan Building Demolition	30-05-10	01018ZGD	-	-	-	-	-	600,000	-	600,000
Department of Correction Projects										
Prison Construction Program	30-05-10	98018ZBC	2,100,000	-	-	-	-	-	-	2,100,000
Master Plan/Women's Facilities Construction	30-05-10	01020ZBC	4,500,000	-	-	-	-	-	-	4,500,000
MC/Equipment Supplement - Correction	30-05-10	80006ZGM	-	-	-	-	-	2,800,000	-	2,800,000
Department of Public Safety Projects										
Troop 2 Construction	30-05-10	97013ZGC	-	-	-	-	-	2,300,600	-	2,300,600
Georgetown DMV Facility	30-05-10	01021ZGP	-	-	-	-	-	1,000,000	-	1,000,000
Department of Agriculture Projects										
Agriculture Building and Laboratory Renovations	30-05-10	00038ZBC	-	-	-	-	-	700,000	-	700,000
Fire Prevention Commission Projects										
Fire Safety Training Facility	30-05-10	01022ZGC	-	-	-	-	-	175,000	-	175,000
Housing for Self-Contained Breathing Apparatus	30-05-10	01023ZGE	-	-	-	-	-	35,000	-	35,000
Fire School Auditorium	30-05-10	00041ZGC	-	-	-	-	-	418,800	-	418,800
Delaware National Guard Projects										
MC/Equipment Supplement - DNG	30-05-10	91081ZGM	-	-	-	-	-	500,000	-	500,000
Subtotal:			\$ 81,143,000	\$ -	\$ 3,000,000	\$ 200,000	\$ -	\$ 18,339,400	\$ -	\$ 72,682,400
HEALTH AND SOCIAL SERVICES										
Fluoridation	38-01-20	00043ZGD	-	-	-	-	-	250,000	-	250,000
Maintenance and Restoration	38-01-20	97016ZGM	-	-	-	-	-	1,500,000	-	1,500,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,750,000	\$ -	\$ 1,750,000
CORRECTION										
DCG Violation of Probation Center Equipment	38-04-03	01024ZGE	-	-	-	-	-	450,000	-	450,000
Subtotal:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 450,000	\$ -	\$ 450,000

PAGE A - 3

SECTION 1 ADDENDUM
FISCAL YEAR 2001 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BOND AUTHOR-		DEAUTHOR-	NON-TRANS.	TRANS.			GENERAL FUNDS	21st CENTURY FUNDS	TOTAL				
	INTERNAL PROGRAM	IZATIONS AND REAUTHOR-	IZATION OF STATE GUAR-	REVERSION & REPRO-	STRIPPER WELL	TRUST FUND REAUTH.	TRANS. TRUST FUNDS							
	UNIT	OFMS NO.	IZATION	ANTEED BONDS	GRAMMING									
NATURAL RESOURCES AND ENVIRONMENTAL CONTROL														
Park Rehabilitation	40-08-02	81031ZBM	-	-	-	-	-	1,250,000	-	1,250,000				
Wilmington State Parks/Fort Delaware	40-08-02	0004SZGM	-	-	-	-	-	1,000,000	-	1,000,000				
Tax/Public Ditches	40-07-02	78031ZGC	-	-	-	-	-	600,000	-	600,000				
Beach Preservation	40-07-03	78032ZGD	-	-	-	-	-	1,000,000	-	1,000,000				
Conservation Cost Sharing Program	40-07-04	85033ZGO	-	-	-	-	-	2,345,000	-	2,345,000				
Hazard Study	40-07-02	0102SZGP	-	-	-	-	-	375,000	-	375,000				
Fox Point Cleanup	40-09-01	0102SZGO	-	-	-	-	-	500,000	-	500,000				
Cape Henlopen State Park	40-08-02	0004SYGM	-	-	-	-	-	1,000,000	-	1,000,000				
City of Wilmington Combined Sewer Overflows	40-08-01	89040ZGO	-	-	-	-	-	1,000,000	-	1,000,000				
Killens State Park - Nature Center	40-08-02	01027ZGO	-	-	-	-	-	75,000	-	75,000				
Newport Boat Ramp	40-03-02	99033ZGC	-	-	-	-	-	150,000	-	150,000				
Debris Pk Remediation	40-08-03	0102SZGO	-	-	-	-	-	100,000	-	100,000				
Trap Pond Planning	40-08-02	0102SZGP	-	-	-	-	-	100,000	-	100,000				
Healthways	40-08-03	89041ZGO	-	-	-	-	-	25,000	-	25,000				
Subtotal:			\$	-	\$	-	\$	-	\$	9,520,000	\$	-	\$	9,520,000
PUBLIC SAFETY														
State Police Helicopter Replacement	45-01-01	98023ZGE	-	-	-	-	-	-	540,000	-	540,000			
Bomb Squad	45-08-01	01030ZGE	-	-	-	-	-	-	25,000	-	25,000			
Bomb Disposal Unit	45-08-01	01031ZGE	-	-	-	-	-	-	25,000	-	25,000			
Raid Jackets	45-08-01	01032ZGE	-	-	-	-	-	-	8,000	-	8,000			
Subtotal:			\$	-	\$	-	\$	-	\$	598,000	\$	-	\$	598,000

PAGE A-2
SECTION 1 ADDENDUM
FISCAL YEAR 2001 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	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			
	INTERNAL PROGRAM	DFMS NO.												
	UNIT													
TRANSPORTATION														
Program Development (74/00)	55-05-00	85034ZTT	-	-	-	-	-	3,350,000	-	-	3,350,000			
System Preservation (75/00)	55-05-00	98034ZTT	-	-	-	-	1,000,000	73,885,000	-	-	74,885,000			
System Management (76/00)	55-05-00	85038ZTT	-	-	-	-	-	38,482,000	-	-	38,482,000			
System Expansion (77/00)	55-05-00	85038ZTT	-	-	-	-	2,815,000	104,837,000	-	-	107,652,000			
Engineering and Contingencies (87/00)	85-05-00	78048ZTT	-	-	-	-	2,000,000	7,828,000	-	-	8,828,000			
Suburban Streets/Misc. Drainage (88/00)	85-05-00	78043ZTT	-	-	-	-	1,850,000	18,350,000	-	-	20,100,000			
Municipal Street Aid (71/00)	85-05-00	89034ZTT	-	-	-	-	-	8,000,000	-	-	8,000,000			
Reserve Account	85-08-00		-	-	-	-	-	3,852,000	-	-	3,852,000			
Subtotal:			\$	-	\$	-	\$	7,185,000	\$	297,884,000	\$	-	\$	298,019,000
AGRICULTURE														
Research Education Center	85-01-01	01033ZGO	-	-	-	-	-	-	180,000	-	180,000			
Nutrient Management Planning	85-01-01	01034ZGO	-	-	-	-	-	-	300,000	-	300,000			
Subtotal:			\$	-	\$	-	\$	-	\$	480,000	\$	-	\$	480,000
FIRE PREVENTION COMMISSION														
Hydraulic Rescue Tools	78-02-01	82017ZGE	-	-	-	-	-	-	37,500	-	37,500			
(Mill Creek, Indian River, Lewes, Rehoboth Beach, and Rosana Fire Companies)														
Subtotal:			\$	-	\$	-	\$	-	\$	37,500	\$	-	\$	37,500
UNIVERSITY OF DELAWARE														
Townsend Hall Renovation	90-01-01	99048ZGC	-	-	-	-	-	-	4,000,000	-	4,000,000			
Wolf Hall Renovation	90-01-01	01032ZGC	-	-	-	-	-	-	3,600,000	-	3,600,000			
MCI/Equipment	90-01-01	87023ZGE	-	-	-	-	-	-	600,000	-	600,000			
Subtotal:			\$	-	\$	-	\$	-	\$	8,000,000	\$	-	\$	8,000,000
DELAWARE STATE UNIVERSITY														
Administration Building	90-03-01	89048ZBC	8,000,000	-	-	-	-	-	-	-	8,000,000			
Subtotal:			\$	8,000,000	\$	-	\$	-	\$	-	\$	-	\$	8,000,000

SECTION 1 ADDENDUM
FISCAL YEAR 2001 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BOND AUTHOR-		DEAUTHOR-	NON-TRANS.	TRANS.									
	INTERNAL	IZATIONS AND	IZATION OF	REVERSION	STRIPPER	TRUST FUND	TRANS.	GENERAL	21st CENTURY	TOTAL				
	PROGRAM	REAUTHOR-	STATE GUAR-	& REPRO-							REAUTH.	TRUST FUNDS	FUNDS	FUNDS
	UNIT	DFMS NO.	IZATION	ANTEED BONDS	GRAMMING	WELL								
DELAWARE TECHNICAL AND COMMUNITY COLLEGE														
Administrative Software Project	90-04-01	00055ZGO	-	-	-	-	-	-	485,000	-	485,000			
Excellence Through Technology	90-04-01	97024ZGO	-	-	-	-	-	-	300,000	-	300,000			
Jason Building Renovation - Owens Campus	90-04-02	95041ZGR	-	-	-	-	-	-	2,430,000	-	2,430,000			
Wilmington/Stanton Renovations and Equipment	90-04-04	00054ZGM	-	-	-	-	-	-	730,000	-	730,000			
Stanton Campus Expansion Planning	90-04-04	01035ZGP	-	-	-	-	-	-	75,000	-	75,000			
Polytech Renovations - Terry Campus	90-04-08	97025ZGR	-	-	-	-	-	-	4,000,000	-	4,000,000			
Subtotal:			\$	-	\$	-	\$	-	\$	8,000,000	\$	-	\$	8,000,000
EDUCATION														
Architectural Barrier Removal	95-01-01	91074ZGM	-	-	-	-	-	-	160,000	-	160,000			
Facilities Assessment	95-01-01	01038ZGP	-	-	-	-	-	-	600,000	-	600,000			
Public School Construction Bond Reserve	95-01-01	01037ZBC	30,000,000	-	-	-	-	-	-	-	30,000,000			
Caesar Rodney, Land acquisition at McIlvaine ES (80/20)	95-10-00	01038ZGL	-	-	-	-	-	-	240,000	-	240,000			
Caesar Rodney, Renov Charlton Special School (80/20)	95-10-00	010139GR	-	-	-	-	-	-	318,400	-	318,400			
Caesar Rodney, Renovate Allan Frear ES (80/20)	95-10-00	010140GR	-	-	-	-	-	-	542,800	-	542,800			
Caesar Rodney, Renovate and Add to Star Hill ES (80/20)	95-10-00	01041ZBC	838,200	-	-	-	-	-	1,161,800	-	2,000,000			
	95-10-00	01041ZGC												
Caesar Rodney, Renovate Caesar Rodney HS (80/20)	95-10-00	01042ZGR	-	-	-	-	-	-	7,000,000	-	7,000,000			
Caesar Rodney, Renovate W.B. Simpson ES (80/20)	95-10-00	01043ZGR	-	-	-	-	-	-	637,000	-	637,000			
Capital, Renovate /Addn. To BT/West Dover Elementary (87/33)	95-13-00	00057ZGR	-	-	-	-	-	-	2,528,400	-	2,528,400			
Capital, Renovate /Addn. Kent Co. Community School (87/33)	95-13-00	00058ZGR	-	-	-	-	-	-	1,120,400	-	1,120,400			
Capital, Renovate Central MS (87/33)	95-13-00	00059ZGR	-	-	-	-	-	-	4,002,600	-	4,002,600			
Capital, Renovate Dover High School (87/33)	95-13-00	00061ZGR	-	-	-	-	-	-	1,235,100	-	1,235,100			
Capital, Renovate Wm. Henry Middle School (87/33)	95-13-00	00064ZGR	-	-	-	-	-	-	3,560,000	-	3,560,000			
Capital, Renovate/Addn. To Fairview Elementary (87/33)	95-13-00	00065ZGR	-	-	-	-	-	-	1,142,200	-	1,142,200			
Capital, Renovate/Addn. To Towne Pl. Elementary (87/33)	95-13-00	00067ZGR	-	-	-	-	-	-	1,076,300	-	1,076,300			
Lake Forest, Renovate W. T. Chipman Middle (80/20)	95-15-00	00068ZGR	-	-	-	-	-	-	1,584,100	-	1,584,100			
Lake Forest, Renovate Lake Forest High (80/20)	95-15-00	00070ZGR	-	-	-	-	-	-	1,544,200	-	1,544,200			
Lake Forest, Renov/Addn. To Lake Forest East ES (80/20)	95-15-00	00072ZGR	-	-	-	-	-	-	773,800	-	773,800			
Lake Forest, Renov/Addn. To Lake Forest North ES (80/20)	95-15-00	00073ZGR	-	-	-	-	-	-	1,916,700	-	1,916,700			

PAGE A - 6

SECTION 1 ADDENDUM
FISCAL YEAR 2001 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BOND AUTHOR- IZATIONS AND REAUTHOR- IZATION		DEAUTHOR- IZATION OF STATE GUAR- ANTEED BONDS	NON-TRANS. REVERSION & REPRO- GRAMMING	STRIPPER WELL	TRANS.		GENERAL FUNDS	21st CENTURY FUNDS	TOTAL
	INTERNAL PROGRAM	DFMS NO.	TRUST FUND REAUTH.	TRANS. TRUST FUNDS						
	UNIT									
EDUCATION - Continued										
Milford, Construct New Banneker Elementary (78/22)	95-18-00	00078ZBC	6,717,100	-	-	-	-	-	-	6,717,100
Milford, Renovate Milford High (78/22)	95-18-00	00078ZGR	-	-	-	-	-	1,980,200	-	1,980,200
Seaford, Renovate/Expand Blades Elementary (80/20)	95-23-00	00081ZGR	-	643,000	-	-	-	4,278,800	-	4,922,800
Seaford, Renovate/Expand Douglas Intermediate	95-23-00	00083ZGR	-	-	-	-	-	404,600	-	404,600
Seaford, Renovate/Expand Seaford High (80/20)	95-23-00	00084ZGR	-	-	-	-	-	1,838,600	-	1,838,600
Red Clay, Brandywine Springs (80/40)	95-32-00	97041ZGC	-	-	-	-	-	3,360,000	-	3,360,000
Colonial, Construct 600 pupil ES (88/38)	95-34-00	01044ZBC	9,871,700	-	-	-	-	-	-	9,871,700
Colonial, Renovate Calvin R. McCullough ES (85/35)	95-34-00	01048ZGR	-	-	-	-	-	1,000,000	-	1,000,000
Colonial, Renovate Gunning Bedford MS (85/35)	95-34-00	01048ZGR	-	-	-	-	-	1,000,000	-	1,000,000
Colonial, Renovate William Penn HS (85/35)	95-34-00	01047ZGR	-	-	-	-	-	4,000,000	-	4,000,000
New Castle County Vo-Tech, Construct 1000 Pupil High (80/40)	95-38-00	01048ZGC	-	-	-	-	-	2,000,000	-	2,000,000
Indian River, Renovate Ennis School (80/40)	95-43-00	00088ZGR	-	-	-	-	-	2,223,800	-	2,223,800
Cape Henlopen, Construct two 500 pupil MS (80/40)	95-17-00	01048ZBC	1,600,000	-	-	-	-	-	-	1,600,000
Cape Henlopen, Electrical renov seven schools (80/40)	95-17-00	01090ZGR	-	-	-	-	-	343,200	-	343,200
Smyrna, Construct 700 pupil Junior High (80/20)	95-24-00	01081ZBC	9,000,000	-	-	-	-	-	-	9,000,000
Smyrna, Renovate Clayton ES (80/20)	95-24-00	01082ZGR	-	-	-	-	-	848,500	-	848,500
Smyrna, Renovate John Bassett Moore MS (80/20)	95-24-00	01093ZGR	-	-	-	-	-	684,500	-	684,500
Smyrna, Renovate North Smyrna ES (80/20)	95-24-00	01084ZGR	-	-	-	-	-	164,000	-	164,000
Smyrna, Renovate Smyrna ES (80/20)	95-24-00	01088ZGR	-	-	-	-	-	164,000	-	164,000
Smyrna, Renovate Smyrna HS (80/20)	95-24-00	01096ZGR	-	-	-	-	-	824,560	-	824,560
Smyrna, Renovate Smyrna Kindergarten Center (80/20)	95-24-00	01087ZGR	-	-	-	-	-	578,800	-	578,800
Appoquinimink, Construct 720 pupil ES (80/20)	95-29-00	01088ZGC	-	-	-	-	-	768,400	-	768,400
Appoquinimink, 400 pupil addition Middletown HS (71/28)	95-29-00	01088ZGC	-	-	-	-	-	370,000	-	370,000
Appoquinimink, Addition to Cedar Lane Elem (71/28)	95-29-00	01060ZGC	-	-	-	-	-	202,400	-	202,400
Appoquinimink, Addition to District Office (71/28)	95-29-00	01061ZGC	-	-	-	-	-	878,300	-	878,300
Appoquinimink, Renovate Redding Middle (71/28)	95-29-00	01082ZGR	-	-	-	-	-	388,000	-	388,000
Appoquinimink, Renovate Middletown Middle (71/28)	95-29-00	01083ZGR	-	-	-	-	-	1,832,400	-	1,832,400
Indian River, Construct 1000 pupil HS, (south)(80/40)	95-36-00	01044ZGC	-	-	-	-	-	848,980	-	848,980
Indian River, Construct 1500 pupil HS (north) (80/40)	95-36-00	01048ZGC	-	-	-	-	-	848,980	-	848,980
Indian River, Renovate Georgetown ES (80/40)	95-36-00	01068ZGR	-	-	-	-	-	21,480	-	21,480

PAGE A - 7

SECTION 1 ADDENDUM
FISCAL YEAR 2001 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	INTERNAL PROGRAM	OFMS NO.	BOND AUTHOR- IZATIONS AND REAUTHOR- IZATION	DEAUTHOR- IZATION OF STATE GUAR- ANTEED BONDS	NON-TRANS. REVERSION & REPRO- GRAMMING	STRIPPER WELL	TRANS. TRUST FUND REAUTH.	TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUNDS	TOTAL
Indian River, Renovate Phillip C. Howell ES (60/40)	95-36-00	01067ZGR	-	-	-	-	-	-	36,000	-	36,000
Library Books (100% State)	95-01-01	01068ZGO	-	-	-	-	-	-	220,000	-	220,000
Christina - Keene Elem. - Archaeological Delay	95-33-00	01068ZGO	-	-	-	-	-	-	1,000,000	-	1,000,000
Sterck Equipment (100% State)	95-61-00	01070ZGE	-	-	-	-	-	-	137,000	-	137,000
State Consortium for Tech Prep Programs(100% State)	95-36-00	96088ZGO	-	-	-	-	-	-	500,000	-	500,000
Delaware Skills Center (100% State)	95-38-00	96085ZGR	-	-	-	-	-	-	350,000	-	350,000
Oelcaste Chiller (100% State)	95-38-00	01071ZGR	-	-	-	-	-	-	160,000	-	160,000
Dalmar/Wicomico (100% State)	95-37-00	01072ZGE	-	-	-	-	-	-	100,000	-	100,000
Subtotal:			\$ 56,027,000	\$ 643,000	\$ -	\$ -	\$ -	\$ -	64,617,300	\$ -	123,267,300
TWENTY-FIRST CENTURY FUND											
Open Space	25-01-01	00091ZGO	-	-	-	-	-	-	15,000,000	-	15,000,000
Water/Wastewater	25-01-01	00092ZGO	-	-	-	-	-	-	10,000,000	-	10,000,000
Farmland Preservation	25-01-01	00093ZGO	-	-	-	-	-	-	7,000,000	-	7,000,000
Resource, Conservation and Development	25-01-01	00093ZGO	-	-	-	-	-	-	5,000,000	-	5,000,000
Community Redevelopment	25-01-01	00096ZGO	-	-	-	-	-	-	3,100,000	6,900,000	10,000,000
Subtotal		00096ZGO	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	40,100,000	6,900,000	47,000,000
GRAND TOTAL:			\$ 117,170,000	\$ 643,000	\$ 3,090,000	\$ 200,000	\$ 7,165,000	\$ 257,854,000	\$ 197,469,300	\$ 6,900,000	\$ 590,461,300

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
3 number "\$5,607,015" wherever it appears in said Section and inserting in lieu thereof the number
4 "\$4,964,015."

5 (b) Nothing in this Act shall reduce the amount of bonds authorized to be issued by The Delaware
6 Economic Development Authority, or any successor authority, to which may be pledged the full faith
7 and credit of the state below the amount of such bonds issued and unpaid on the effective date of this
8 Act. The provisions of Section 11 of Chapter 387 of Volume 63 of the Laws of Delaware shall apply in
9 this regard.

10 Section 3. Authorization of Twenty-Year Bonds. The state hereby authorizes the issuance of bonds,
11 to which the state shall pledge its full faith and credit, such bonds to be issued in such principal amount
12 as necessary to provide proceeds to the state in the amount of One Hundred Seventeen Million Eight
13 Hundred Thirteen Thousand Dollars (\$117,813,000) and in the amount of Thirty Million Eight Hundred
14 Ninety Seven Thousand Two Hundred Dollars (\$30,897,200) local share of school bonds. Bonds
15 authorized to be used by this Section shall mature not later than twenty (20) years from their date of
16 issuance. The proceeds of such bonds, except for local share of school bonds, are hereby appropriated
17 for a portion of the purposes set forth in the Section 1 Addendum of this Act and summarized as follows:

1	<u>Department, Agency, or Instrumentality</u>			
2	<u>Amount</u>			
3	Department of Administrative Services			\$51,143,000
4	Delaware State University			8,000,000
5	Department of Education			<u>58,670,000</u>
6			Maximum	
7	<u>Purpose</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
8	Public School Construction Bond Reserve	\$30,000,000	\$20,000,000	\$50,000,000
9	Milford, Construct New Banneker			
10	Elementary, (78/22)	6,717,100	1,894,600	8,611,700
11	Colonial, Construct 600 Pupil ES (65/35)	9,871,700	5,315,500	15,187,200
12	Caesar Rodney, Renovate and Add to Star			
13	Hill ES (80/20)	838,200	209,600	1,044,800
14	Seaford, Renovate/Expand Blades			
15	Elementary (80/20)	643,000	160,800	803,800
16	Cape Henlopen, Construct Two 500 Pupil			
17	Middle Schools (60/40)	1,600,000	1,066,700	2,666,700
18	Smyrna, Construct 700 pupil			
19	Junior High (80/20)	9,000,000	2,250,000	11,250,000
20	Subtotals	<u>\$58,670,000</u>	<u>\$30,897,200</u>	<u>\$89,567,200</u>
21	Total			<u>\$117,813,000</u>

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>
Plan New Castle	69/386	20-08-01-6515	\$8,467.40
Greenwood Library	70/210	20-08-01-6615	5,953.66
DYS - Secure Care Imp. Plan	69/77	30-05-10-6424	1,090.00
Leg. Hall Renovation	70/210	30-05-10-6616	24,706.46
JP Court 16	70/210	30-05-10-6618	749.44
JP Court 15	70/210	30-05-10-6619	939.68
Campus Renewal	70/210	30-05-10-6622	785.90
16 Bed Pod - NCC Detention Center Expansion	70/210	30-05-10-6626	2,828.37
Firing Range	70/473	30-05-10-6723	.79
Georgetown Service Center Renovation	69/77	35-01-20-6412	2,272.00
Delaware National Estuarine Research Reserve	68/156	40-01-01-6213	31.52
MCI's Equipment	68/405	40-01-01-6312	31.95
Henlopen Pier	69/77	40-06-02-6416	147.86
Park Rehabilitation	70/473	40-06-02-6712	.02
Conservation and Development Programs	69/77	40-07-02-6413	<u>5.48</u>
Total			<u>\$48,010.53</u>

1 Section 5. Transfers to the State Treasurer's School Bond Reversion Account.

2		Authorized	Project	
3		Vol & Ch	Appropriation	
4	<u>Project</u>	<u>Laws of DE</u>	<u>Code</u>	<u>Amount</u>
5	Appoquinimink High School	69/386	95-29-00-6512	\$ 436.00
6	Architectural Barrier Removal	69/386	95-29-00-6593	963.00
7	Appoquinimink New High School	70/210	95-29-00-6612	.38
8	Appoquinimink Plan Old High School	70/210	95-29-00-6613	810.00
9	Kindergarten/Conversion, Meadowood	70/473	95-32-00-6712	1,241.71
10	Architectural Barrier Removal	69/77	95-33-00-6493	951.00
11	Architectural Barrier Removal	69/386	95-33-00-6593	3,704.00
12	Shue/Medill Middle School	70/290	95-33-00-6618	658.25
13	MCI - 93	68/405	95-37-00-6382	5,574.16
14	Replace Units	70/473	95-40-00-6712	220.02
15	Replace Tanks	70/473	95-40-00-6713	43,681.94
16	MCI - 93	68/405	95-54-00-6382	<u>5,908.24</u>
17	Total			<u>\$64,148.70</u>

18
19 Section 6. Transfers from the State Treasurer's Bond Reversion Account. Notwithstanding the

20 provisions of any other state law, the State Treasurer shall transfer, as funds become available, the sum
21 of Fifty Thousand Dollars (\$50,000) from the State Treasurer's Bond Reversion Account (94-12-05-03-
22 8101) to the following departments in the following amounts for the purposes set forth in the Section 1
23 Addendum of this Act:

1	<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
2	Department of State	
3	(Bridgeville Public Library)	\$25,000
4	(Selbyville Public Library)	<u>25,000</u>
5		
6	Total	<u>\$50,000</u>
7		

8 Section 7. Appropriation of General Funds. It is the intent of the General Assembly that One
9 Hundred Fifty Seven Million Three Hundred Sixty Nine Thousand Three Hundred Dollars
10 (\$157,369,300) be appropriated to the following departments, agencies and instrumentalities of the State
11 and in the following amounts for the purposes set forth in the Section 1 Addendum of this Act. Any
12 funds remaining unexpended or unencumbered by June 30, 2003, shall revert to the General Fund of the
13 State of Delaware. The State hereby authorizes the issuance of bonds, to which the State shall pledge its
14 full faith and credit, such bonds to be issued in such principal amount as necessary to provide proceeds
15 to the State in the amount of Twenty Five Million Six Hundred Ninety Three Thousand Four Hundred
16 Dollars (\$25,693,400) local share of school bonds. Bonds authorized by this Section shall mature not
17 later than twenty years from their issuance.

1	<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
2	Office of the Budget	\$ 11,600,000
3	Delaware Economic Development Office	26,850,000
4	Department of State	7,129,100
5	Department of Administrative Services	18,339,400
6	Department of Health and Social Services	1,750,000
7	Department of Correction	450,000
8	Department of Natural Resources and Environmental Control	9,520,000
9	Department of Public Safety	596,000
10	Department of Agriculture	480,000
11	Fire Prevention Commission	37,500
12	University of Delaware	8,000,000
13	Delaware Technical and Community College	8,000,000
14	Department of Education	<u>64,617,300</u>

15		<u>Maximum</u>		
16	<u>Purpose</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
17	Architectural Barrier Removal (60/40)	160,000	106,700	266,700
18	Facilities Assessment	500,000		500,000
19	Caesar Rodney, Land acquisition at McIlvaine ES (80/20)	240,000	60,000	300,000
20	Caesar Rodney, Renov Charlton Special School (80/20)	319,400	79,800	399,200
21	Caesar Rodney, Renovate Allen Frear ES (80/20)	562,800	140,700	703,500
22	Caesar Rodney, Renovate/Add to Star Hill ES (80/20)	1,161,800	290,500	1,452,300
23	Caesar Rodney, Renovate Caesar Rodney HS (80/20)	7,000,000	1,750,000	8,750,000
24	Caesar Rodney, Renovate W.B. Simpson ES (80/20)	637,000	159,200	796,200
25	Capital, Renovate /Addn. BT/West Dover ES (67/33)	2,528,400	1,245,300	3,773,700

1	Capital, Renovate /Addns. Kent Co. Community			
2	School (67/33)	1,120,400	551,800	1,672,200
3	Capital, Renovate Central Middle (67/33)	4,002,600	1,971,400	5,974,000
4	Capital, Renovate Dover High School (67/33)	1,235,100	608,300	1,843,400
5	Capital, Renovate Wm. Henry Middle School (67/33)	3,560,000	1,753,400	5,313,400
6	Capital, Renovate/Addn. Fairview Elementary (67/33)	1,142,200	562,600	1,704,800
7	Capital, Renovate/Addn. Towne Pt. Elementary (67/33)	1,078,300	531,100	1,609,400
8	Lake Forest, Renovate W. T. Chipman Middle (80/20)	1,584,100	396,000	1,980,100
9	Lake Forest, Renovate Lake Forest High (80/20)	1,544,200	386,000	1,930,200
10	Lake Forest, Renv./Addn. Lake Forest East ES (80/20)	773,800	193,400	967,200
11	Lake Forest, Renv./Addn. Lake Forest North ES (80/20)	1,618,700	404,700	2,023,400
12	Milford, Renovate Milford High (78/22)	1,980,200	558,500	2,538,700
13	Seaford, Renovate/Expand Blades Elementary (80/20)	4,279,800	1,207,100	5,486,900
14	Seaford, Renovate/Expand Douglas Intermediate (80/20)	404,600	101,200	505,800
15	Seaford, Renovate/Expand Seaford High (80/20)	1,939,600	484,900	2,424,500
16	Red Clay, Brandywine Springs (60/40)	3,360,000	2,240,000	5,600,000
17	Colonial, Renovate Calvin R. McCullough ES (65/35)	1,000,000	538,500	1,538,500
18	Colonial, Renovate Gunning Bedford MS (65/35)	1,000,000	538,500	1,538,500
19	Colonial, Renovate William Penn HS (65/35)	4,000,000	2,153,800	6,153,800
20	New Castle County Vo-Tech, Construct			
21	1000 Pupil High (60/40)	2,000,000	1,333,300	3,333,300
22	Indian River, Renovate Ennis School (60/40)	2,223,800	1,482,500	3,706,300
23	Cape Henlopen, Electrical renovations (60/40)	343,200	228,800	572,000
24	Smyrna, Renovate Clayton ES (80/20)	649,500	162,400	811,900
25	Smyrna, Renovate John Bassett Moore MS (80/20)	694,500	173,600	868,100
26	Smyrna, Renovate North Smyrna ES (80/20)	164,000	41,000	205,000

1	Smyrna, Renovate Smyrna ES (80/20)	164,000	41,000	205,000
2	Smyrna, Renovate Smyrna HS (80/20)	824,500	206,100	1,030,600
3	Smyrna, Renovate Smyrna Kindergarten Center (80/20)	576,800	144,200	721,000
4	Appoquinimink, Construct 720 pupil ES (71/29)	756,400	308,900	1,065,300
5	Appoquinimink, 400 pupil addition Middletown HS (71/29)	370,000	151,100	521,100
6	Appoquinimink, Addition to Cedar Lane Elem (71/29)	202,400	82,700	285,100
7	Appoquinimink, Addition to District Office (71/29)	578,300	236,200	814,500
8	Appoquinimink, Renovate Redding Middle (71/29)	398,000	162,600	560,600
9	Appoquinimink, Renovate Middletown Middle (71/29)	1,532,400	625,900	2,158,300
10	Indian River, Construct 1000 pupil HS, land (south) (60/40)	946,000	630,700	1,576,700
11	Indian River, Construct 1500 pupil HS (north) (60/40)	946,000	630,700	1,576,700
12	Indian River, Renovate Georgetown ES (60/40)	21,500	14,300	35,800
13	Indian River, Renovate Phillip C. Showell ES (60/40)	36,000	24,000	60,000
14	Library Books (100% State)	220,000	-	220,000
15	Christina, Keene Elem, Archaeological Delay (100% State)	1,000,000	-	1,000,000
16	Sterck Equipment (100% State)	137,000	-	137,000
17	Tech Prep (100% State)	500,000	-	500,000
18	Delaware Skills Center (100% State)	350,000	-	350,000
19	Delcastle Air Conditioner (100% State)	150,000	-	150,000
20	Delmar/Wicomico (100% State)	<u>100,000</u>	-	<u>100,000</u>
21	Subtotal	\$64,617,300	\$25,693,400	\$90,310,700
22	Total			<u>\$ 157,369,300</u>

23 Section 8. Appropriation of First State Improvement Fund. The state hereby authorizes the
24 appropriation of Forty Thousand Dollars (\$40,000) from the First State Improvement Fund
25 (86-12-05-03-9600) for the purposes set forth in the Section 1 Addendum of this Act.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of State (Laurel Public Library)	<u>\$40,000</u>
Total	<u>\$40,000</u>

Section 9. Allocation of Stripper Well Funds. The state hereby authorizes the Department of Administrative Services to allocate Two Hundred Thousand Dollars (\$200,000) from the proceeds of the Stripper Well Court Case Settlement for eligible projects up to the amount set forth in the Section 1 Addendum of this Act. All potentially eligible projects shall be submitted to the State Energy Office for review and prioritization according to the energy savings and payback predicted. For all projects eligible for Stripper Well funding, the Department of Administrative Services shall provide technical oversight of such projects and shall disburse funds in a manner consistent with the Stripper Well Court Case Settlement.

Section 10. Continuing Appropriations. For the fiscal year ending June 30, 2000, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 2001.

<u>Fiscal Year</u>	<u>Appropriation</u>	<u>Account Codes</u>	<u>Remarks</u>
1999		10-02-01-0180	Dam Safety
1992		10-03-03-0182	Dover Civic Center
1999		10-03-03-0811	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		20-01-01-0185	Madison Factory
1998		20-06-01-0801	Redding House
1993		20-08-01-0182	Concord Library
1995		20-08-01-0182	Wilmington Library
1998		20-08-01-0184	Building Alterations
1997		20-08-01-0800	Newark Land
1998		20-08-01-0801	So. Coastal
1999		20-08-01-0805	Concord Library
1999		20-08-01-0806	NCC Bear Library
1999		20-08-01-0807	NCC North Regional
1996		20-08-01-6612	NCC Northern Regional

1	1996	20-08-01-6616	Wilmington Library
2	1997	20-08-01-6712	Northern Regional Library
3	1998	25-01-01-0802	Local Government Aid
4	1996	30-05-10-0190	APOQ Center/Library
5	1996	30-05-10-0192	Woodshaven Kruse
6	1997	30-05-10-0800	Veterans Cemetery
7	1998	30-05-10-0801	SC Courthouse
8	1997	30-05-10-0802	Dayett Renovations
9	1998	30-05-10-0809	Dayett Mills
10	1998	30-05-10-0817	Asbestos-Whk
11	1998	30-05-10-0818	Prison Construction
12	1998	30-05-10-0820	DEMA EOC
13	1998	30-05-10-0830	Archives Facility
14	1999	30-05-10-0844	WDSHAVN KRSE
15	1999	30-05-10-0848	Sussex Courthouse
16	1999	30-05-10-0849	NCC Courthouse
17	1999	30-05-10-0850	Prison Construction-Exp
18	1999	30-05-10-0851	Prison Construction
19	1995	30-05-10-6518	Comegys Forensic
20	1996	30-05-10-6601	Architectural Barrier
21	1996	30-05-10-6614	MCI Equipment
22	1996	30-05-10-6616	Leg Hall Renovation
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	30-05-10-6713	Carvel
31	1997	30-05-10-6716	Archives
32	1997	30-05-10-6718	Prison Construction
33	1997	30-05-10-6725	Smyrna Armory
34	1997	30-05-10-6726	NCC Fire Office
35	1997	30-05-10-6727	NCC Fire Office
36	1998	30-05-10-6801	Arch Barrier
37	1998	30-05-10-6807	Campus Review
38	1998	30-05-10-6809	DEMA
39	1998	30-05-10-6810	Troop 2
40	1998	30-05-10-6812	Prison Construction
41	1998	30-05-10-0806	JP Court 7/16
42	1999	30-05-10-0848	Sussex Courthouse
43	1999	30-05-10-0849	New Castle County Courthouse
44	1999	30-05-10-0850	Prison Construction
45	1999	30-05-10-0851	VOP Centers
46	1995	40-06-02-0184	Brandywine Aquatic
47	1999	40-06-02-0811	Delaware Aquatic Center
48	1994	40-06-02-6412	Brandywine Aquatic
49	1994	40-06-02-6413	Brandywine Aqtic
50	1994	40-06-02-6417	Carpenter Park Bandstand
51	1996	40-06-02-6613	Aquatic Center
52	1997	40-06-02-6713	Aquatic Center
53	1991	40-06-04-6212	Brandywine Aquatic

1	1992	40-06-04-6212	Park Development
2	1992	40-07-02-6214	Little Mill
3	1993	40-07-02-6313	Resource, Conservation & Development
4	1991	40-08-01-6115	Little Mill
5	1992	40-08-01-6212	Little Mill
6	1995	40-08-01-9652	State Revolving Loans
7	1993	40-08-06-0182	Cockeysville
8	1997	45-01-01-0800	Helicopter
9	1992	76-01-01-6213	MCI/Equipment
10	1996	90-03-01-0195	Women's Locker Room
11	1997	90-03-01-6712	Econ. & Business Admin
12	1998	90-03-01-6812	Econ. & Business Admin.
13	1994	90-04-02-0183	Land Acquisition
14	1993	90-04-02-0187	Land Acquisition South
15	1999	90-04-04-0800	Wilmington Campus
16	1998	90-04-06-6812	Polytech Renovations
17	1999	90-04-04-6912	Wilmington Campus
18	1997	95-10-00-6712	Jr/HI/Middle
19	1997	95-10-00-6713	Frear Middle
20	1997	95-13-00-0800	Dover High School
21	1995	95-13-00-6512	Elementary School
22	1994	95-17-00-6412	Brittingham
23	1997	95-23-00-0800	Seaford High School
24	1998	95-23-00-0801	Renovate/Modernize Central Elem.
25	1998	95-23-00-0803	Renovate/Modernize West Seaford
26	1997	95-23-00-0801	Seaford Middle School
27	1998	95-23-00-0804	Seaford Middle
28	1997	95-23-00-6712	Design/Renovate
29	1997	95-23-00-6713	Seaford High School
30	1997	95-23-00-6714	Seaford High School
31	1998	95-23-00-6813	Fred Douglas
32	1998	95-23-00-6815	Middle School
33	1998	95-31-00-0803	Harlan Planning
34	1996	95-31-00-6619	Claymont
35	1997	95-31-00-6712	Concord High School
36	1997	95-31-00-6713	Lombardy
37	1998	95-33-00-0801	Douglass
38	1991	95-33-00-6113	New Elementary
39	1996	95-33-00-6612	Bancroft Elementary
40	1996	95-33-00-6613	Newark High School
41	1996	95-33-00-6614	Cobbs/Gauger
42	1996	95-33-00-6615	Replace Leasure
43	1996	95-33-00-6616	Land Acquisition
44	1996	95-33-00-6617	Glasgow High School
45	1997	95-33-00-6712	Shue Middle School
46	1997	95-33-00-6713	Glasgow Elementary School
47	1997	95-33-00-6714	Christiana High School

1	1997	95-33-00-6793	Architectural Barrier
2	1996	95-33-00-0280	Bancroft Elementary
3	1996	95-33-00-0281	Newark High School
4	1996	95-33-00-0282	Cobbs/Gauger
5	1996	95-33-00-0283	Leasure Elementary
6	1996	95-33-00-0284	Glasgow Elementary Land
7	1996	95-33-00-0285	Glasgow High School
8	1997	95-33-00-0801	New Elementary
9	1997	95-33-00-0802	Christiana High School
10	1998	95-37-00-0801	Delmar High School
11	1998	95-37-00-6812	Middle/High School Construction
12	1997	95-51-00-0800	Sterck Renovation

13 Section 11. Appropriation of Special Funds There is hereby appropriated the sum of Three Million
 14 Dollars (\$3,000,000) from the Bond Sale 180 account, held by the State Treasurer to the following
 15 departments in the following amounts for the purposes set forth in the Section 1 Addendum of this Act.
 16 Any project funds remaining unexpended or unencumbered by June 30, 2003 shall revert to the General
 17 Fund of the State of Delaware.

18	<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
19		
20	Department of Administrative Services	\$3,000,000
21	(Kent County Courthouse/O'Brien Building/Acquisition/Addition/Renovation)	
22	Total	<u>\$3,000,000</u>

23 Section 12. Twenty-First Century Fund Appropriations. The General Assembly hereby authorizes
 24 the amount of Six Million Nine Hundred Thousand Dollars (\$6,900,000) to be paid out of Twenty-First
 25 Century Fund interest. It is the intent that the appropriation account shall be administered through the
 26 Department of Finance. No funds shall be used for agency overhead or personnel-related costs. Any
 27 unused authorization remaining in the Project Accounts on June 30, 2005 shall revert to the Twenty-First
 28 Century Account in the Department of Finance.

29	<u>Purpose</u>	<u>Amount</u>
30	Community Redevelopment Fund	<u>\$6,900,000</u>
31	Total	\$6,900,000

1 Section 13. Exxon Funds. It is the intent of the General Assembly that the monies appropriated in
2 this Act and funds authorized for minor capital improvements in any annual appropriation act may be
3 used to match Exxon funds for any purpose deemed appropriate by the State Energy Weatherization
4 Committee and so long as the purpose does not contradict the purposes set forth in the Section 1
5 Addendum of this Act.

6 Section 14. General Funds to Twenty-First Century Fund. It is the intent of the General Assembly
7 that the sum of Forty Million One Hundred Thousand Dollars (\$40,100,000) be appropriated from
8 General Funds to the Office of the Secretary, Department of Finance (25-01-00) to be deposited into the
9 Twenty-First Century Fund as established by Section 6102A, Title 29, Delaware Code. These funds
10 shall be appropriated for the following purposes set forth in the Section 1 Addendum to this Act:

11 <u>Purpose</u>	<u>Amount</u>
12 Open Space	\$15,000,000
13 Water/Wastewater	10,000,000
14 Farmland Preservation	7,000,000
15 Resource, Conservation and Development	5,000,000
16 Community Redevelopment	<u>3,100,000</u>
17 Total	\$40,100,000

1 Section 15. Delaware v. New York Supreme Court Decision. The Secretary of Finance shall be
2 authorized to make payments to intervenors pursuant to the settlement agreement in the Delaware v.
3 New York Supreme Court decision in the amount of Three Million Three Hundred Thousand Dollars
4 (\$3,300,000) due January 31, 2003, and in the amount of Seventeen Million Seven Hundred Thousand
5 Dollars (\$17,700,000) due January 31, 2004.

6 Section 16. Educational Technology. Without approval of the Co-Chairs of the Joint Legislative
7 Committee on the Capital Improvement Program, the Secretary of Finance, and the Budget Director, no
8 expenditures other than for completing a capital program of creating an Educational Technology wiring
9 network encompassing every public school in the State shall be made by the Delaware Center for
10 Educational Technology from the Educational Technology Account or from any other sources of funding
11 including, but not limited to, governmental or private grant funds, until the Strategic Plan required under
12 the provisions of Chapter 6102A(j)(4) of Title 29, Delaware Code shall have been approved by the Joint
13 Legislative Committee on the Capital Improvement Program, provided, however, that nothing contained
14 herein shall preclude the expenditure of grant funds specifically targeted or restricted by the granting
15 agency for the purposes of providing hardware or software in the classroom, distance learning programs,
16 staff development programs related to technology implementation, or school to home networking
17 connections.

1 Section 17. Delaware Center for Educational Technology. The Delaware Center for Educational
2 Technology is prohibited from establishing or maintaining State supported e-mail addresses for public
3 school students except as may be deemed necessary by the local school district. This Section shall not
4 preclude local school districts from providing student access to e-mail with local discretionary funds
5 either through their own e-mail server or through a contract with the Office of Telecommunications
6 Management (OTM).

7 Section 18. Public School Construction Bond Reserve. Of the funds authorized in Section 1
8 Addendum of this Act, Thirty Million dollars (\$30,000,000) will be reserved for the purposes of public
9 school construction, renovation and capital improvement projects to be identified and approved in
10 subsequent legislation enacted by the General Assembly.

11 Section 19. Notification. The Budget Director and Controller General shall notify affected state
12 agencies and other instrumentalities of the State as to certain relevant provisions of this Act.
13 Additionally, the Budget Director and Controller General shall notify the President Pro Tempore of the
14 Senate and the Speaker of the House as to any legislative appointments required by this Act.

15 Section 20. Newark Reservoir. Of the \$10,000,000 in 21st Century Funds which have been set aside
16 for water projects through the Water/Wastewater Management Account, \$1,700,000 shall be used for the
17 Newark Reservoir project. This is the second and final year of a two-year appropriation. If the City of
18 Newark annexes the property referred to as New Castle County Tax Parcel #08-059.20-002, the City must
19 repay to the State those monies appropriated to Water/Wastewater in the Fiscal Year 2000 and 2001 Bond
20 and Capital Improvement Acts for the Newark Reservoir project.

1 Section 21. Open Space. The Section 1 Addendum appropriates \$15,000,000 to the Open Space
2 Council. Of this amount, \$6,000,000 shall be used to complete the purchase, either by fee simple
3 purchase and/or purchase of conservation easements, of the Sussex County Forest Lands from the Nature
4 Conservancy. Said purchase shall require the approval of the Co-Chairs of the Joint Legislative
5 Committee on the Capital Improvement Program.

6 Section 22. Project Funds Transfer from Prior Fiscal Years to Fiscal Year 2001. Within the same
7 county, any Twenty-First Century funds or match remaining from complete projects as authorized as part
8 of the Twenty-First Century Resource, Conservation and Development (RCD) project list pursuant to
9 prior appropriations may be utilized for RCD projects in the FY 2001 list of projects approved as part of
10 the FY 2001 Capital Improvement Act.

11 Section 23. Resource, Conservation and Development. The Section 1 Addendum to this Act
12 appropriates \$5,000,000 to Resource, Conservation and Development. This appropriation shall be used to
13 complete the list of prioritized projects as approved by the Joint Legislative Committee on the Capital
14 Improvement Program in prior fiscal years. Additionally, the Joint Legislative Committee on the Capital
15 Improvement Program hereby approves the Fiscal Year 2001 prioritized list. Such list may be funded
16 from prior-year transfers per Section 22 of this Act or other funds available as designated by respective
17 legislators from suburban street or other funds available to supplement Resource, Conservation and
18 Development appropriations.

1 Section 24. Amend Title 29, Section 710(c), Delaware Code by inserting between the words "lesser
2 amount." and "Eligible recipient" the following new sentence:

3 "The Chairperson and Vice-chairperson of the Joint Finance Committee shall not receive
4 more than one stipend."

5 Section 25. Amend Title 29 of the Delaware Code by adding a new Chapter 64A to read as follows:

6 **"CHAPTER 64A. BOND AND CAPITAL IMPROVEMENT ACT POLICIES AND**
7 **PROCEDURES**

8 **§ 6401A. Intent.**

9 The intent of this chapter is to establish the policies and procedures for implementation of the Annual
10 Bond and Capital Improvement Act.

11 **§ 6402A. Scope.**

12 This chapter shall apply to all state departments and agencies receiving appropriations as set forth in
13 the Annual Bond and Capital Improvement Act.

14 **§ 6403A. Definitions.**

15 As used in this chapter the terms "department" and "agency" shall mean those entities receiving an
16 appropriation in the Annual Bond and Capital Improvement Act.

17 **§ 6404A. Department of Public Safety**

- 18 a) The State Police shall have the primary authority to enforce traffic laws on limited access
19 highways within municipalities in the State of Delaware unless the State Police have, by specific
20 signed agreement, authorized another jurisdiction to enforce traffic laws on a limited access
21 highway.
- 22 b) Notwithstanding Chapters 63 and 69, Title 29, Delaware Code or any other statutory provision to
23 the contrary, the Office of Information Services is hereby granted exclusive authority to enter into
24 agreements with private telecommunications companies to lease or license space for

1 communication facilities on telecommunications towers and other facilities constructed for the
2 800 MHz Digital Trunked Radio System. The revenues received by the Department of Public
3 Safety - Division of Communications under these agreements shall be deposited in a special fund
4 and used for maintenance of 800 MHz Digital Trunked Radio System.

5 **§6405A. Department of Transportation.**

- 6 a) Any funds appropriated from any source to the Department of Transportation shall be accounted
7 for by program category as specified in the Section 1 Addendum of the Annual Bond and Capital
8 Improvement Act. Amounts indicated for individual projects in the "Supplemental Information
9 for Transportation Projects" are the Department's best estimates of cost, but may vary depending
10 on bid results and project designs. The descriptions and limits are general in nature and are to be
11 used only for project identification purposes. It is the intent of the General Assembly that the
12 Department of Transportation make all reasonable efforts to ensure the timely completion of
13 projects subject to the limitation of the total funds available in each program.
- 14 b) The Department is directed to continue inspecting the condition of bridges and pavements in the
15 State of Delaware and to use the System Preservation Program funds made available by the
16 Annual Bond and Capital Improvement Acts and the Bridge Program, the Rehabilitation and
17 Reconstruction, and the Pave and Rehabilitation Program funds made available by previous Acts
18 to ensure the bridge repairs and replacements and pavement resurfacings and rehabilitations are
19 carried out in an expeditious manner based on the Department's priority and management
20 systems.
- 21 c) It is the intent of the General Assembly that the Co-Chairs of the Joint Legislative Committee on
22 the Capital Improvement Program shall be delegated the responsibility of approving
23 modifications to the list of paving and rehabilitation projects in the "System Preservation" portion
24 of the "Supplemental Information for Transportation Projects" when the Department of
25 Transportation needs such modifications. These changes may be made subject to the Co-Chair's
26 approval, when: (a) the Department has completed or determined that it has sufficient funds on

1 hand to complete projects in the program category, or (b) when projects so listed cannot be
2 constructed in the construction season covered by the Annual Bond and Capital Improvement Act
3 because of conflicting public works projects in progress or scheduled, or for other compelling
4 reasons, and (c) funds appropriated to the System Preservation program category are available for
5 use on additional or other projects fitting within that category. In modifying the list, the
6 Department must substitute the next suitable paving and rehabilitation project(s) from the most
7 recently approved Department of Transportation Capital Improvement Program or based on the
8 Department's System Preservation priority and management systems. A copy of the changes
9 should be forwarded to the Budget Director and Controller General.

- 10 d) Any funds appropriated from the "Suburban Street Program" (56/00) of the "Supplemental
11 Information For Transportation Projects" attached hereto may be designated for Greenways
12 having a transportation component as long as those Greenways will be dedicated to public use.
13 Legislators may designate monies to be appropriated into a general pooled account to be used
14 state-wide, or may reserve monies for Greenways projects to be designated at a later time, or may
15 designate specific sums of monies to specific Greenways projects. For the purposes of this
16 Section, a project shall be deemed to have a "transportation component" whenever it involves
17 walkways, pathways, bikeways, trails or other routes for the movement of people or goods.
18 Project estimates shall be prepared by the Department of Natural Resources and Environmental
19 Control (DNREC) and processed through the Department of Transportation's (DOT) Suburban
20 Street Program procedure for inclusion in the Capital Improvement Act by the General Assembly.
21 Funds appropriated through an Annual Bond and Capital Improvement Act will be funded from
22 the Transportation Trust Fund and transferred to DNREC by DOT. DNREC will be responsible
23 for the design, rights-of-way purchasing, construction and maintenance of such Greenways and
24 establishing a process similar to DOT's process for administering the Suburban Street Program.
25 The Delaware Transportation Authority shall have the authority to use its powers granted under 2
26 Del. C., Chapter 13 to acquire property for Greenways projects having a transportation

1 component dedicated to public use, and to transfer the property so acquired to the Department of
2 Natural Resources and Environmental Control or to a local government accepting responsibility
3 for the projects' development, ownership and operation.

- 4 e) The Department of Transportation is hereby authorized to explore and/or construct feasible
5 alternatives to traffic signals, including, but not limited to, geometric design changes to
6 intersections or crossovers, in the vicinity of those locations where traffic signals may currently
7 exist or otherwise be considered as warranted.
- 8 f) The Delaware Transit Corporation ("DTC") administers a program to provide assistance to
9 certain qualifying agencies for the transportation of the elderly, persons with disabilities, and
10 thereafter for others needing transportation services, under the provisions of 49 U.S.C. Section
11 5310 ("5310 Program"). The 5310 Program requires the qualifying agencies to agree to comply
12 with the program's rules and regulations, and the agencies compete for funding in an annual
13 certification/approval process. The normal match of Federal funds to other funds is on an 80/20
14 funds basis. The following provisions shall apply in the DTC's administration of the 5310
15 Program.

- 16 (1) In ranking applicants for the 5310 Program, enhanced scoring of the applications will be
17 given first to those qualifying applicants emphasizing the replacement of their existing
18 fleet, and second to those qualifying applicants who provide a contributing share
19 commitment larger than the normal non-Federal ratio, thus expanding the leverage
20 provided by the Federal funds available for the 5310 Program. These additional funds
21 shall not be used as a replacement for System Preservation funds or Federal funds for this
22 program, but shall be applied to this program in addition to the amount authorized in the
23 Annual Bond and Capital Improvement Act.
- 24 (2) In administering the 5310 Program, the DTC shall take steps to assure that the qualifying
25 applicant agencies use these vehicles first for program related needs, then to meet the
26 transportation needs of elderly persons and persons with disabilities who do not participate

1 in the agencies' programs, and finally for other local transportation needs, as required by
2 Federal regulations. In keeping these commitments and providing DTC-originated trips
3 beyond the qualifying agencies program needs, those agencies receiving funds from the
4 Kent/Sussex reimbursable line (55-06-01-85-83) Kent and Sussex Transportation shall be
5 reimbursed at a rate of twice the applicable DTC fare. All other agencies providing such
6 DTC-originated trips shall be reimbursed at a rate of three times the applicable DTC fare.
7 Agencies providing such trips will be responsible for collection of and accounting for fares
8 in accordance with DTC guidelines. Receipt of such fares and reimbursement to the
9 qualifying agencies shall occur on a monthly basis between DTC and the agencies.

10 **§ 6406A. Department of Education**

11 Purchase orders and change orders for school construction projects which are coded to a different
12 school construction project line within the applicable school district will be approved upon review and
13 determination by the Department of Education and State Budget Office that full compliance of Section
14 2.4.3B(1) and (2) of the State of Delaware School Construction Manual has been met. All such purchase
15 orders or change orders must reference the appropriate projects, lines of authorization and appropriate
16 section of the School Construction Manual."

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OFFICE OF THE BUDGET

Section 26. EMS System. The Section 1 Addendum of this Act appropriates \$450,000 and Volume 72, Laws of Delaware, Chapter 258 appropriated \$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.

Section 27. Banyan Migration. The Section 1 Addendum of this Act authorizes funding in the Technology Fund for the purposes of assessing and piloting a statewide migration from the Banyan Network. No state agency shall be permitted to proceed with a migration initiative without prior approval of the Office of Information Services. The Office of Information Services shall report to the Budget Director and Controller General by October 15, 2000 the feasibility, fiscal impact and schedule of planned pilot projects. This report shall also include a preliminary recommendation for the FY 2002 statewide costs associated with the migration.

Section 28. Local Law Enforcement. Section 1 Addendum to this Act appropriates \$1,000,000 to the Office of the Budget for Local Law Enforcement. These funds shall be allocated to assist local law enforcement agencies to purchase and enhance technologies that will enable them to increase their crime reporting capabilities, comply with state and federal technology standards and improve inter-agency

1 communication. Local law enforcement agencies shall include counties, municipalities, towns, Delaware
2 cities and the State Office of Narcotics and Dangerous Drugs.

3 These monies will be limited to spending on hardware, software and end-user equipment. The
4 purchase of 800 MHz radios with this funding is permitted. All hardware, software and end-user
5 equipment shall be compatible with the minimum standards established by the Delaware Justice
6 Information System (DELJIS) Board of Managers and any other applicable State of Delaware and federal
7 systems standards.

8 Funds shall be distributed based upon the local law enforcement agency's authorized strength of full-
9 time sworn officers.

10 Applications for funding shall be submitted to the Local Law Enforcement Technology Fund
11 Committee and shall specify the purpose, the systems, the technology and the amount of funding
12 requested.

13 Final distribution of funds shall be contingent upon the approval of the Budget Director and the
14 Controller General.

15 No part of this appropriation may be used to supplant funds already committed by the law
16 enforcement agency to regular police operations, or to pay salaries or other personnel costs of police
17 officers or supporting personnel, or general operation and/or administrative expenses.

18 Local law enforcement agencies are encouraged to use these funds to leverage additional federal
19 funding for technology to support the above projects.

1 **DELAWARE ECONOMIC DEVELOPMENT OFFICE**

2 Section 29. Delaware Strategic Fund. Of the funds appropriated to the Delaware Strategic Fund in
3 the Section 1 Addendum of this Act, up to \$500,000 may be utilized in order to provide financial
4 assistance in the form of matching grants in an amount not greater than either \$25,000 or 50 percent of
5 the total project costs for environmental assessments and remediations of sites associated with the
6 "brownfield" initiative. For purposes of this Section a "brownfield" is defined as a vacant, unoccupied,
7 or underutilized site, with respect to any portion thereof, which the owner of the site has reasonable
8 cause to believe may, as a result of any prior commercial or industrial activity by any person, have been
9 environmentally contaminated in a manner that would interfere with the intended use of such site. The
10 Delaware Economic Development Authority shall draft rules and regulations pertaining to eligibility and
11 establish criteria to administer the assistance.

12 Section 30. Composites Research. The Delaware Economic Development Office is authorized to
13 provide a match of up to \$100,000 to the University of Delaware Center for Composite Materials for
14 federal research grants received that support the development and application of composite
15 manufacturing technology for the benefit of Delaware companies. Such match shall be disbursed from
16 the Strategic Fund upon documentation of the receipt of federal funds allocated to the Center during the
17 fiscal year for these purposes and upon documentation of the relevance of these research projects to
18 Delaware industries' needs and their participation within said projects.

19 Section 31. Delaware Industrial Park. The Delaware Economic Development Office is hereby
20 prohibited from locating any operation that involves the use of hazardous materials at the former Helix
21 Synthesis Technologies site within the Delaware Industrial Park. Hazardous materials are defined as any
22 material of a gaseous, liquid or solid form that has the potential to cause temporary or permanent harm to
23 humans or the environment.

1 Section 32. Port of Wilmington. If the Governor and the Delaware Economic Development Office,
2 at the direction of the Board of Directors of the Diamond State Port Corporation, request that the
3 Delaware River and Bay Authority fund the acquisition of real property and improvements for the
4 expansion of Port of Wilmington pursuant to the Compact (Title 17, Delaware Code, § 1701) and
5 applicable statutory requirements, and if any such project is undertaken and funded by the Delaware
6 River and Bay Authority, then such project is hereby authorized and approved by this Act.

7 Section 33. Riverfront Development Corporation. If the Governor and the Delaware Economic
8 Development Office, at the direction of the Board of Directors of the Riverfront Development
9 Corporation of Delaware, request the Delaware River and Bay Authority to fund the acquisition of real
10 property and improvements for economic development along or in proximity to the Brandywine and
11 Christina Rivers as recommended in the report of the Governor's Task Force on the Future of the
12 Brandywine and Christina Rivers, A Vision for the Rivers (1994) pursuant to the Compact (Title 17,
13 Delaware Code, § 1701) and applicable statutory requirements, and if any such project is undertaken and
14 funded by the Delaware River and Bay Authority after written approval by the Governor, then such
15 project is hereby authorized and approved by this Act.

16 Section 34. Rivers Fund. (1) Funds appropriated for Riverfront Development Corporation shall be
17 distributed directly to the "Brandywine-Christina Rivers Improvement Fund" established in Volume 70,
18 Laws of Delaware, hereinafter referred to as the "Rivers Fund". (2) The Rivers Fund shall be invested by
19 the State Treasurer in securities consistent with the policies established by the Cash Management Policy
20 Board. All monies generated by the said Fund shall be deposited thereto. (3) Not more than \$350,000 of
21 interest income from the Rivers Fund shall be used for operating expenses for the fiscal year ending June
22 30, 2001.

23 Section 35. DeBraak. The Delaware Economic Development Office is authorized to enter into a
24 public/private partnership to study the feasibility of constructing a replica of the DeBraak to be located in

1 Lewes. The Delaware Economic Development Office may provide up to \$20,000 as a match for the
2 study.

3 Section 36. Biotechnology Institute. The Section 1 Addendum to this Act appropriates \$5,000,000 to
4 the Delaware Economic Development Office for Biotechnology Institute. These funds are intended to
5 demonstrate the state's commitment toward efforts in the life sciences through the support of the
6 Delaware Biotechnology Institute.

7 The Delaware Biotechnology Institute will serve as the catalyst in uniting state, industry and higher
8 education resources in developing new research and development oriented, commercially driven
9 partnerships in the life sciences. These partnerships will be a key element of an overall technology-based
10 economic development strategy for the State. It is expected that the development of the life sciences
11 industry in Delaware will have multiple economic development benefits including enhancing global
12 competitiveness, increasing the diversity of the state's economic base, creating high quality jobs and
13 developing a high level of technical competence in Delaware's workforce. In addition, this development
14 will strengthen the research and technology transfer capabilities of the University of Delaware, Delaware
15 State University and Delaware Technical and Community College.

16 The funds appropriated herein are intended to attract and support key faculty members conducting
17 research at the Institute. Funds may be targeted toward equipping and developing research laboratories.
18 The Institute is encouraged to use the state funds appropriated herein to leverage private funding as
19 appropriate. The Institute shall report to the Co-Chairs of the Joint Legislative Committee on Capital
20 Improvements by April 30, 2001, as to the expenditures of this appropriation.

21 Section 37. Delaware River and Bay Authority Acquisition and Development. If the Governor and
22 the Delaware Department of Natural Resources and Environmental Control ("DNREC") request that the
23 Delaware River and Bay Authority acquire and develop real property and improvements for the purpose
24 of shoreline preservation and development (including, without limitation, wetlands and open-land

1 acquisition, active recreational and park development or facilities of commerce) along or in proximity to
2 the shoreline of the Delaware Bay and inland waters, or tributaries flowing into the Delaware Bay in the
3 vicinity of Cape Henlopen State park (excluding lands owned by the State of Delaware, east of the Lewes
4 and Rehoboth Canal) pursuant to the Compact (17 Del. C. §1701 et. seq.) and the applicable statutory
5 requirements, and if any such project is undertaken and funded by the Delaware River and Bay Authority
6 after written approval by the Governor, then such project is hereby authorized and approved by this
7 legislation. Any conveyance of real property and improvements owned by the State of Delaware pursuant
8 to the foregoing authority shall be exempt from the provisions of Title 29, Chapter 94 and Title 7, Chapter
9 45, Delaware Code, and the Governor or the Secretary of DNREC is hereby authorized to execute and
10 deliver to the Delaware River and Bay Authority a deed to such real property and improvements.

11 Section 38. AstraZeneca. Of the amounts appropriated to the Department of Transportation in this
12 Act and listed in the Section 1 Addendum of this Act for System Expansion (77/00), sufficient funds are
13 available for reimbursement to the Delaware Economic Development Office (DEDO) for certain rights-
14 of-way for transportation improvements related to the AstraZeneca Project (Project). The Department is
15 authorized to reimburse DEDO for the cost of such lands needed solely for such transportation
16 improvements, subject to compliance with all necessary federal regulations that limit the timing of such
17 expenditures by the Department. The per acre cost to DEDO for all the lands DEDO acquires for this
18 Project shall be used as the per acre charge to the Department for such reimbursement. Other acreage
19 acquired by DEDO for this Project needed for area-wide stormwater management improvements,
20 wetlands mitigation, and/or historic preservation regulatory compliance, shall be made available to the
21 Department without cost for its use in constructing such improvements, facilities, and/or complying with
22 historic preservation regulations, under a cost-sharing arrangement agreed to by the state agencies
23 involved in this Project.

1 Section 39. Amend §5029(b), Title 29 of the Delaware Code by adding the following sentences

2 thereto:

3 "The Director of the Delaware Economic Development Office shall notify the Co-Chairs of the
4 Joint Legislative Committee on the Capital Improvement Program by March 15th, June 15th,
5 September 15th, and December 15th of each year on the remaining Strategic Fund balance available
6 for commitment as of the end of the month preceding the required reporting date. The Director shall
7 also notify the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program of
8 their intent to make a commitment of funds from the Strategic Fund prior to the commitment being
9 communicated to the intended recipient of those funds."

10 Section 40. Amend Chapter 17, Title 17 of the Delaware Code to add a new section, Section §1729

11 which will read in its entirety as follows::

12 "§1729. The Delaware River and Bay Authority – Airports.

13 The General Assembly, acting pursuant to provisions of §1726, Title 7 of the Delaware Code, has
14 authorized the Delaware River & Bay Authority pursuant to the procedure set forth in the Delaware-
15 New Jersey Compact (§1701, Title 17, Delaware Code) and all other applicable statutory
16 requirements, to lease, develop and operate the New Castle County Airport, the Civil Air Terminal
17 and the Delaware Airpark located in Cheswold, Delaware. Pursuant to Article VII of the Compact,
18 the Authority is authorized to adopt rules and regulations to carry out and discharge its powers, duties
19 and functions and pursuant to Article XV of the Compact, Delaware may provide by law what penalty
20 or penalties shall be imposed for violation of any lawful rule or regulation of the Authority and for the
21 manner of enforcing the same. Pursuant to these provisions, the following applies to any person's
22 failure to comply with, or violation of rules or regulations of the Authority relating to any airports
23 which the Authority leases, acquires, develops or operates with the approval of the General
24 Assembly.

1 (a) Any person failing to comply with or violating any rule or regulation of the Authority
2 relating to the management and operation of any airport shall be guilty of a violation of law.
3 Upon conviction thereof, a penalty in the form of a fine not less than Ten Dollars (\$10.00) or
4 more than One Thousand Dollars (\$1,000.00) and costs shall be assessed for the first offense.
5 For the second offense occurring within twelve (12) months after the date of the first offense, the
6 penalty shall be a fine of not less than Fifty Dollars (\$50.00) or more than One Thousand Dollars
7 (\$1,000.00). For each subsequent offense thereafter, but occurring within twelve (12) months of
8 the date of the first offense, the penalty shall be a fine of not less than One Hundred Dollars
9 (\$100.00) or more than One Thousand Dollars (\$1,000.00). Each day any violation of the
10 relevant rules and regulations shall continue constitutes a separate offense for which a separate
11 penalty for each day shall be imposed.

12 (b) Justices of the Peace of this State shall have jurisdiction throughout the State to hear, try
13 and finally determine any violations of any rule or regulation of the Authority. Any person
14 convicted of such violation may be fined not more than One Thousand Dollars (\$1,000.00) for
15 violation. Fines collected for the violation of any rule or regulation of the Authority shall inure
16 and be paid to the State Treasurer for the General Fund.

17 (c) Any person arrested without a warrant for any violation of an Authority rule or regulation
18 shall have such person's case heard and determined by a Justice of the Peace.

19 (d) A summons in appropriate form to be adopted by the Department of Public Safety may
20 be attached to any unattended vehicle found in violation of any rule or regulation of the Authority
21 by any police officer authorized to arrest for violations of any Authority rule or regulation in lieu
22 of arrest of the operator of such vehicle."

23 Section 41. DRBA – Industrial Facility. For the purpose of complying with the provisions of §1726,
24 Title 17, Delaware Code, requiring the Delaware River and Bay Authority to secure the approval of the
25 General Assembly by an act passed with the concurrence of three-fourths of all the members elected to

1 each House before undertaking any major project (as defined in Article II of the Delaware-New Jersey
2 Compact as set forth in §1701, Title 17, Delaware Code), the Delaware River and Bay Authority is hereby
3 authorized pursuant to the procedures set forth in the Compact and applicable statutory requirements, if
4 requested by the Governor and the Delaware Economic Development Office, to acquire the real property,
5 improvements, and related facilities of an industrial property situate at 618 Lambsons Lane, New Castle,
6 Delaware and such project shall be considered a project of the Authority as defined in Article II of the
7 Compact.

8 Section 42. The Section 1 Addendum to this Act appropriates \$150,000 the Delaware Economic
9 Development Office for the Kalmar Nyckel. The Delaware Economic Development Office is hereby
10 authorized and directed to pay the amount of \$150,000 to the Delaware River and Bay Authority for costs
11 incurred by the Authority in a project to obtain the requisite United States Coast guard certification of the
12 Kalmar Nyckel.

13 Section 43. DRBA-DeBraak. For the purpose of complying with the provisions of §1726, Title 17,
14 Delaware Code, requiring the Delaware River and Bay Authority to secure the approval of the General
15 Assembly by an act passed with the concurrence of three-fourth of all the members elected to each House
16 before undertaking any major project (as defined in Article II of the Delaware-New Jersey Compact as set
17 forth in §1701, Title 17, Delaware Code), the Delaware River and Bay Authority is hereby authorized
18 pursuant to the procedures set forth in the Compact and applicable statutory requirements, if requested by
19 the Governor and the Delaware Economic Development Office, to engage in a project involving the
20 restoration and display of the DeBraak artifacts and such project shall be considered a project of the
21 Authority as defined in Article II of the Compact.

22 Section 44. Notwithstanding the provisions of Subchapter I-B, Chapter 50, Title 29 of the Delaware
23 Code to the contrary, \$125,000 of the General Fund appropriation to the Delaware Strategic Fund

- 1 contained in the Section 1 Addendum to this Act shall be used for the purposes of operating the economic
- 2 development trade office in the World Trade Center in Taipei, Taiwan.

1 **DELAWARE STATE HOUSING AUTHORITY**

2 Section 45. Neighborhood Revitalization. Amend § 6102A (f) (1), Title 29, Delaware Code by
3 deleting the word "loan" as it appears therein.

4 Section 46. Neighborhood Revitalization. Amend § 6102A (f) (2), Title 29, Delaware Code by
5 deleting the word "loan" as it appears between the words "approve" and "applications", and between the
6 words "recommend" and "applications". Further amend § 6102A (f) (2), Title 29, Delaware Code by
7 deleting the word "loan" as it appears before the word "Application". Further amend § 6102A (f) (2),
8 Title 29, Delaware Code by inserting the phrase "or lien" to the end of the last sentence of said
9 subsection.

10 Section 47. Neighborhood Revitalization Amend § 6102A (f) (5), Title 29, Delaware Code by
11 adding the phrase "or grants" to the end of the last sentence of said subsection.

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2 **DEPARTMENT OF STATE**

3 Section 50. Diamond State Port Corporation. Notwithstanding the provisions of any other State law
4 to the contrary, the Diamond State Port Corporation ("Corporation") may borrow on an interest-free
5 basis, up to \$3,000,000 as deemed necessary, from construction funds authorized in the Section 1
6 Addendum for the Delaware Auto Terminal to ensure coverage of short-term operating cash flow
7 deficits which may be encountered by the Corporation.

8 Section 51. Port of Wilmington. Funds appropriated in the Section 1 Addendum for the Delaware
9 Auto Terminal shall be distributed to the Department of State to make capital investments in the Port that
10 maintain its competitiveness and that allow it to continue to be a major economic asset of the State.
11 Consistent with the discretion granted to the Secretary of Finance to transfer funds to the Diamond State
12 Port Corporation upon the formation of, approval by, and formal request from the Board of Directors of
13 the Diamond State Port Corporation, funds may be transferred in any fiscal year from the funds
14 appropriated in the Section 1 Addendum of this Act to the Port Account and invested and expended
15 consistent with the purposes of the Diamond State Port Corporation.

16 Section 52. North Wilmington Library. Funds authorized in the Section 1 Addendum of Volume 70,
17 Laws of Delaware, Chapter 473 and in the Section 1 Addendum of Volume 69, Laws of Delaware,
18 Chapter 386 shall be used to plan and construct a library within the first Senate District.

19 Section 53. Dayett Mills. Funds remaining from those authorized in Volume 70, Laws of Delaware,
20 Chapter 473 for "Dayett Mills Remediation, Asbestos/UST" may be used for any rehabilitation, or
21 professional services to study rehabilitation and restoration needs of the Dayett Mill building complex and
associated grounds.

1 Section 54. Delaware River Main Channel Dredging. Volume 72, Laws of Delaware, Chapter 258
2 and Volume 71, Laws of Delaware, Chapter 378 appropriated funds for Main Channel Dredging of the
3 Delaware River. Expenditure of these funds is contingent upon the following:

- 4 1) The Army Corps of Engineers provides funding to reconstruct the seawall at Pea Patch Island
5 according to plans and specifications that have been developed by the Department of Natural
6 Resources and Environmental Control.
- 7 2) A written agreement between the Army Corps of Engineers and the Department of Natural
8 Resources and Environmental Control dealing with the potential use of dredge spoils for
9 Delaware beach preservation and habitat protection.
- 10 3) The Department of State shall not release any funds for this project until the Corps of Engineers
11 meets all necessary DNREC permitting requirements.

12 Section 55. Fenwick Island Lighthouse. Volume 72, Laws of Delaware, Chapter 258 appropriates
13 \$75,000 to the Department of State for improvements to the Fenwick Island Lighthouse. These funds
14 shall be used for the following purposes:

- 15 a) Removal of Solar Collector. The solar collector now located in the front yard of the Fenwick
16 Island Lighthouse property shall be removed from the lighthouse site and the lighthouse electrical
17 system reconnected to a conventional power source. Up to \$5,000 of the funds appropriated may
18 be used for necessary work at the lighthouse and to relocate and install the solar collector at an
19 alternate historic site such as the Indian River Lifesaving Station where sufficient land is
20 available to allow its placement without obscuring the public view of the historic structure.
- 21 b) Replacement of the Existing Fence Around the Perimeter of the Lighthouse Property. The
22 present fence around the perimeter of the lighthouse property shall be replaced by a good quality,
23 decorative fence constructed of durable materials and of a design which is both attractive and
24 serves the security needs of the site. The design, materials and construction of said fence shall be

1 approved in advance by the Board of Directors of the Friends of the Fenwick Island Lighthouse,
2 Inc.

3 Section 56. Port of Wilmington. The Section 1 Addendum to this Act appropriates funds to the
4 Delaware Auto Terminal enabling the Port to maintain its competitiveness and continue to be a major
5 economic asset of the State. Up to \$2,000,000 may be used for other Port projects that improve and
6 maintain the Port infrastructure serving existing and potential Port customers. Consistent with the
7 discretion granted to the Secretary of Finance to transfer funds to the Diamond State Port Corporation
8 upon the formation of, approval by, and formal request from the Board of Directors of the Diamond State
9 Port corporation, funds may be transferred in any fiscal year from the funds appropriated in the Section 1
10 Addendum of this Act to the Port Account and invested and expended consistent with the purposes of the
11 Diamond State Port corporation.

12 Section 57. Debraak Collection. The Section 1 Addendum of this Act appropriates \$290,600 to the
13 Department of State for the conservation and curation of the *Debraak* collection. This appropriation
14 represents 50% of the total project cost and expenditure of said funds is contingent upon the remaining
15 50% match from the Delaware River and Bay Authority (DRBA). Such DRBA funding shall permit the
16 *Debraak* collection to be exhibited at DRBA facilities at times and places agreed upon by the Secretary of
17 State and the DRBA Director.

18 Section 58. Delaware Stadium Corporation. The Section 1 Addendum to this Act appropriates
19 \$700,000 to the Department of State for the Delaware Stadium Corporation. Expenditure of these funds
20 is contingent upon execution of a formal agreement between the Delaware Stadium Corporation and the
21 Riverfront Development Corporation regarding the use of Delaware Stadium parking facilities during
22 Riverfront Development sponsored events.

1 Section 59. Wesley College – Parker Library. The Section 1 Addendum to this Act appropriates
2 \$800,000 to the Department of State for Wesley College – Parker Library. Expenditure of these funds is
3 contingent upon Wesley College amending the Parker Library Mission Statement and the Parker Library
4 Strategic Plan to include “service to the public”. In addition, Wesley College shall work with the
5 Delaware Public Libraries to enable the public to be more aware of the collections and borrowing
6 opportunities at the Parker Library. The authorization of these funds does not deem the Parker Library
7 eligible for funding of operating costs through the “Standards” formula system as defined in Delaware
8 Code, Title 29, Chapter 66.

9 Section 60. Seaford, Delaware City, and Millsboro Libraries. The Section 1 Addendum to this Act
10 appropriates funds to the Department of State as follows: Seaford Library, \$25,000; Delaware City
11 Library, \$25,000; and Millsboro Library, \$95,100. Expenditure of these funds is contingent upon said
12 libraries formally requesting State assistance for library construction per the provisions of Chapter 66A,
13 Title 29, Delaware Code.

14 Section 61. Library Construction Match. The funds authorized in the Section 1 Addendum of this
15 Act for the Seaford Library, Millsboro Library and Delaware City Library, under the Delaware Public
16 Library Construction Assistance Act, do not require a 50% non-state match. However, the above
17 mentioned libraries are required to provide 50% of the total project costs from non-state sources.

18 Section 62. Minor Capital Improvements and Equipment. The Section 1 Addendum to this Act
19 appropriates \$1,000,000 to the Department of State for Minor Capital Improvements and Equipment.
20 From this appropriation, the following amounts shall be allocated for the following purposes:

21 Robinson House – Renovations	\$25,000
22 Dayett Mills	\$50,000
23 Rodney Family Grave Site	\$50,000

1 Section 63. Riverfront Development Corporation Promotions. The Riverfront Development
2 Corporation is prohibited from including political profiles and statements of a political or partisan nature
3 in any advertisements or literature used to promote a cultural or recreational event being sponsored by the
4 Corporation.

1 **DEPARTMENT OF FINANCE**

2 Section 64. Bond Proceeds Reimbursement. Unless not permitted by the Internal Revenue Code of
3 1986, as amended, whenever the General Assembly authorizes the issuance of the state's general
4 obligation bonds or the Delaware Transportation Authority's (the "Authority") revenue bonds to finance
5 the costs of specific capital projects, it is the intent of the General Assembly that the interest on such
6 bonds shall not be included in gross income for federal income tax purposes under Section 103 of the
7 Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations (the
8 "Regulations") thereunder as they may be promulgated from time to time. Pursuant to the state's budget
9 and financial policies, other than unexpected situations where surplus revenues render bond financing
10 unnecessary or undesirable, no funds other than the proceeds of such bonds, are or are reasonably
11 expected to be, reserved, allocated on a long-term basis, or otherwise set aside by the state to pay the
12 costs of such specific capital projects. Pursuant to the Authority's budget and financial policies, it is
13 expected that approximately 50 percent of the costs of its capital projects shall be funded on a long-term
14 basis from the proceeds of such bonds. However, after the authorization of such bonds but prior to their
15 issuance, non-bond funds from the state's General Fund or the Authority's Transportation Trust fund or
16 other funds may be advanced on a temporary basis to pay a portion of the costs of such specific capital
17 projects. In that event, it is expected that these non-bond funds will be reimbursed from the proceeds of
18 such bonds when they are issued. This reimbursement may cause a portion of such bonds to become
19 "reimbursement" bonds within the meaning of Section 1.150-2 of the Regulations. Under those
20 Regulations, to preserve the exclusion of the interest on such bonds from gross income for federal
21 income tax purposes, it may be necessary to make a declaration of official intent. The Secretary of
22 Finance is hereby designated as the appropriate representative of the State and the Secretary of
23 Transportation is hereby designated as the appropriate representative of the Authority, and each is
24 authorized to declare official intent on behalf of the state or the Authority, as the case may be, within the

- 1 meaning of Section 1.150-2 of the Regulations, whenever and to the extent that such declaration is
- 2 required to preserve such tax treatment.

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- 1 (e) No project's budget should be increased beyond what is appropriated in any Bond and Capital
- 2 Improvement Act, either with special funds or private funds, unless the use of those funds is approved by
- 3 the appropriate cabinet secretary, the Budget Director, the Controller General and Co-Chairs of the Joint
- 4 Legislative Committee on the Capital Improvement Program.

1 Section 66. Minor Capital Improvements and Equipment Supplement - Department of Administrative
2 Services. Notwithstanding the provisions of any other State law to the contrary, not more than \$200,000
3 may be expended to enter into contractual agreements for project representatives and associated
4 administrative support to ensure adequate oversight of State construction projects. The Secretary of
5 Administrative Services is directed to provide an itemized budget for this amount to the Controller
6 General by August 1, 2000, and expenditure reports to the Controller General by December 1, 2000, and
7 June 1, 2001.

8 Section 67. New Castle County Courthouse. Funds received by the state from the sale of the
9 property known as the Daniel Hermann Courthouse shall be retained by the Department of
10 Administrative Services and used for the construction of the New Castle County Courthouse. Revenues
11 received from the surface parking lot associated with the New Castle County Courthouse shall be
12 retained by the Department of Administrative Services and used to defray costs associated with the New
13 Castle County Courthouse construction project.

14 Section 68. New Castle County Courthouse. Notwithstanding any law or local governmental
15 ordinance, resolution, or any deed restrictions to the contrary, the Secretary of Administrative Services
16 shall designate the name of any state-owned or state-operated courthouse or other judicial building or
17 facility in New Castle County purchased, constructed, or improved by funds appropriated pursuant to the
18 Section 1 Addendum of this Act and shall have the sole authority to approve or disapprove the
19 placement of any statues or memorials in or on the grounds of such courthouse or judicial building of
20 facility.

21 Section 69. Kent County Judicial Facilities. The Section 1 Addendum of this Act authorizes
22 \$3,580,000 for Kent County Courthouse/O'Brien Building Acquisition/Expansion/Renovations. These
23 funds may be used for any or all of the following purposes: purchase of the Kent County Courthouse,

1 expansion of the Courthouse, renovation of the Courthouse, and/or purchase of the O'Brien Building.
2 The Department of Administrative Services shall submit a plan for the expenditure of these funds to the
3 Co-chairs of the Joint Legislative Committee on the Capital Improvement Program by January 31, 2001.

4 Section 70. Land Acquisition for Parking – Georgetown Courts. The Section 1 Addendum of this
5 Act authorizes \$400,000 for the purchase of land in Georgetown for parking. The Department of
6 Administrative Services is authorized to negotiate an agreement with Sussex County for joint use of the
7 property. If negotiated, such agreement shall include the County sharing in the construction costs.

8 Section 71. Prison Construction – Delaware Correctional Center. In the course of major or minor
9 capital improvement projects at the Delaware Correctional Center, the Department of Administrative
10 Services shall apply for all permits and approvals required pursuant to any applicable provision of Titles 9
11 and 22, Delaware Code, or any ordinance, rule or regulation enacted pursuant thereto; provided, however,
12 that any such permit or approval shall be granted within 45 days from the day upon which the Department
13 makes application for the same. If any required approval or permit is not granted within 45 days as set
14 forth above, the Department may commence construction and shall be relieved of any future liability for
15 obtaining such approval or permit.

16 Section 72. Troop 2 Property. The Section 1 Addendum of this Act authorizes funding to construct a
17 new State Police Troop 2. During FY 2001, the Department of Public Safety may not declare any portion
18 of the parcel of land occupied by the current Troop 2 as surplus property.

19 Section 73. Troop 2 Construction. The Section 1 Addendum to this Act appropriates \$2,300,600 for
20 construction of the new State Police Troop 2. The funds appropriated complete Phases IA and IIA. It is
21 the intent of the General Assembly that funds will be provided for Phase IIB in order that the facility be
22 completed as originally programmed.

1 **DEPARTMENT OF HEALTH AND SOCIAL SERVICES**

2 Section 74. Fluoridation. The Section 1 Addendum to the Act appropriates \$250,000 to the
3 Department of Health and Social Services for Fluoridation. This appropriation shall be used to fund the
4 state's commitment to municipal water fluoridation as per Volume 71, Laws of Delaware, Chapter 361.

5 Section 75. Town of Frederica. Drinking Water Emergency. Due to the drinking water emergency
6 in the Town of Frederica, the town shall receive a grant of \$93,000 from the Drinking Water Management
7 Account.

1 **DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES**

2 Section 76. Woods Haven Kruse. The Secretary of Administrative Services is hereby authorized, on
3 behalf of the State of Delaware, to acquire by agreement or in the exercise of the power of eminent
4 domain, by condemnation in the manner prescribed in Chapter 61, Title 10, Delaware Code the 22 acres,
5 more or less, constituting the real property of the Woods Haven Kruse Trust, being more specifically
6 referred to as New Castle County Tax Parcel No. 06-059.01-001 and the precise metes and bounds of
7 which are more particularly described by the deed between Woods Haven School for Girls and The Youth
8 Services Commission of Delaware, dated June 4, 1959, and recorded at deed record 0-64, page 534.

1 **DEPARTMENT OF CORRECTION**

2 Section 77. Prison Construction. (a) Of the funds authorized, the Secretary of the Department of
3 Administrative Services, as provided through construction management services, shall consult with the
4 Commissioner of Correction to ensure expedient programming, planning and construction of authorized
5 correctional facilities. None of the funds authorized herein or in prior fiscal years are intended to
6 supplant federal funds.

7 (b) Use of any federal grant funds awarded and approved by the Delaware State Clearinghouse
8 Committee for the purpose of constructing correctional facilities shall have the technical oversight of the
9 Secretary of Administrative Services as defined in the appropriate Section of this Act pertaining to
10 management of the construction to ensure proper use and timely completion of all such construction
11 projects authorized herein.

1 **DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

2 Section 78. Beach Preservation. The General Assembly hereby authorizes \$1,000,000 to the
3 Department of Natural Resources and Environmental Control in the Section 1 Addendum of this Act to
4 renourish and preserve the state's beaches. The Department may not encumber the funds appropriated
5 herein for privately-owned ocean beaches. The Department may not encumber the funds appropriated
6 herein for publicly accessible municipal ocean beaches until at least an equal amount of non-state funds
7 are available for such projects. The funds provided for beach preservation as defined in Chapter 61 of
8 Title 30 of the Delaware Code can be used for local match and if so designated, shall be reimbursed by
9 the Department on an equal basis to each such county or town for which a beach preservation project has
10 been accomplished. The availability of the aforementioned non-state matching funds must be approved
11 by the Budget Director and the Secretary of the Department of Natural Resources and Environmental
12 Control.

13 Section 79. Conservation Cost-Sharing Program. The Section 1 Addendum to this Act appropriates
14 \$2,345,000 to the Department of Natural Resources and Environmental Control for the Conservation
15 Cost-Sharing Program. This appropriation shall be allocated as follows:

- 16 1. \$900,000 for the Soil and Water Conservation Program. The Department shall spend one-
17 third of such funds for use in each County.
- 18 2. \$1,445,000 shall be spent on nutrient management efforts statewide. The Division of Soil
19 and Water may target all or a portion of the funds appropriated for conservation cost share to
20 critical areas, such as the Inland Bays Watershed, the Nanticoke Watershed and others as
21 designated by the Secretary of the Department of Natural Resources and Environmental
22 Control. Of the \$1,445,000 allocated for nutrient management efforts statewide, up to
23 \$150,000 may be spent to repair or replace failed manure sheds or other manure handling
24 systems. Funds appropriated to replace failed manure sheds or manure handling systems are
25 not subject to the cost share match.

1 Section 80. DNREC Land Acquisition. Except for land acquired by approval of the Open Space
2 Council or approved through a Bond and Capital Improvements Act, land shall not be purchased by the
3 Department of Natural Resources and Environmental Control without prior approval of the Co-Chairs of
4 the Joint Legislative Committee on the Capital Improvement Program provided, however, that the
5 department is not prohibited from conducting studies, surveys or other contractual arrangements that
6 would normally precede land acquisition procedures.

7 Section 81. Indian River Inlet Marina. Notwithstanding the provisions of any other State law to the
8 contrary, the Department of Natural Resources and Environmental Control may enter into long-term
9 contractual arrangements with respect to development, construction and/or operation of the facilities and
10 grounds associated with the Indian River Inlet Marina at the Delaware Seashore State Park. Before
11 entering into said contractual arrangements, the Secretary of the Department of Natural Resources and
12 Environmental Control shall submit a proposal, together with associated State funds
13 required, if any, to be approved by the Budget Director, the Controller General and the Co-Chairs of the
14 Joint Legislative Committee on the Capital Improvement Program.

15 Section 82. Indian River Marine Park Foundation. The General Assembly hereby authorizes the
16 Department of Natural Resources and Environmental Control to proceed with the formation of the Indian
17 River Marine Park Foundation (Foundation). The Foundation shall be governed by a Board of Directors,
18 who shall include the Director of the Division of Parks and Recreation, and two additional members with
19 expertise and experience in marina operations or services who shall be appointed by the Governor for
20 three-year terms, and shall be eligible for reappointment. In addition, the President Pro Tem shall
21 appoint a citizen board member with marina expertise and the Speaker of the House shall appoint a
22 citizen member with Marina Expertise. Said appointments shall be for a three-year term and shall be
23 eligible for reappointment. The Governor shall appoint a board member to serve as Chair of the Board of
24 Directors, who shall serve at the Governor's pleasure. The Department shall work with the Foundation

1 Board of Directors to incorporate the Foundation as a formed IRS 501 C (3) entity for the purpose of
2 financing the rehabilitation and redevelopment of the Indian River Inlet Marina Complex into a state of
3 the art facility that will meet the maritime and recreational needs of the general public who utilize
4 Delaware Seashore State Park.

5 Upon successful incorporation as a 501 C (3) entity, the Foundation shall work to implement a master
6 plan, and any associated construction plan, for the Marina Complex that has been developed by the
7 Department and reviewed by the general public, and shall seek financing through private sector and other
8 non-state funding mechanisms as necessary to implement the development called for in the master plan.
9 In order to secure and repay said financing, the Department and Foundation are authorized to enter into a
10 long-term groundlease providing the Foundation for all or part of those lands and improvements within
11 Delaware Seashore State Park that have been identified in the master plan as part of the Marina Complex
12 rehabilitation and redevelopment. Said groundlease shall be mutually agreeable to both parties, and is
13 subject to review and approval of the Co-Chairs of the General Assembly's Bond Bill Committee. As
14 part of the groundlease arrangement, the Department may enter into an arrangement to lease the operation
15 of any or all parts of the Marina Complex to the Foundation, or lease operations to any third parties that
16 both parties determine can best serve the needs of the general public. The Foundation is authorized to add
17 two additional Board members of its choosing if such a composition of Board members is required as a
18 condition of funding. Said Board members shall serve at the pleasure of the Board for a three-year term.

19 Section 83. Land and Water Conservation Trust Fund Interest. Of the interest monies generated on
20 the principal deposited in the Land and Water Conservation Trust Fund before 1995, no more than
21 \$40,000 may be spent for the combined administrative costs of the Open Space Council and the Council
22 on Greenways and Trails.

23 Section 84. Wilmington State Parks/Fort Delaware State Park. The Section 1 Addendum to this Act
24 appropriates \$1,000,000 to the Department of Natural Resources and Environmental Control for
25 Wilmington State Parks/Fort Delaware State Park. Of this amount, \$500,000 shall be for improvements to

1 Fort Delaware and the remainder shall be used for improvements in Wilmington State parks. No monies
2 herein shall be used to construct a central park office.

3 Section 85. Amend Volume 70, Laws of Delaware, Chapter 473, Section 57 by deleting "July 1,
4 2000" as it appears in the last paragraph and substituting in lieu thereof "July 1, 2001".

5 Section 86. Combined Sewer Overflows. The Section 1 Addendum to this Act appropriates
6 \$1,000,000 to the Department of Natural Resources and Environmental Control for Combined Sewer
7 Overflows in the City of Wilmington, subject to at least a 3 to 1 match from the City of Wilmington prior
8 to disbursement.

9 Section 87. Open Space Purchase. The General Assembly finds that the preservation of tax parcels
10 #19.00-2.00-001.00 and #19.00-2.00-097.00 is in the State's best interest. It is further the intent of the
11 General Assembly that funds appropriated in the Section 1 Addendum to this Act for Open Space be
12 expended to assist in the acquisition of said parcels. Notwithstanding the provisions of any applicable
13 State law to the contrary, the Department of Natural Resources and Environmental Control may, upon
14 purchase, deed these parcels to the Town of Elsmere.

15 Section 88. Cape Henlopen State Park. Section One of this Act makes an appropriation of
16 \$1,000,000 to the Department of Natural Resources and Environmental Control for Cape Henlopen State
17 Park. Of that amount \$100,000 is appropriated for planning for the construction of a visitor's center and
18 \$100,000 is appropriated for site preparation. It is the intent of the General Assembly that the plan
19 include a program of use, construction costs and a design and interpretation theme which incorporates
20 historical maritime architecture including elements of the Cape Henlopen Lighthouse. The General
21 Assembly also directs the Department to explore the development of a public/private partnership to assist
22 in the completion of this project.

1 Section 89. Parks Rehabilitation. Section 1 of this Act makes an appropriation to the Department of
2 Natural Resources and Environmental Control, Division of Parks and Recreation for Parks Rehabilitation.
3 Of that amount \$115,000 will be used to begin the restoration of the barn on the Judge Morris Estate
4 property.

5 Section 90. Debris Pit Remediation. The Section 1 Addendum of this Act appropriates \$100,000 to
6 the Department of Natural Resources and Environmental Control for Debris Pit Remediation. These
7 funds shall be transferred to the New Castle Conservation District for remediation of projects as
8 prioritized by the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program.

9 Section 91. Killens Pond State Park – Nature Center. The Section 1 Addendum to this Act
10 appropriates \$75,000 to the Department of Natural Resources and Environmental Control for Killens
11 Pond State Park. These funds shall be used for planning, site selection and preliminary design for a
12 permanent nature center for the park.

13 Section 92. Trap Pond State Park - Planning. The Section 1 Addendum to this Act contains an
14 appropriation of \$100,000 to the Department of Natural Resources and Environmental Control for Trap
15 Pond State Park. These funds shall be used to develop a plan, provide construction cost estimates and
16 begin site preparations for waterplay facility and multi-use trail in the park.

17 Section 93. Healthways. Section 1 of this Act makes an appropriation of \$25,000 to the Department
18 of Natural Resources and Environmental Control. These funds are to be used for the completion of the
19 Healthways project.

20 Section 94. Amend Title 7, Chapter 75, §7504(6) by inserting the following after the words scenic
21 resources, " including environmentally sensitive areas."

1 Section 95. Amend 30 Del. Code, §5423(b)(2) to read as follows:

2 "At the close of each fiscal year except the fiscal year ending June 30, 2001, the State shall
3 transfer \$7,000,000 of realty transfer taxes to the Endowment Account until such account reaches
4 \$60,000,000 as hereinafter provided. For the fiscal year ending June 30, 2001, the State shall
5 transfer \$3,000,000 to the Endowment Account."

6 Section 96. Amend §5423(c)(3), Title 30, Delaware Code by inserting after the word "discretion" as
7 it appears therein the words "and with the approval of the Co-Chairs of the Joint Legislative Committee
8 on the Capital Improvement Program".

9 Section 97. The Fiscal Year 2000 Bond Bill made an appropriation of \$20,000 to the Department of
10 State for the Cape Henlopen Lighthouse Study. Any remaining funds from that appropriation are to be
11 transferred to the Department of Natural Resources and Environmental Control, Division of Parks and
12 Recreation. These funds are to be used to develop a public/private partnership to assist in the planning
13 and development of the project.

14 Section 98. Notwithstanding the provisions of 29 Del. Code, §6102A(c)(2), upon written request by
15 the Open Space Council and notification of the Secretary of Finance, the Co-Chairs of the Joint
16 Legislative Committee on Capital Improvements are hereby empowered to waive on a case-by-case basis
17 the match requirements for a specific Open Space land purchase if it can be demonstrated that meeting
18 said match requirements would prevent the timely purchase of said parcel.

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1 System Management (76/00)

2 System Expansion (77/00)

3 (c) To deauthorize and reauthorize unexpended balances in accordance with Section 1 Addendum of
4 this Act:

5	<u>Deauthorize</u>	<u>Amount</u>
6	Suburban Street Program (55-05-00-56-00)	\$1,550,000
7	Corridor & Non-Corridor (66/00)	\$ 300,000
8	Public Transit Improvements (73/00)	\$2,315,000
9	System Preservation (75/00)	\$1,000,000
10	<u>Reauthorize</u>	<u>Amount</u>
11	Suburban Street Program (55-05-00-56-00)	\$1,550,000
12	System Expansion (77/00)	\$ 300,000
13	System Expansion (77/00)	\$2,315,000
14	System Preservation (75/00)	\$1,000,000

15 Section 101. Clear the Road Policy for Churchman's Road/SR 7 Project and I-95 Projects.

16 Notwithstanding the provisions of Section 4206 of Title 21 of the Delaware Code, parked or disabled
17 vehicles may be removed from travel lanes impacted by the Churchman's Crossing Capacity
18 Improvements Projects (State Project No. 91-101-04, Fed. Proj. No. STP-N339(1), and State Proj. No.
19 96-074-02, Fed. Proj. No. IM-N056(8) and Interstate 95 projects (Project No. 96-074-07, I-95
20 Wilmington Viaduct, BR748N and BR748S, and Project No. 95-091-02, I-95 Wilmington Viaduct to PA
21 Line) under the following conditions:

22 1. This section shall apply only to travel lanes within the limits of the construction area as
23 illustrated on the Department-approved Maintenance of Traffic plans for these projects, and
24 extending one (1) mile in all directions from those limits of construction. This section shall

1 also apply to I-95 and I-495 from SR 141 to the Pennsylvania line and US 202/Concord Pike
2 from I-95 to the Pennsylvania line.

3 2. Prior to implementing this section on a road meeting the requirements of subsection (1)
4 above, the Department of Transportation shall place signs along the road advising motorists
5 of the Clear the Road Policy, and instructing motorists to move disabled vehicles which can
6 be moved under their own power from the travel lanes to an adjacent area.

7 3. If the parked or disabled vehicle cannot be moved under their own power to a location off the
8 travel lanes, the Department of Transportation shall have the authority to cause the vehicle to
9 be moved to an adjacent area, either with its own force or pursuant to a contract for this
10 purpose.

11 4. If the vehicle is parked or disabled and there is (a) a fatality, or (b) personal injury, or (c) in
12 cases involving hazardous material loads, whether authorized or unauthorized, and movement
13 would cause environmental risk, the vehicle shall not be moved until directed by the policy
14 authority with jurisdiction over the scene.

15 Section 102. Public, Private Partnership Initiatives Program. Authorized but unspent funds exist in
16 the Department of Transportation's Engineering and Contingency Program Account (55-05-00-57-00)
17 derived from the Section 1 Addendum of Volume 70, Laws of Delaware, Chapter 210 previously directed
18 in Section 76, thereof, for expenditure in the Public, Private Partnership Initiatives Program. It is the
19 intent of the General Assembly that from this source One Million, Four Hundred Thousand Dollars
20 (\$1,400,000) shall be reprogrammed to the Department of Transportation for expenditure as set forth in
21 Section 1 Addendum of this Act.

22 Section 103. Routes 40 and 896 Lands. Per Section 72, Volume 70, Laws of Delaware, Chapter 473
23 the working group appointed to assess the Department of Transportation's proposed use of its lands at

1 Routes 40 and 896 has met and discussed the options available for this site. The Department will
2 implement the following recommendations:

- 3 1. The property shall be used in a manner which will enhance the quality of life of local
4 residents, such as recreation, public safety, transportation and public education.
- 5 2. Commitments for portions of the property have been made to the following organizations:
6 YMCA of Delaware, and the New Castle County Department of Parks and Recreation.
- 7 3. An immediate set aside of property for a potential future grade separation at the Routes 40
8 and 896 intersection as per Section 66(e) of Volume 70, Laws of Delaware, Chapter 473.
- 9 4. The Department of Transportation shall be appropriately compensated for non-transportation
10 use of these properties at the rate of not less than \$18,000 per acre.
- 11 5. No sale or commitment of the property shall be made during FY 2001 without the
12 concurrence of the Co-Chairs of the Joint Legislative Committee on the Capital Improvement
13 Program.
- 14 6. The committee referenced above as currently constituted shall continue and report back to the
15 Joint Legislative Committee on the Capital Improvement Program by June 30, 2001,
16 including infrastructure needs.
- 17 7. Notwithstanding the provisions of Section 137, Title 17, Delaware Code, the sale or
18 conveyance of Department of Transportation owned lands at Routes 40 and 896 shall be
19 governed by these provisions.
- 20 8. The Department of Transportation shall be authorized to enter into an agreement for a trade
21 of lands at the existing Routes 40 and 896 properties for the purpose of acquiring appropriate
22 property elsewhere for transit operation/maintenance facilities, notwithstanding other
23 provisions of law to the contrary. This exchange shall be approved by a recommendation of
24 the Route 40/896 working group, and shall be contingent upon the acquisition of all approvals
25 needed for the Department's facilities to be built and operated on the exchanged property.

1 Section 104. 5310 Program. The DTC is authorized to expend up to \$667,000 from a combination of
2 Federal funds and System Preservation funds (55-05-00-75-00) appropriated in this Act for the 5310
3 Program.

4 Section 105. Surface Treatment Pavement Conversion Program. The Department is authorized to
5 establish and operate a Surface Treatment Pavement Conversion Program, under the following
6 provisions.

7 (a) Of the amounts appropriated for System Preservation (55-05-00-75-00) as set forth in the
8 Section 1 Addendum to this Act, the Department is authorized to expend up to \$2,000,000 for
9 this program.

10 (b) The program shall be limited to the conversion of surface treated roads in the State's road
11 inventory as of July 1, 1999 to new surfaces using hot mix pavement.

12 (c) The Department shall develop a priority list for hot mix paving under this program. The
13 Department shall consider the following factors:

14 (1) Average Annual Daily Traffic;

15 (2) School bus routes;

16 (3) Safety considerations;

17 (4) Ease of construction, taking into consideration subbase quality, minimal utility or
18 right-of-way impacts, and minimal drainage problems; and

19 (5) Using the current geographic distribution ratios of such roads for planning and
20 scheduling projects under this program, if economically feasible.

21 (d) The Department shall use this priority list in determining the sequence of projects under this
22 program.

23 Section 106. Engineering and Contingency Account. Authorized but unspent funds exist in the
24 Department of Transportation's Engineering and Contingency Account (55-05-00-57-00) derived from

1 the Section 1 Addendum to Volume 71, Laws of Delaware, Chapter 227 previously directed for
2 expenditure to accelerate certain projects. It is the intent of the General Assembly that from this source
3 Six Hundred Thousand Dollars (\$600,000) shall be re-programmed to the Department of Transportation
4 for expenditure as set forth in Section 1 Addendum of this Act.

5 Section 107. SR 141 Crossing. The Secretary of Transportation is authorized to develop a design
6 competition for the development of a design for the SR 141 crossing of the Brandywine River. The
7 design competition shall consider aesthetics, cost, use of new technologies, and environmental and
8 historic impacts and be advertised by summer of 2001. For the purpose of selecting Design Teams for the
9 competition and making payments to the teams to develop selected design concepts, the Department shall
10 be exempt from the provisions of Chapter 69 of Title 29, Delaware Code.

11 Section 108. AstraZeneca Project. (a) Of the amounts appropriated to the Department of
12 Transportation in this Act and listed in the Section 1 Addendum to this Act for System Expansion
13 (77/00), sufficient funds are available for reimbursement to the Delaware Economic Development Office
14 (DEDO) for certain rights-of-way for transportation improvements related to the AstraZeneca Project.
15 The Department is authorized to reimburse DEDO for the cost of such lands needed solely for such
16 transportation improvements, subject to compliance with all necessary federal regulations that limit the
17 timing of such expenditures by the Department. The per acre cost to DEDO for all the lands DEDO
18 acquires for the AstraZeneca Project shall be used as the per acre charge to the Department for such
19 reimbursement. Other acreage acquired by DEDO for the AstraZeneca Project needed for area-wide
20 stormwater management improvements, wetlands mitigation, and/or historic preservation regulatory
21 compliance, shall be made available to the Department without cost for its use in constructing such
22 improvements, facilities, and or complying with historic preservation regulations.

23 (b)1. The roadway concept plan developed by the joint public process and approved by the
24 Governor and the County Executive will be designed and constructed, as proposed. All

roadway alignments and connections shown in the concept plan will be maintained in the final project design. Only modifications to ensure safety or to minimize or avoid impacts to environmentally sensitive areas will be permitted in the final design. However, no change will be made to the concept that will result in a degradation of the Level of Service as committed by New Castle County and as defined in the Department of Transportation's response to the AstraZeneca Traffic Impact Study; and

2. To accommodate the growth projected by AstraZeneca, the Department of Transportation will complete Phase 1 ITMS improvements and Phase 1 transit improvements by the end of Fiscal Year 2002. All roadway construction improvements will be complete by the end of Fiscal Year 2007. The Department will prepare construction contracts and advance them to construction in the most efficient manner possible. Contracts should be prepared and staged to minimize disruption to the existing traffic flow; and

3. The construction schedule will be as follows:

Enhanced ITMS and transit improvements

Phase 1	Advertised	2001
	Completed	2002
Phase 2	Advertised	2002
	Completed	2003

Roadways on Westside of US Route 202 (Except SR 141 Spur Road)

Advertised	2002
Completed	2003

Roadways on Eastside of US Route 202

Advertised	2003
Completed	2004

Utility Relocation Contract(s)

Advertised	As needed
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- 1 US Route 202 Improvements
- 2 Advertised 2004
- 3 Completed 2005
- 4 Route 141 Spur & Childrens Drive
- 5 Advertised 2005
- 6 Completed 2006
- 7 US Route 202, I-95 Southbound Ramp through Broom Street
- 8 Advertised 2006
- 9 Completed 2007
- 10 4. This schedule assumes the following project components are completed in a timely
- 11 manner in order to maintain the proposed advertisement and construction schedule:
- 12 a. Completion of real estate acquisition by others to meet project schedules;
- 13 b. Issuance of all applicable federal, state and county permits to meet
- 14 project schedules;
- 15 c. Completion of utility relocations with appropriate private and public
- 16 companies in a series of roadway projects;
- 17 5. Periodic workshops will be held to present status reports on project design.
- 18 6. It is the intent of the General Assembly that the State will authorize the funding for the
- 19 entire project in the Fiscal Year 2001 Bond and Capital Improvements Act. These funds
- 20 will remain committed to this project. Federal Funds may be substituted for the State
- 21 Funds, if the project becomes eligible for Federal Funds without jeopardizing the
- 22 construction schedule outlined in #2 above.

23 Section 109. Belmont Hall. Notwithstanding the provisions of Chapter 1 of Title 17 Delaware Code,

24 the Department of Transportation shall not dispose of any lands adjacent to Belmont Hall in Smyrna.

1 Section 110. Amend Section 119, Chapter 258, Volume 72, Laws of Delaware by deleting "06-
2 034.00-192" as it appears therein and inserting in lieu thereof the following:

3 "06-034.00-194

4 06-034.00-195".

5 Further amend Section 119, Chapter 258, Volume 72, Laws of Delaware by adding a new
6 sentence at the end of the said section as follows:

7 "Notwithstanding any other applicable State law to the contrary, upon purchase, the Department
8 of Natural Resources and Environmental Control shall deed said parcels to New Castle County for public
9 recreation use."

10 Section 111. Route 40 Relief Route. The Department of Transportation is prohibited from expending
11 any funds on the Route 40 Relief Route "Alternative 6B" proposal as outlined in the June 1999 minutes
12 of the Route 40 Corridor Study Committee and as considered by the Route 40 Corridor Study Committee
13 and the Department of Transportation's Planning Team.

14 Section 112. Charles Mills Boulevard Improvement Corporation. (a) The General Assembly hereby
15 authorizes the Governor to incorporate along with the Sussex County Council a public benefit corporation
16 entitled the Charles Mills Boulevard Improvement Corporation ("Corporation"). The Corporation shall
17 promote the common good of the citizens of Delaware and Sussex County through the planning,
18 development, construction, and management of programs and projects intended to foster, encourage, and
19 promote landscape improvements along and adjacent to State Route 1 from the Nassau Overpass to the
20 Seashore State Park south of Dewey Beach ("Boulevard corridor"), as recommended in A Vision Plan For
21 Charles Mills Boulevard (1999). A Board of Directors ("Board") with twelve members shall govern the
22 Corporation. The Board of Directors shall include: a representative of the Delaware River and Bay
23 Authority; the Secretary of the Department of Transportation; the representative for the 37th district of the
24 House of Representatives; the Senators for the 18th and 20th Senatorial districts; the Sussex County

1 Administrator; the Mayors of the City of Lewes, the City of Rehoboth Beach and the Town of Dewey
2 Beach; and three members from the private sector with economic development expertise and/or business
3 interests in the Boulevard corridor, appointed by the Governor to serve at his pleasure. The Governor
4 shall appoint a board member representing the private sector to serve as Chair of the Board, who shall
5 serve at the Governor's pleasure. The Corporation shall: 1) promote financial incentives to stimulate
6 significant private landscape investments; 2) assist and cooperate in capital development and public
7 works programs related to landscaping, funded in conjunction with other governmental agencies; 3)
8 maintain land and open space for such landscaping; 4) maintain structures or other public works in
9 support of such landscaping; and 5) act generally in a planning and development capacity. The
10 Corporation shall also be authorized to accept private donations for such purposes, and to keep such
11 monies in the Corporation's own accounts.

12 (b) The Corporation may provide financial support for the public or private development of
13 landscape projects of a type and character similar to those identified in A Vision Plan For Charles Mills
14 Boulevard (1999). Such funds cannot be encumbered or expended until the Corporation provides proper
15 documentation and written certification that the use of such funds has been duly authorized and the
16 Budget Director and the Controller General certify that the use of such funds meets the purposes set forth
17 herein. Activities to be undertaken may include contracting for the development of publicly owned
18 landscape projects and for capital-related infrastructure costs incurred to support the development of
19 privately owned landscape projects in the Boulevard corridor. Landscape projects intended for
20 installation adjacent to or within the rights of way controlled by the Department of Transportation shall
21 not be approved by the Board without the concurrence of the Department of Transportation for those
22 project elements affecting safety, drainage, and other transportation issues. Funds cannot be encumbered
23 or expended until the corporation provides proper documentation and written certification that the use of
24 such funds has been duly authorized and the Budget Director and the Controller General certify that the
25 use of such funds meets the purposes set forth herein.

1 Section 113. Highway Operations Facilities. The following building structures and facilities

2 constructed or to be constructed within the Department of Transportation's operating rights-of-way for
3 the Interstate Highway System and State Route 1, that are used to assist in the operational and
4 maintenance activities for such roads, shall not be subject to zoning, subdivision, or building code
5 ordinances or regulations by any political subdivision of the State: a) Expressways Maintenance
6 Headquarters (equipment shed, roof replacement and HVAC); b) Tybouts Corner Maintenance Area
7 (equipment sheds, salt storage facility, and one-story area office building); and c) Talley Road
8 Maintenance Area (equipment sheds, storage facility, salt storage facility and security/privacy barrier).
9 The Department shall not construct any such facility or make improvements in any such existing facility
10 without first conducting a public workshop to describe such plans and gather public input into the effect
11 of such plans.

12 Section 114. Study on Traffic-Generated Noise Mitigation Programs. The General Assembly

13 acknowledges the work of the Department of Transportation in conducting traffic-generated noise
14 analyses and studies along and adjacent to the controlled access highways now known as I-95, I-295, and
15 I-495 ("the Interstate System"). The General Assembly further finds that investment in a Noise
16 Mitigation Program may not be cost effective or beneficial for several locations adjacent to the Interstate
17 System, because of the topography or the effects of other nearby noise generators, such as railroad tracks
18 or existing industrial activities. The General Assembly therefore directs the Department to use nationally
19 recognized techniques to identify those locations along the Interstate System where noise mitigation
20 efforts would be cost effective and truly beneficial, in light of such geographical or land use conditions.
21 The Department is further directed to utilize volunteer scientists from the Highway Noise Investigative
22 sub-committee of the Technical Advisory Committee of Legislative Council, to act in an
23 advisory/monitoring capacity for these studies. The Department is further directed to study and report
24 upon the feasibility and effectiveness of traffic noise abatement regulations applicable to zoning,
25 subdivision, or other local land use laws affecting development. This study and report shall incorporate

1 comments from affected local governments, identifying land use controls that would prevent publicly-
2 funded noise mitigation efforts, especially where development follows the creation or expansion of the
3 existing road network. The Department is directed to report to the Co-Chairs of the Joint Legislative
4 Committee on the Capital Improvement Program on the results of these studies and analysis by May 1,
5 2001.

6 Section 115. Transit Bus Shelter Advertising. The General Assembly acknowledges the work of the
7 Delaware Transit Corporation ("DTC") in developing and implementing a transit shelter improvement
8 program. Part of the program involves the use of contractual advertising on the downstream panel of such
9 shelters, to offset the capital and maintenance costs of such shelters, as contemplated in 17 Del. C.
10 Chapter 11. The General Assembly finds that such advertising is appropriate when located in most areas,
11 but is inappropriate in certain areas. Notwithstanding any other state or local law to the contrary,
12 contractual advertising under the DTC program shall be permitted, except in the following locations: (a)
13 within a residential subdivision, except at its entrance; (b) within 50 feet of a residence; (c) within 100
14 feet of any property designated as an historic resource under federal, state, or local law; or (d) within 150
15 feet of areas experiencing continually high incident rates of drug offenses or crimes against persons,
16 measured on a calendar-year basis, as designated by the State Bureau of Identification or the applicable
17 local police agency.

18 Section 116. Notwithstanding the provisions of any applicable State law to the contrary, the
19 Department of Transportation shall deed, pending a satisfactory environmental audit paid for by Suburban
20 Street funds, tax parcel #11.032.00.016 to New Castle County for public recreation use. The Department
21 shall be reimbursed an amount not to exceed \$329,400 for said parcel with one-half of this amount to be
22 paid in the first quarter of FY 2001 and the remainder to be paid in the first quarter of FY 2002. Said
23 agreement shall be concluded no later than December 1, 2000.

1 Section 117. The General Assembly finds that the preservation of tax parcel #11.032.00.001 is in the
2 State's best interest. It is further the intent of the General Assembly that funds appropriated in the Section
3 1 Addendum to this Act for Open Space be expended to assist in the acquisition of said parcel. Purchase
4 of this parcel is subject to a satisfactory environmental audit paid for by Suburban Street funds. Such
5 purchase price shall be \$18,000 per acre. Notwithstanding the provisions of any applicable State law to
6 the contrary, the Department of Natural Resources and Environmental Control shall deed said parcel to
7 New Castle County for public recreation use.

8 Section 118. Valley Road Project. The General Assembly acknowledges the work of the Department
9 of Transportation in attempting to assist certain private landowners with drainage problems south of
10 Valley Road and east of SR 7, near the site of the ongoing Department Contract No. 91-101-02 ("the
11 Project.") The Department's consultants have identified certain potentially feasible solutions to those
12 problems, and the New Castle County Conservation District has agreed to provide assistance in
13 constructing any additional stormwater facilities beyond those required for the Project. Nonetheless, the
14 technical details concerning such solutions and their eventual resolution need further analysis and study,
15 and the Department's Project needs to continue without undue delay. Notwithstanding any other state or
16 local law to the contrary, the General Assembly hereby authorizes and directs the Department to continue
17 with the construction of the Project, under the following conditions:

- 18 (a) Any pipe or culvert installation underneath Valley Road shall be initially constructed so as not to
19 exceed the maximum stream flow (250cfs+/-) of the existing culvert near the intersection of SR
20 7 and Valley Road that aligns with a similar culvert under a private building to the immediate
21 south of Valley Road;
- 22 (b) Such construction shall include the initial plugging of any new culverts installed under the
23 Project's current plans, with an eventual opening of one or more of such culverts when the
24 existing culvert is taken out of service as planned. In any event, a weir gate system or other

1 appropriate technology shall be used to limit the stream flow to 250cfs+/- during the construction
2 of the Project;

3 (c) These stream flow limits shall remain in place until the completion of any installation of
4 additional stormwater facilities ("facilities") determined by mutual agreement of the
5 Department, the property owner, and the Conservation District;

6 (d) Legislators may designate monies appropriated from the "Suburban Street Program" (56/00) of
7 the "Supplemental Information for Transportation Projects" attached hereto, to provide for the
8 engineering review and construction costs for such facilities built pursuant to the mutual
9 agreement;

10 (e) No state funds shall be expended on such additional stormwater facilities unless the property
11 owner donates the land necessary for such purposes; and

12 (f) The Department shall bear the costs of adjusting its construction plans to accommodate the
13 plugging, weir gating, and eventual opening of the new culvert systems for the Project.

14 Section 119. Fox Point State Park. Of the funds appropriated in the Section 1 Addendum to this Act,
15 \$500,000 shall be transferred from the Transportation Trust Fund to the Department of Natural Resources
16 and Environmental Control for their use in addressing remediation costs at Fox Point State Park.

17 Section 120. Department of Transportation Transfer. Notwithstanding any applicable State law to
18 the contrary, the Department of Transportation is authorized and directed to transfer \$10,000,000 to the
19 Diamond State Port Corporation.

20 Section 121. Tweed's Tavern. Notwithstanding any state or local law to the contrary, the
21 Department of Transportation is hereby authorized and directed to transfer all or a portion of certain
22 properties owned by the Department to Preservation Delaware, Inc., a non-profit corporation, for
23 purposes of placing an historic structure known as Tweed's Tavern, under the following terms: a) the

1 parcels to be transferred shall be compiled from those portions of tax parcel numbers 08-012.00-015, 08-
2 012.00-016, and 08-012.00-017, in New Castle County, that the Department determines it does not need
3 for transportation purposes; b) the Department shall use its standard appraisal practices to establish a
4 value for the transferred parcels; c) the Department shall be reimbursed for the appraised value of the
5 transferred parcels; and d) legislators may designate monies appropriated from the "Suburban Street
6 Program" (56/00) of the "Supplemental Information for Transportation Projects" attached hereto, to
7 reimburse the Department for this purpose.

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1 **DEPARTMENT OF EDUCATION**

2 Section 125. Appropriation for Architectural Barrier Removal. It is the intent of the General
3 Assembly that the sum of \$160,000 appropriated in the Section 1 Addendum of this Act to the
4 Department of Education be used for the State's sixty percent (60 percent) share of architectural barrier
5 removal projects as defined in Section 7528 of Title 29, Delaware Code. Each qualifying school district
6 having approved architectural barrier removal projects shall authorize its 40 percent share. No local
7 school district may participate in the use of these funds without first providing its local share pursuant to
8 the provisions of this Section and other pertinent provisions of Delaware law.

9 Section 126. Critical Classroom Acquisition Program. Volume 72, Laws of Delaware, Chapter 258
10 appropriated \$4,000,000 to the Appoquinimink School District to implement a \$4,500,000 Critical
11 Classroom Acquisition Program (CCAP). The total local share of this project shall be \$1,300,000. In
12 Fiscal Year 2000, the district utilized \$500,000 of its Division III Equalization funds. The remaining
13 \$800,000 shall be repaid by the State withholding Division III Equalization funds in accordance with the
14 following schedule:

15	Fiscal Year 2001	\$160,000
16	Fiscal Year 2002	\$160,000
17	Fiscal Year 2003	\$160,000
18	Fiscal Year 2004	\$160,000
19	Fiscal Year 2005	\$160,000

20 Section 127. Brandywine School District - Harlan Elementary. Chapter 150, Volume 71, Laws of
21 Delaware appropriated \$69,000 to Brandywine, Harlan Elementary - Planning and Chapter 378, Volume
22 71, Laws of Delaware appropriated \$560,000 to Brandywine, Harlan Elementary. It is the intent of the
23 General Assembly that these funds be used to provide for the planning and roof replacement of the Harlan
24 Elementary School.

1 Additionally, Section 108, Chapter 378, Volume 71, Laws of Delaware appropriated \$1,013,420 to
2 the Brandywine School District for the Enhanced Minor Capital Improvement Fund of which \$373,334
3 was allocated to Harlan Elementary for univent replacements. It is the intent of the General Assembly that
4 these funds be also used to provide for the planning and roof replacement of the Harlan Elementary
5 School.

6 Section 128. Amend §7503(b), Title 29, Delaware Code by deleting the third paragraph in its entirety
7 and substituting in lieu thereof the following:

8 "For the statewide Autistic Program, the Margaret S. Sterck School for Hearing Impaired and the
9 John G. Leach School, construction shall be 100% state funded."

10 Section 129. Colonial School District – Southern Elementary School. In order to insure the timely
11 completion of its new Southern Elementary School, the Colonial School District is authorized to
12 supplement the construction expenses for this school with local funds and recoup these funds from current
13 and future allocations of the Minor Capital Improvement/Annual Maintenance and Enhanced Minor
14 Capital Improvement Funds.

15 Section 130. School Building and Custodial Verification. By September 30 of each calendar year,
16 each school district shall notify the Department of Education of its intended use for each school building
17 and administrative office building. School districts shall notify the Department about changes in the use
18 of such buildings to include the sale of property, closing of a building, lease of property to another
19 agency, and additions and renovations. The Department of Education shall establish a standard reporting
20 mechanism that school districts shall utilize to gather and submit required information.

21 By October 30 of each calendar year, the Department of Education shall verify and reissue
22 custodial allocations to each school district based on the information obtained annually. The Department
23 of Education shall review current regulations surrounding custodial allocations and present a

1 recommendation as part of the Department of Education's Fiscal Year 2002 Bond and Capital
2 Improvements request.

3 Section 131. Brandywine Springs School. Volume 72, Laws of Delaware, Chapter 258
4 appropriated funds to the Red Clay Consolidated School District to purchase the site and building of the
5 former Brandywine Springs School. The local share of the project shall be comprised of funds available
6 to the local district from previous property sold and \$3,600,000 which shall be withheld from the Fiscal
7 Year 2000 Division III Equalization allocation. In addition, the State shall withhold \$394,600 from the
8 Fiscal Year 2001 Division III Equalization funding for repayment of lease monies appropriated for this
9 school in Fiscal Year 1997. If additional properties are sold, including but not limited to 1400
10 Washington Street, The Pines, and Graves Road, all provisions of Title 14, §1057, shall apply. In the
11 absence of documentation to indicate the State and Local Portion, the State proceeds shall be 60 percent
12 and the Local proceeds shall be 40 percent.

13 Section 132. Certificates of Necessity. It is the intent of the General Assembly that any certificates
14 of necessity issued after July 1, 2000 for new school construction and/or major renovation/rehabilitation
15 shall require the inclusion of air conditioning unless otherwise waived by the Secretary of Education.

16 Section 133. Bond Verification. All bonds issued, or herein before or herein authorized to be
17 issued, by the State are hereby determined to be within all debt and authorization limits of the State.

18 Section 134. Inconsistency. Insofar as the provisions of this Act are inconsistent with the
19 provisions of any general, special, or local laws, or parts thereof, the provisions of this Act shall be
20 controlling.

21 Section 135. Severability. If any section, part, phrase, or provision of this Act or the application
22 thereof be held invalid by any court of competent jurisdiction, such judgment shall be confined in its
23 operation to the section, part, phrase, provision, or application directly involved in the controversy in

1 which such judgment shall have been rendered and shall not affect or impair the validity of the
2 remainder of this Act or the application thereof.

3 Section 136. Effective Date. This Act shall take effect in accordance with the provisions of state
4 law.

SYNOPSIS

This Bill is the FY 2001 Bond and Capital Improvements Act.

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APPENDIX A
SUPPLEMENTAL INFORMATION FOR TRANSPORTATION PROJECTS

TITLE	ACTIVITY	FUND	TOTAL COST	STATE AUTH
PROGRAM DEVELOPMENT				
TTF Authorization Needed				3,350
FHWA Authorization			3,480	
FTA Authorization			290	
SYSTEM PRESERVATION				
Bridge Preservation Program	Co	St/Fed	13,421	5,927
BR 1B on Kennett Pike Over Railroad, East of SR 141	Co	Fed	429	86
BR 9 on Smith's Bridge Road	Co	Fed	337	67
BR 74C on Darley Road Over Railroad	Co	Fed	112	22
BR 88, Snuff Mill Road Over Naaman's Creek	Co	Fed	300	60
BR 119 on SR 82 Over Red Clay Creek	Co	Fed	244	49
BR 127 on Sharpless Road Over Red Clay Creek	Co	Fed	497	99
BR 140 on Tuckers Road (S597) Over St. Johnstown Ditch	Co	Fed	348	70
BR 144S on US 13 over Cart Branch, South of Greenwood	Co	St	285	0
BR 156A on K156 Over Fork Branch	Co	Fed	173	34
BR 158 on SR 4 Over Hershey Run	Co	Fed	901	176
BR 174 on Mt. Cuba Road Over Red Clay Creek Tributary	Co	Fed	228	46
BR 245 on Harmony Road Over Amtrak	Co	St	720	720
BR 376 on Fenwick Road Over Polly Branch Tributary	Co	St	107	107
BR 377 on Chaptank Road (N435) Over Back Creek	Co	Fed	588	118
BR 526 and 527 on S326 at Betts Pond	Co	St	628	628
BR575 on Market Street over Brandywine River	Co	St	2,000	400
BR 599 on Benge Road over Small Creek	Co	St	283	283
BR 656 on Racoon Ditch Road Over New Ditch	Co	St	337	337
BR 661A on N 34 Over Army Creek	Co	St	187	187
BR 745 on I-96 Over Conrail	Co	Fed	1,500	150
BR 759 on I-95 Over Brandywine River	Co	Fed	2,000	200
Environmental Improvements	Co	St	800	800
Equipment Replacement	Pro	St	9,478	9,478
Grubb/Harvey Road (N209), Naaman's to Seonset Drive	PE	St	100	78
I-95, Wilmington Viaduct, BR 748N and BR 748S	Co	Fed	27,000	2,447
I-95, Wilmington Viaduct to PA Line	PE, Co, Tr, R/W	St/Fed	12,906	3,661
Materials and Minor Contracts for Infrastructure Preservation	Co	St	945	945
Operations Facility Improvements	Co	St	3,895	3,895
Other System Preservation Projects		St/Fed	2,780	2,620
Pavement Rehabilitation	PE, Co	St/Fed	5,800	3,500
Pavement Resurfacings (including surface treatment conversion)	PE, Co	St/Fed	32,141	25,941
Rail Preservation	PE, Co	St	2,472	2,472
SR 9, Slope Stabilization, Augustine Beach	Co	St	233	233
SR 141, Basin Road SR273 to Burnside Boulevard - SR273 to Jay Drive	PE	St	180	134
Transit Vehicle Replacement and Refurbishment	Pro	St/Fed	10,839	6,935
US113, to Georgetown - N. of Dagsboro to N. of Millsboro	Co	Fed	9,900	1,980
TTF Authorization Needed			145,094	74,885
Reprogrammed				(1,000)
Net TTF				73,885
FHWA Authorization				30,440
FHWA Advanced Construction				7,181
FHWA Discretionary				12,000
FTA Authorization				267
FTA Advanced Construction				3,621
FTA Discretionary				0
FAA Authorization				0
Other \$				0

**APPENDIX A
SUPPLEMENTAL INFORMATION FOR TRANSPORTATION PROJECTS**

TITLE	ACTIVITY	FUND	TOTAL COST	STATE SAUTH
SYSTEM MANAGEMENT				
Choptank Road, N 15 to N455, Roadway Reconstruction	Env, PE	St	620	620
Churchman's Crossing Corridor	PE, Co, TR	St./Fed	7,360	2,560
Corridor Preservation & Advanced R/W Acquisition	R/W	St	5,100	5,100
Elkton, New London Roads, Main St - Newark Improvements	R/W	St	70	54
Harrington Bypass	PE	St	100	100
SR 41 (Lancaster Pike), Yorklyn Road to Valley Road	PE	St	500	500
Integrated Transportation Management Systems	PE, Co	Fed	8,550	1,661
Kennett Pike, SR 100 to North of Brook Valley Road	LANSC	St	300	300
Intermodal/Multimodal Transportation Improvements	PE, Co	Fed	1,830	669
Lancaster Pike, Loveville Road to Hickory Spring Road	Co	Fed	2,850	570
Other System Management Projects		Su/Fed	2,920	1,400
Reybold Road From SR 72 to Salem Church Road	PE	St	60	60
Forest Avenue/Kenton Road, Safety	PE	St	10	10
Kirkwood Highway, SR141 to SR100, Elsmere, Safety	Co	Fed	8,405	1,655
Safety, Intersection Improvements & Transportation Enhance.		Su/Fed	6,960	2,024
Northeast Boulevard, 12th Street to Clifton Drive, Safety	Co, LANSC	Su/Fed	2,582	412
North St, Mifflin Rd to West St, Dover, Safety	LANSC, Co	St	2,952	2,952
SR 24 and SR 5, Long Neck Road, Intersection Improvements, Safety	R/W	St	168	0
SR 26, Assawoman Bay to US113	PE	St	1,250	1,250
SR 273, SR 72, SR 2, Newark Intersection Improvements, Safety	R/W, LANSC, Co	Su/Fed	871	134
West Railroad Ave/Camden Wyoming Ave. to Front St, Safety	PE	St	72	72
Southern New Castle County	PE	St	4,380	4,380
SR 1 Corridor Improvements, Kent County	PE	Fed	500	100
SR 1, Grid Improvements, Rehoboth Avenue to Five Points		St	2,000	2,000
SR 273, I-95 to Ogletown	PE	St	363	363
Sussex County Aviation	Co	St	350	0
Sussex East/West Corridor Route Improvements	PE	St	2,000	2,000
Transit Passenger Facilities		St	1,000	1,000
US 40 Maryland Line to US 13, Corridor Improvements	R/W, PE, Co	Su/Fed	3,537	2,307
Wilmington City Traffic Calming & Ped/Transit	PE, Co	Other/Fed	12,616	0
Wilmington Riverfront	R/W, Env, Co	St	5,455	5,234
TTF Authorization Needed			85,696	39,452
FHWA Authorization				35,821
FHWA Advanced Construction				5,960
FHWA Discretionary				1,573
FTA Authorization				0
FTA Advanced Construction				0
FTA Discretionary				0
FAA Authorization				315
Other \$				78

APPENDIX A
SUPPLEMENTAL INFORMATION FOR TRANSPORTATION PROJECTS

	ACTIVITY	FUND	TOTAL COST	STATE SAUTH
SYSTEM EXPANSION				
Churchman's Crossing Transit Facilities	Co	St	30	0
Other System Expansion Projects		St/Fed	3,650	2,050
Rehoboth Well Replacement	Co	St	900	332
SR 1, Corridor Capacity Improvements, Sussex Co	Co	St/Fed	3,331	641
SR 1, N. of Smyrna to S. of Odessa	Co	St/Fed	31,003	5,712
SR 7 Improvements/US40 (Including Newtowne Road)	R/W, Co, PE	St/Other	7,950	7,950
SR141, Kennett Pike to US202	PE, R/W, Co	St/Fed	81,468	76,627
Transit Facilities Expansion	PE, Co, Pro	St/Fed	11,365	3,237
Transit Vehicle Expansion		St/Fed	1,280	1,003
Wilmington Transit Connector		Fed/Other	2,500	0
Delaware Auto Terminal		St	10,000	10,000
TTF Authorization Needed			153,477	107,552
Reprogram				(2,615)
Net TTF				104,937
FHWA Authorization				10,215
FHWA Advanced Construction				22,037
FHWA Discretionary				0
FTA Authorization				277
FTA Advanced Construction				0
FTA Discretionary				2,000
FAA Authorization				0
Other \$				500
ENGINEERING AND CONTINGENCIES				9,828
Reprogram				(2,000)
Net TTF				7,828
SUBURBAN STREETS				20,100
Reprogram				(1,550)
Net TTF				18,550
MUNICIPAL STREET AID				6,000
NEW PROGRAM AUTHORIZATION NEEDED				254,002
RESERVE ACCOUNT				3,852
TOTAL NEW CAPITAL (TTF) AUTHORIZATION NEEDED				257,854

All \$ X 1,000

ABBREVIATIONS NOTE:

Co (Construction)
PRO (Procurement)
Env (Environment)
PE (Preliminary Engineering)
R/W (Right - of - Way)
TR (Traffic)

Appendix B
FY 2001 Pavement and Rehabilitation Program

COUNTY	ROADNUM	PAVEMENT REHABILITATION ROADNAME	FROMDESC	THRUDESC	REMEDY
2	8 NB & SB	RT 113	KENT/SUSSEX LINE	SR 1	PATCH & OVERLAY
3	113 NB & SB	RT 113	NEW PAVEMENT	KENT/SUSSEX LINE	PATCH & OVERLAY
3	14 NB & SB	RT 1	NASSAU	RT 16	PATCH & OVERLAY

TOTAL FY 2001 PAVEMENT REHABILITATION

\$5,800

COUNTY	ROADNUM	PAVING ROADNAME	FROMDESC	THRUDESC	REMEDY
NC	505	ADAMS ST	RD 9 WB DE 52 DELAWARE AVE	END OF FORWARD DIRECTION	2" HM OVERLAY, 2" MILL
NC	496	BRANDYWINE BLVD	LINDSAY RD	RD 218 BELLVUE RD	3" HM OVERLAY, TAPER MILL
NC	221	CENTER MEETING RD	RD 9 KENNETT PIKE	RD 239 PYLES FORD RD	3" HM OVERLAY, PATCHING
NC	305	CORNER KETCH RD	RD 13 DE 72 NB	RD 292 BRANCH RD	3" HM OVERLAY, PATCHING, TAPER MILL AT CURB
NC	324	CORNER KETCH RD	RD 13 DE 72 NB	RD 292 BRANCH RD	3" HM OVERLAY, PATCHING, TAPER MILL AT CURB
NC	207	DARLEY RD	RD 200	RD 24	2" HM OVERLAY, PATCH & LEVEL, TAPER MILL
NC	55	FERRY CUT-OFF - DEL 273	SCHOOL EXIT	9TH ST	3 IN ROTOMILLING, 3 IN HM OVERLAY
NC	203	FOULK RD NB & SB - DEL 261	PA LINE	RD 212	PCC PATCHING, JOINT SEAL
NC	264	HILLSIDE RD	HALSEY DRIVE	RD 9 KENNETT PIKE	3" HM OVERLAY, MILL 2"
NC	409	KIRKWOOD RD	CULLIN DRIVE	RD 35	3" HM OVERLAY, PATCHING
NC	276	LOVEVILLE RD	RD 237 LANCASTER PIKE	RD 275 OLD WILMINGTON RD	3" HM OVERLAY, PATCHING
NC	278	MENDIN HALL MILL RD	ROUTE 7	RD 282 MILL CREEK RD	3" HM OVERLAY, PATCHING
NC	225	MONTCHANIN RD - DEL 92	RT 52	RD 141	CONCRETE PATCHING
NC	17	NAAMANS RD - DEL 92	I-495	PEACH TREE RD / RD 17C	PCC PATCHING, SEAL
NC	18	NEWARK CHRISTIANA RD EB & WB - DEL 273	RD 56 EB I-95	RD 347 CHAPMAN RD	PATCHING
NC	20	OLD CAPITOL TRAIL	WALMSLEY DRIVE	RD 11A SB	3" HM OVERLAY, PATCHING, MILL 2"
NC	315	OLD CHURCHMANS RD	ROUTE 58	HOME DEPOT	3" HM OVERLAY, PATCHING
NC	342	OLD CHURCHMANS RD	RD 33 SB	RD 339A	3" HM OVERLAY, PATCHING
NC	373A	OLD LANDERS LANE	RD 374	TURN AROUND	2" HM OVERLAY, TAPER MILL AT CURB
NC	310	OLD PAPER MILL RD	RD 13 DE 72	NEW JOINT	2" HM OVERLAY, PATCHING
NC	336D	OLD ROUTE 7	ROUTE 7	RD 336F	3" HM OVERLAY, MILL 3" UNDER BRIDGE, PATCHING
NC	NC 431	OLD SCHOOL HOUSE RD	RD 435	RD 39	PATCHING, 3" OVERLAY
NC	358A	OLD STANTON OGLETOWN RD	RD 358 WB DE 4	RD 358 WB DE 4	3" HM OVERLAY
NC	240	OWLS NEST RD	DOGWOOD DR	RD 9 KENNETT PIKE	COLD IN PLACE RECYCLING
NC	320	PIKE CENTER BLVD	RD 321	SKYLINE DRIVE	PATCHING
NC	224	RAMSEY RD	500' NORTH OF RD 222	RD 225 THOMPSONS BRIDGE RD	3" HM OVERLAY, PATCHING
NC	382	RED LION CHURCH RD	RD 35	RD 32 EB	2" HM OVERLAY, FULL DEPTH PATCHING
NC	216	ROCKWOOD RD	RD 59 I-95 SB	RD 215	3" HM OVERLAY
NC	378	RT 9 - RIVER RD	RD 46 DE 72	RD 380 FEDERAL SCHOOL LA	3" HM OVERLAY, 1" MILLING
NC	214	SHIPLEY RD	RD 210	RD 212	3" HM OVERLAY, PATCHING, MILL
NC	378	SIXTH ST	SOUTH ST	HARMONY ST	2" HM OVERLAY, 2" MILL, PATCHING
NC	244	SNUFF MILL RD	RD 243 OLD KENNETT RD	RD 9 DE 52 KENNETT PIKE	3" HM OVERLAY, MILL 1"
NC	50	SPRUCE STREET - US 13	EAST 8TH ST	4TH STREET	2" HM OVERLAY, MILL 2"
NC	24	WALNUT STREET - US 13	FRONT STREET	16TH STREET	2" HM OVERLAY, MILL 2", INCLUDE 1ST BLOCK OF FRONT STREET
NC	215	WELDON RD	BEDFORD BLVD / RD 216 TALLEY	RD 214 SHIPLEY RD	3" HM OVERLAY, MILL
NC	17C	WHITES VILLAGE RD	RD 17	ELM AVE	2" HM OVERLAY, TAPER MILL
NC	210	WILSON RD	RD 203 NB	RD 23 MARSH RD	3" HM OVERLAY, TAPER MILL

Appendix B
FY 2001 Pavement and Rehabilitation Program

COUNTY	ROADNUM	PAVING ROADNAME	FROMDESC	THRUDESC	REMEDY
K	205	BRYANTS CORNER RD	RD 52	RD 73	FULL DEPTH PATCHING, 2" OVERLAY, 1' WIDENING EACH SIDE
K	316	FAIRGRUND RD	RD 314	US 13 SB RD 6	3" HM OVERLAY, 1" WIDENING EACH SIDE, PATCHING
K	14	FAST LANDING RD	RD 2 N.B. US 13	NEW PAVEMENT	PATCHING, 3" OVERLAY, PAVE SURFACE TREATED SHLDRS
K	50	HALLTOWN RD - DEL 8	MD LINE	RD 75	2" OVERLAY
K	50	HALLTOWN RD - DEL 8	RD 75	RD 103	MILL OPEN GRADE, 3" OVERLAY
K	50	HALLTOWN RD - DEL 8	RD 103	RD 49 DE 44	MILL OPEN GRADE, 3" OVERLAY
K	170	JUDITH RD	RD 49	RD 171	3" OVERLAY, 1' WIDENING EACH SIDE
K	284	LITTLE MASTENS CORNER RD	RD 289 / RD 78	RD 286	1' WIDENING EACH SIDE, PATCHING, 2" OVERLAY
K	284	LITTLE MASTENS CORNER RD	RD 286	FELTON TOWN LIMITS	3" OVERLAY
K	54	MAIN ST	RD 125 DE 15 B ST	RD 240A A ST	PATCHING, MILL AND FILL, DEEP LIFT LOW SPOTS
K	62	NINE FOOT RD	RD 309	US 13	PATCHING, 3" OVERLAY
K	25B	NORTH DUPONT HWY - US 13	RD 45 / RD 14 / DE 42	RD 100	2 1 1/4" LIFTS OF "C" MIX, MILL 1"
K	101	PEARSON CORNER RD	RD 104	RD 45	2" OVERLAY
K	45	SEVEN HICKORIES RD - DEL 42	RD 41 DE 300 MAIN ST	RD 168	PATCHING, 2 1 1/4" LIFTS OF "B" AND "C" MIX
K	45	SEVEN HICKORIES RD - DEL 42	RD 168	US 13 SB RD 6	TAPER MILL IN TOWN SECTION, 2" OVERLAY
K	117	STAYTONVILLE RD	RD 6 S.B. U.S. 13	RD 61	PATCHING, MICROSURFACE
K	117	STAYTONVILLE RD	SUSSEX COUNTY LINE	RD 2 N.B. U.S. 13	MICROSURFACE
K	60	VERNON RD - DEL 14	ELIZABETH AVE	RD 314	MILL OVERLAY
K	72	WATER STREET	RD 3 GOVERNORS AVE	EAST AVE	MILL AND OVERLAY
K	72P	WATER STREET	RD 3	RD 25	2" HM OVERLAY
K	356 EB & WB	WEST LEBANON RD - DEL 10	RD 7	1500' SOUTH OF RD 7	CONCRETE PATCHING, RECONSTRUCT SHOULDERS
K	206	WESTVILLE RD	MD LINE	RD 218	3" HM OVERLAY
K	59	WHITELEYSBURG RD	RD 292	RD 277/455	PATCHING, 2" OVERLAY, 1' WIDENING EACH SIDE
K	53	WILLOW GROVE RD - DEL 10	CONCRETE JOINT	CONCRETE JOINT	CONCRETE PATCHING, RECONSTRUCT SHOULDERS
S	319	AIRPORT RD	RAILROAD AVE	RT 9	3" HM OVERLAY
S	417	DAISEY RD	RD 26	RD 60	PATCHING ONLY
S	248	DEJO - GRAVEL HILL RD	RD 297	RD 48	3" HM OVERLAY; PATCHING
S	248	DEJO - GRAVEL HILL RD	RD 295	RD 18	3" HM OVERLAY; PATCHING
S	329	EAST PINEY GROVE RD	RD 432	US 113	3" HM OVERLAY
S	267	GILLS NECK RD	RD 266 NEW RD	END OF FORWARD DIRECTION	3" HM OVERLAY; MILL TO CURB IN TOWN; 5" U OF D TO END
S	387	HUDSON RD	RT 54 RD 58	RD 392	3" HM OVERLAY
S	24	LAUREL RD - DEL 24	.75 M WEST OF RD 463	RD 421	3" HM OVERLAY FULL WIDTH; CONCRETE PATCHING
S	297	MOUNT JOY RD	RD 303	RD 307	PATCHING ONLY
S	274	OLD LANDING RD	RD 275A	END OF FORWARD DIRECTION	3" HM OVERLAY; 5' SHLDRS; BIKE LANES
S	502	OLD RACETRACK RD	RR TRACKS	RD 13	3" HM OVERLAY
S	66	PEPPERBOX RD	RD 64	RD 62	3" HM OVERLAY; PARTIAL DEPTH PATCHING
S	92	ROXANA RD	RD 375	RD 54 THATCHER ST	3" HM OVERLAY; LEVELING COARSE; 1 LIFT OF "C" ON HOT MIX SEC.
S	24	SHARPTOWN RD - DEL 24	MD LINE	RD 510	3" HM OVERLAY FULL WIDTH
S	36	SHAWNEE RD - DEL 36	RD 16 DE 16	RD 44	3" HM OVERLAY; STABILIZE SHLDRS; PARTIAL DEPTH PATCHING
S	427	SHELL STATION RD	RD 64	RD 422	3" HM OVERLAY
S	432	STOCKLEY RD	RD 20 DE 20	RD 113 S.B.	3" HM OVERLAY; PARTIAL DEPTH PATCHING
S	432	STOCKLEY RD	RD 113 N.B.	RD 48	3" HM OVERLAY
S	64	WHITESVILLE RD - DEL 30	RD 62	RD 26 DE 26	3" HM OVERLAY; PARTIAL DEPTH PATCHING
S	S244	WILSON RD	RD 113	RD 246	3" HM OVERLAY; PARTIAL DEPTH PATCHING
S	S244	WILSON RD	RD 246	RD 319	3" HM OVERLAY; WEDGE COARSE; TURN LANE TO SCHOOL
TOTAL FY 2001 PAVING			\$28,011		

B-2

Appendix B
FY 2001 Pavement and Rehabilitation Program

SURFACE TREATMENT CONVERSION

ROADNAME	FROMDESC	THRUDESC	REMEDY
ALLA BANDS MILL RD	RD 52	RD 203	HOT MIX
CHIPMANS POND RD	RD 466	RD 74	HOT MIX
CLUB HOUSE RD	RT 26	END	HOT MIX
DISCOUNT LAND	RT 13	RD 13	HOT MIX
DONOVANS RD	RT 9	END	HOT MIX
IRONMINE RD	RD 56	RD 53 DE 10	HOT MIX
MAHAN CORNER RD	RD 53 DE 10	RD 206	HOT MIX
MCGINNIS MILL	RD 380	RD 31	HOT MIX
OLD MILL BRIDGE RD	RT 54	RD 384	HOT MIX
SWEETBRIAR RD	RT 9	RD 88	HOT MIX
THARP RD	DUAL 13	RD 535	HOT MIX
TOTAL SURFACE TREATMENT CONVERSION		\$1,000	

Appendix B
FY 2001 Pavement and Rehabilitation Program

SURFACE TREATMENT

ROADNUM	ROADNAME	FROMDESC	THRUDESC
620	ABBOTTS POND RD	617	36
571	ADAMSVILLE RD	END	404
442	ASKETUM BRANCH RD	20	20
368	BEAVER DAM RD	84	361
595	BEAVER DAM RD	42	606
216	BENSON RD	38	214
419	BETHEL RD	420	418
566A	BIG PINE RD	562	17 DEL 18
378	BLUEBERRY FARM RD	END	379
378	BLUEBERRY FARM RD	60	377
402	BLUEBERRY LANE	26	403
547	BOYCE RD	553	555
325	BULL PINE RD	469	431
353	BURBAGE RD	365	352
621	CALHOUN RD	207	36
259	CARPENTER RD	22	258
415B	COLLINS RD	26	413
516	CONCORD POND RD	525	46
280B	CONLEYS CHAPEL RD	285	277
628	COON DEN RD	36	END
542A	CRAIGS MILL RD	542	556
234	DEEP BRANCH RD	END	14(NB)
388	DEER RUN RD	387	382
337A	DICKERSON RD	337	113
415C	DOTS RD	415B	26
526A	DOVE RD	525	46
221	DRAPER RD	222	38
329	EAST PINEY GROVE RD	431	432
467A	ELLIOTTS DAM RD	466	446
581	FARM LANE	34	16
556	FIGGS RD	536	21
262	FISHER RD	18	290
427	GORDY RD	428	64
527	GRAVELLY BRANCH RD	522	113
225	GREENTOP RD	224	38
337	HANDY RD	113	82
82	HICKORY HILL RD	337	24
290	HURDLE DITCH RD	48	22
435A	JONES STORE RD	472	20
611	JUDY RD	16	44
321	KRUGER RD	329	113SB
550	LINE RD	80	21
413	LYNCH RD	END	426
58E	MADISON AVE	58(de154)	End
204A	MARINA RD	204	End
385	MCCARY RD	52	92
613	MEMORY RD	36	KENT LINE
431A	MISSION RD	24	410
637	NEAL RD	212	215
594	OAK RD	40	16
213	OLD STATE RD	207	END
611	OWENS RD	565	603
443	PARSONS RD	435	442
341B	PEPPERCREEK RD	341	N. DOG WOOD
576	POLK RD	31	404
563	RAY RD	404	562

Appendix B
FY 2001 Pavement and Rehabilitation Program

SURFACE TREATMENT

ROADNUM	ROADNAME	FROMDESC	THRUDESC
410	REVEL RD	26	431A
410	REVEL RD	421	408
329	RICH RD	113	326
437	SAMUEL HILL RD	62	24
319	SAND HILL RD	250	22
569	SAND HILL RD	572	574
443A	SAW MILL RD	62	435
427	SHELL STATION RD	64	422
52B	SMITHFIELD ACRES RD	52	52
544A	SWAIN RD	13	35B
573	TRINITY CHURCH RD	31	574
50A	TURN POINT RD	End	50(1)
38	WELLS RD	199	224
574	WHITNEY SWAMP RD	31	573
603	WOLF RD	594	611
270	WOLFE NECK RD	RUSTY ANCHOR DRIVE	END

TOTAL SURFACE TREATMENT

\$400

PATCHING PROGRAM

COUNTY	RDNUM	ROAD NAME	FROM DESCRIPTION	THRU DESCRIPTION	REMEDY/COMMENTS
K	7	BAY RD	SR1	RD 356 WB DE 10	TWO PATCHES
K	325	BIG OAK RD	RD 2 NB US 13	SR1	SKIN PATCH 1000 FEET
K	35	CARPENTER BRIDGE RD	RD 5 NB US 13	350 FEET NORTHEAST	2" OVERLAY
K	215	DARLING FARM RD	RD 223	RD 218	SKIN PATCH 700 FEET
K	171	LOCKWOOD CHAPEL RD	RD 101	RD 46 DE 11	HM PATCHING
K	125	MOOSE LODGE RD	RD 53	RD 52	HM PATCHING
K	22	N.W. FRONT ST.	RD 8 NB US 113	RD 21	TWO PATCHES
K	241	PEACH POINT RD	AT INTERSECTION	WITH ROUTE 13	MILL & OVERLAY SECTION NOT INCLUDED WITH RT. 13 CONTRACT
K	25	STATE ST.	RD 16 KINGS HWY	RD 51 DE 8 DIVISION ST.	FULL DEPTH HOT-MIX PATCHING - TWO LOCATIONS
K	240	TURKEY POINT RD	RD 32	CHURCH ST	HM PATCHING AT DIP IN ROAD
K	84	TWIN WILLOWS RD	SR1	RD 448	SKIN PATCH FROM SR1 TO 400 FEET EAST
K	100	W. DENNEYS RD	RD 104	RD 101	HM PATCHING
K	206	WESTVILLE RD	RD 218	RD 217	SKIN-PATCH 1000 FEET
NC	6	BLACKBIRD GREENSPRING RD	RD 47	RD 471	HM PATCHING
NC	1	DUPONT PKWY NB US 13	N.C.C. LINE	RD 80 SB SR1	HM PATCH SHOULDERS - VARIOUS LOCATIONS
NC	2	DUPONT PKWY NB US 13	RD 441	RD 438/441 DE 299	HM PATCH RIGHT SHOULDER - 1400 FEET
NC	3	LEVELS RD DE 15	RD 459	RD 443 US 301	HM PATCHING
NC	5	MASSEY CHURCH RD	RD 47	RD 471	HM PATCHING
NC	4	PINE TREE RD	AT INTERSECTION	WITH ROUTE 13	MILL & OVERLAY SECTION NOT INCLUDED WITH RT. 13 CONTRACT

TOTAL PATCHING PROGRAM

\$300

I-95 DETOUR ROUTES

\$1,000

STORMWATER MANAGEMENT

\$30

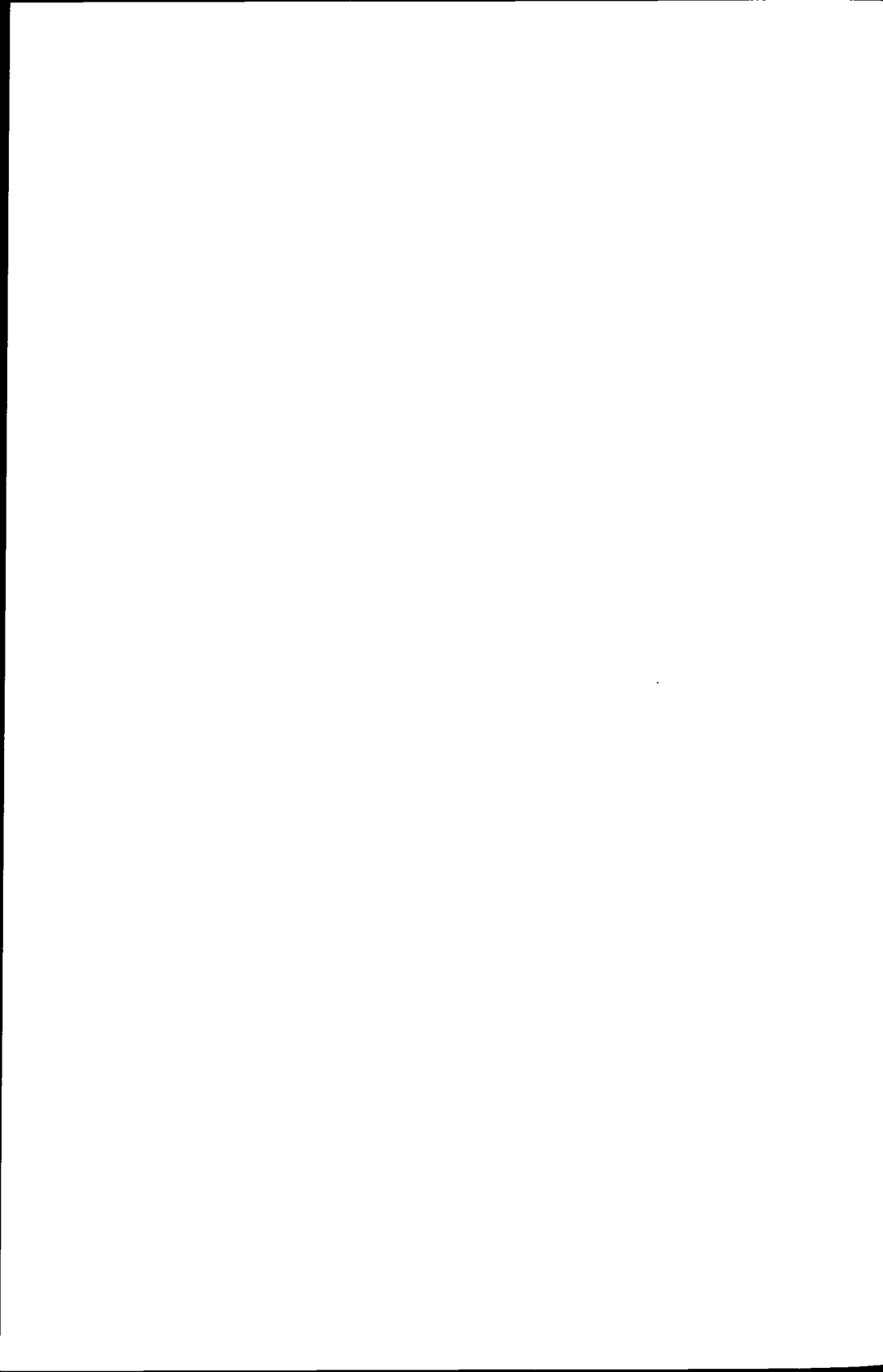
NET TECHNOLOGY (MATERIALS & TREATMENTS)

\$400

TOTAL PROGRAM

\$37,941

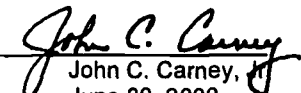
All \$ x \$1.000



DEBT LIMIT STATEMENT FOR FISCAL YEAR 2001

This Debt Limit Statement is to be attached to the Fiscal Year 2001 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, 2001 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. \$ 2,343.4 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. \$ 117.2 million
- (4) Less: Aggregate principal amount of previously authorized tax-supported obligations subject to debt limit. \$ 0.0 million
- (5) **AVAILABLE DEBT LIMIT** prior to appended legislation (Line 3 minus Line 4). \$ 117.2 million
- (6) Less: Aggregate principal amount of new tax-supported obligations subject to debt limit to be authorized pursuant to appended legislation. \$ 117.2 million
- (7) **REMAINING DEBT LIMIT** (Line 5 minus Line 6). \$ 0.0 million


John C. Carney, Jr.
June 30, 2000

APPENDIX C - Suburban Streets Program

Capitol Trail Farms-Center Circle from Lorrain Ave to cul-de-sac	01-823	19,375
Capitol Trail Farms-gilbert Rd from Woodhaven Rd to Old Capital Tra	01-822	38,750
Duncan Woods-Wild Cherry Lane from Duncan Rd to cul-de-sac	01-825	41,875
Duress Heights - Hillside Road from House #30A to House #32	00-880	14,750
Manor Park - Penewill Ave. from Bassett Ave to Pennsylvania Ave	01-862	83,875
Manor Park Apts. - New Jersey Ave. from Van Buren to McMillan Ave	01-863	21,875
Sharon Hill Rd (K162) from K158 to K100	01-1067	91,375
Sheen Rd (Sherwood Add.) at House #2609	01-799	500
Silview - Aldelphia Drive from Rt 4 to end	99-1032	39,250
Silview - Silview Drive for Rt 4 to end	99-1033	46,875
Wilmington Manor - Garfield Ave from DuPont Highway to end	00-908	34,875
Wilmington Manor - Grant Ave from Pennsylvania Ave to Harrison Ave	01-867	22,250
Wilmington Manor -- Grant Ave from Pennsylvania Ave to Harrison Av	01-865	22,625
Wilmington Manor -- Pennsylvania Ave from shopping center entrance	01-866	47,625
Wilmington Manor -- Pennsylvania Ave from SR1 to Washington Ave.	01-868	18,000
Wilmington Manor-Harrison Ave from US 13 to Pennsylvania Ave.	00-558	20,250
Wrangle Hill - Cheynne	00-903	29,625
Wrangle Hill - Granger	00-905	23,563
Wyoming - Mechanic St from Southern Blvd to Railroad Ave	01-1055	85,168

Carter Development-Carter St. from Howell St to Mailbox #41	01-26	2,750
Carter Development-Howell St from US 13 (K24) to end	01-27	15,125
Fairfield Farms-Beaumont Dr from Fairfield Dr. to Fairfield Dr.	01-670	9,000
Fairfield Farms-Fairfield Dr. from No. Old Mill Rd (K355) to No. Old M	01-671	59,313
Little Creek - Wilson Lane from Main St to Bell St	01-80	13,750
Pearsons Corner Rd (K101) from SR (K51) to W. Denneys Rd/Lockwood Ch	01-994	115,000
Sheen Rd. (Sherwood Add.) at Entrance	01-800	13,800
Wilmington - Sidewalks - 1310 N. Tatnall St	01-751	1,355
Wilmington - Sidewalks - 1312 N. Tatnall St	01-752	3,567
Wilmington - Sidewalks - 18 W. 35th St.	01-764	1,336
Wilmington - Sidewalks - 2616 N. Tatnall St.	01-753	1,621
Wilmington - Sidewalks - 2702 Moore St	01-749	1,377
Wilmington - Sidewalks - 2702 Moore St	01-748	2,492
Wilmington - Sidewalks - 2708 N. West St.	01-756	683
Wilmington - Sidewalks - 2801 N. West St.	01-757	853
Wilmington - Sidewalks - 300 E. 23rd St.	01-761	2,131
Wilmington - Sidewalks - 304 E. 23rd St.	01-762	1,229
Wilmington - Sidewalks - 306 E. 23rd St.	01-763	1,328
Wilmington - Sidewalks - 624 E. 22nd St.	01-759	11,117
Wilmington - Sidewalks - 808 E. 22nd St.	01-760	1,156
Wilmington - Sidewalks - 14th St & Market St (8th St. Baptist Church)	01-746	19,842
Wilmington - Sidewalks - 1626 Thatcher St. (Faith Tabernacle Church)	01-754	1,447
Wilmington - Sidewalks - 3301 N. Market St (New Mt. Olive Church)	01-747	8,765
Woodside - Main St. from Railroad to Town Limits	01-1044	19,027

APPENDIX C - Suburban Streets Program

1st Representative District	01-701	300,000
1st Senatorial District	01-801	300,000
2nd Representative District	01-702	300,000
2nd Senatorial District	01-802	122,026
3rd Representative District	01-703	300,000
3rd Senatorial District	01-803	300,000
4th Senatorial District	01-804	300,000
5th Representative District	01-705	300,000
5th Senatorial District	01-805	300,000
6th Representative District	01-706	300,000
6th Senatorial District	01-806	300,000
7th Representative District	01-707	300,000
7th Senatorial District	01-807	300,000
8th Representative District	01-708	300,000
8th Senatorial District	01-808	300,000
9th Representative District	01-709	300,000
9th Senatorial District	01-809	300,000
10th Representative District	01-710	300,000
10th Senatorial District	01-810	300,000
11th Representative District	01-711	300,000
11th Senatorial District	01-811	300,000
12th Representative District	01-712	300,000
12th Senatorial District	01-812	300,000
13th Representative District	01-713	300,000
13th Senatorial District	01-813	156,938
14th Representative District	01-714	300,000
14th Senatorial District	01-814	300,000
15th Representative District	01-715	156,937
15th Senatorial District	01-815	210,000
16th Representative District	01-716	300,000
16th Senatorial District	01-816	300,000
17th Representative District	01-717	300,000
17th Senatorial District	01-817	300,000
18th Representative District	01-718	300,000
18th Senatorial District	01-818	300,000
19th Representative District	01-719	99,575
19th Senatorial District	01-819	300,000
20th Representative District	01-720	300,000
20th Senatorial District	01-820	300,000
21st Representative District	01-721	300,000
21st Senatorial District	01-821	300,000
22nd Representative District	01-722	300,000
23rd Representative District	01-723	300,000
24th Representative District	01-724	300,000
25th Representative District	01-725	300,000
26th Representative District	01-726	300,000
27th Representative District	01-727	300,000
28th Representative District	01-728	262,750
29th Representative District	01-729	46,661
30th Representative District	01-730	300,000
31st Representative District	01-731	300,000
32nd Representative District	01-732	300,000

APPENDIX C - Suburban Streets Program

33rd Representative District	01-733	300,000
34th Representative District	01-734	109,617
35th Representative District	01-735	300,000
36th Representative District	01-736	300,000
37th Representative District	01-737	300,000
38th Representative District	01-738	300,000
39th Representative District	01-739	300,000
40th Representative District	01-740	300,000
41st Representative District	01-741	300,000
210 W. 38th St	01-9989	3,389
215 W 28th St	01-9992	2,536
215 W. 28th St	01-9991	845
219 W. 21st Street	01-9993	2,569
2200 Block of N. Pine St - both sides	01-9997	51,420
2527 Washington St	01-9990	3,824
2614 N. Tatnall	01-9994	2,232
2614 N. Tatnall	01-9995	1,642
917 Washington St	01-9996	8,328
Artis Drive/Bell	01-9973	12,500
City of Dover	01-9974	10,500
City of Wilmington	01-9960	60,000
Denneys Road Light	01-9975	30,000
District 4	01-9964	50,000
District 4	01-9963	70,000
Historical Marker Rehabilitation Project	01-9950	6,000
KCD - Artis Dr/Bainbridge - drainage	01-9970	8,905
KCD - Hazletville Rd/ Village of Westover	01-9971	4,371
Rehak Dr and North Street	01-9976	5,000
Streetscape Improvements	01-9962	100,000
Town of Leipsic	01-9951	17,500
Unit Block of W. 40th st. Both sides	01-9998	40,890
University of Delaware	01-9961	20,000
Wheatleys Pond Rd	01-9972	12,500

CHAPTER 490

FORMERLY

SENATE BILL NO. 115
AS AMENDED BY HOUSE AMENDMENT NO. 3 AND
SENATE AMENDMENT NOS. 2, 3, 4, AND 5

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HEALTH AND SAFETY AND
MINIMUM STAFFING LEVELS FOR RESIDENTIAL HEALTH FACILITIES.

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

WHEREAS, the General Assembly of the State of Delaware deems it to be in the best interest of the people of the State to enact legislation to establish minimum staffing levels for residential health facilities; and

WHEREAS, the General Assembly also deems it in the best interest of the people of the State to monitor the minimum staffing levels for residential health facilities in order to evaluate whether the standards should be amended from time to time.

NOW, THEREFORE:

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

Section 1. This Act shall be referred to and cited as 'Eagle's Law' in memory of Ignatius Adam 'Eagle' Marshall, patriot, husband and father, whose long-term care experience inspired this legislation in order to assist providers to enhance all services.

Section 2. Amend Title 16, Chapter 11 of the Delaware Code, by adding a new Subchapter VI. which shall read as follows:

"Subchapter VI. Minimum Staffing Levels for Residential Health Facilities

§1161. Definitions

- (a) "Advanced practice nurse" shall mean an individual whose education and certification meet the criteria outlined in Title 24, Chapter 19, Delaware Code, and who is certified in at least one of the following specialty areas:
 - (1) Adult nurse practitioner;
 - (2) Gerontological clinical nurse specialist;
 - (3) Gerontological nurse practitioner;
 - (4) Psychiatric/mental health clinical nurse specialist; or
 - (5) Family nurse practitioner.
- (b) "The Department" shall mean the Department of Health and Social Services.
- (c) "The Division" shall mean the Division of Long Term Care Residents Protection.
- (d) "Residential health facility" shall mean any facility that provides long-term health-related care and nursing services to individuals who do not require the degree of care and treatment that a hospital is designed to provide. These are those facilities, licensed pursuant to Chapter 11, Title 16, that:
 - (1) provide skilled nursing services to persons who require medical or nursing care; or
 - (2) provide nursing services above the level of room and board to those who, because of a mental or physical condition, routinely require these services.

Also included are units, licensed pursuant to Chapter 11, Title 16, of facilities that provide active treatment and health and rehabilitation services to persons with mental retardation or related conditions, on which care is delivered to residents in

accordance with medical plans of care. This definition does not include group homes for the mentally ill, mentally retarded or persons with AIDS, rest family care homes, neighborhood homes, rest/residential health facilities, assisted living facilities and intermediate care facilities that, as of March 1, 1999, were solely private pay, provided they remain exclusively intermediate care facilities.

- (e) "Nursing services direct caregivers" shall mean advanced practice nurses, registered nurses, licensed practical nurses, certified nursing assistants, nursing supervisors, and assistant directors of nursing assigned to the direct care of nursing facility residents, but does not include such staff if assigned administrative or management responsibilities unless exigent circumstances require that administrative and management duties be discontinued in order for direct care to be provided by such staff.
- (f) "Nursing supervisor" shall mean an advanced practice nurse or registered nurse or licensed practical nurse with 5 years long-term care experience assigned to supervise and evaluate nursing services direct caregivers.

§1162. Nursing Staffing

- (a) Every residential health facility must at all times provide a staffing level adequate to meet the care needs of each resident, including those residents who have special needs due to dementia or a medical condition, illness, or injury. Every residential health facility shall post, for each shift, the names and titles of the nursing services direct caregivers assigned to each floor, unit, or wing and the nursing supervisor on duty. This information shall be conspicuously displayed in common areas of the facility, in no fewer number than the number of nursing stations. Every residential health facility employee shall wear a nametag prominently displaying his or her full name and title. Personnel hired through temporary agencies shall be required to wear photo identification listing their names and titles.
- (b) By March 1, 2001 the minimum staffing level for nursing services direct caregivers shall not be less than the staffing level required to provide 3.0 hours of direct care per resident per day, provided that funds have been appropriated for 3.0 hours of direct care per resident for Medicaid eligible reimbursement. Nursing staff rounded to the nearest whole person, must be distributed in order to meet the following minimum shift ratios:

	RN/LPN	C.N.A (or other direct caregivers)
Day	1:20	1:9
Evening	1:25	1:10
Night	1:40	1:22

- (c) On or before December 1, 2001, a comprehensive report assessing and reviewing the quality of nursing facility care in Delaware shall be completed by the Delaware Nursing Home Residents Quality Assurance Commission and submitted to the Governor and the General Assembly. The purpose of the report is to determine the efficacy of the minimum staffing levels required under this Act, including but not limited to, the availability of qualified personnel in the job market to meet the requirement, the cost and availability of nursing home care, and patient outcomes based on scheduled facility surveys, surprise inspections and other reviews conducted by the Division. Based on this information, the Commission will determine if increasing the minimum nurse staffing levels to 3.28 hours of direct care and the corresponding required shift ratios are appropriate and necessary. By January 1, 2002, the minimum staffing level for nursing services direct caregivers shall not be less than the staffing level required to provide 3.28 hours of direct care per resident per day, subject to Commission recommendation provided that funds have been appropriated for 3.28 hours of direct care per resident for Medicaid eligible

reimbursement. Nursing staff must be distributed in order to meet the following minimum shift ratios:

	RN/LPN	C.N.A. (or other direct caregivers)
Day	1:15	1:8
Evening	1:23	1:10
Night	1:40	1:20

- (d) On or before January 1, 2003, a comprehensive report assessing and reviewing the quality of nursing facility care in Delaware shall be completed by the Delaware Nursing Home Residents Quality Assurance Commission and submitted to the Governor and the General Assembly. The purpose of the report is to determine the efficacy of the minimum staffing levels required under this Act, including but not limited to, the availability of qualified personnel in job market to meet the requirement, the cost and availability of nursing home care, and patient outcomes based on scheduled facility surveys, surprise inspections and other reviews conducted by the Division. Based on this information, the Commission will determine if increasing the minimum nurse staffing levels to 3.67 hours of direct care and the corresponding required shift ratios are appropriate and necessary.
- (e) By May 1, 2003 the minimum staffing level for nursing services direct caregivers shall not be less than the staffing level required to provide 3.67 hours of direct care per resident per day, subject to Commission recommendation and provided that funds have been appropriated for 3.67 hours of direct care per resident for Medicaid eligible reimbursement. Nursing staff, rounded to the nearest whole person, must be distributed in order to meet the following minimum shift ratios:

	RN/LPN	C.N.A. (or other direct caregivers)
Day	1:15	1:7
Evening	1:20	1:10
Night	1:30	1:15

- (e) The time period for review and determining compliance with the staffing ratios required under this Act shall be one week. To the extent a residential health facility subject to the required ratios of this Act desires an alternative shift schedule, they shall notify the Division of such alternative shift schedule prior to implementation, the proposed shift schedule and corresponding staff ratios must meet the minimum hour requirements and must not exceed the patient to staff ratios provided under this act for the night shift. Any alternative shift schedule must be clearly posted along with the postings required pursuant to § 1162(a).
- (g) Notwithstanding the minimum staffing requirements established in this subchapter, to the extent additional staffing is necessary to meet the needs of residents, nursing facilities must provide sufficient nursing staffing. If the Division finds unsatisfactory outcomes in a facility, the Department may impose protocols for staffing adequacy, including but not limited to staffing levels above the minimum required under this subchapter. Outcomes examined shall include those outcomes as enumerated by the United States Health Care Finance Administration Quality Indicators. Evidence of a failure to meet the nursing staffing needs of residents shall be grounds for enforcement action under this chapter.
- (g) All residential health facilities shall have a nursing supervisor on duty at all times.

- (h) All residential health facilities shall have, in addition to the requirements in (b)-(f) above, a full-time director of nursing who is an advanced practice nurse or a registered nurse with one year's work experience as a registered nurse. After July 1, 2001, any newly hired director of nursing who has not worked in Delaware within the previous three months as a director of nursing shall be an advanced practice nurse or a registered nurse with a B.S. degree in nursing and two years experience in long term care or a registered nurse with three years of long term care experience. After July 1, 2001, all newly hired directors of nursing must complete, within three months of hire (or as soon as a course is available), a long term care director of nursing workshop in accordance with regulations promulgated by the Department in consultation with the Commission.
- (i) All residential health facilities licensed for 100 beds or more shall have, at a minimum, the following supervisory and administrative nursing staff, in addition to the personnel listed in (b)-(g) above: a full-time assistant director of nursing who is an advanced practice nurse (or a registered nurse) and a director of in-service education.
- (j) All residential health facilities licensed for fewer than 100 beds shall employ, at a minimum, a part-time assistant director of nursing in addition to the personnel listed in (b)-(g) above, in accordance with the following formula:

Number of beds x 40 = _____ hours per week minimum required 100 for an assistant director of nursing and a director of in-service education.

A sub-acute transitional care unit of an acute care hospital, with 30 beds or fewer, is exempt from the provisions of this subsection provided that other licensed personnel perform the duties of this function.

- (l) For residential health facilities with 15 beds or fewer, the director of nursing, assistant director of nursing, and/or nursing supervisor, while on duty, may also serve as nursing services direct caregivers, as described in (b)-(d) above.
- (m) The educational requirements described above shall be met provided that if an insufficient pool of applicants exists, other qualifications may be deemed acceptable in accordance with regulations promulgated by the Department.

§ 1163. Activities Staffing

- (a) All residential health facilities licensed for 30 beds or more shall have a full-time activity director. Any activities director hired after July 1, 2001 shall be a certified therapeutic recreation specialist, a certified occupational therapy assistant, a certified music therapist, a certified art therapist, a certified drama therapist, a certified dance/movement therapist, an activities director certified, or an occupational therapist registered.
- (b) All residential health facilities licensed for fewer than 30 beds shall have, at a minimum, part-time activities director as described in (a) above, in accordance with the following formula:

Number of beds x 40 = _____ hours per week minimum required for an activities director.

A sub-acute transitional care unit of an acute care hospital, with 30 beds or fewer, is exempt from the provisions of this subsection provided that other licensed personnel perform the duties of this function.

§ 1164. Nutrition and Dietetics Staffing

Every residential health facility must at all times provide nutrition and dietetics staffing adequate to meet the care needs of each resident. The staffing level must, at a minimum, include a full-time food service manager. Any food service manager hired after July 1, 2001 must be a registered dietitian or a certified dietitian/nutritionist, a registered dietetic technician, a certified dietary manager, or must have a Bachelor of Science or associate degree in food service management or related field. The educational requirements shall be met provided that if an insufficient pool of applicants exists, other qualifications may be deemed acceptable in accordance with regulations promulgated by the Department. A sub-acute transitional care unit of an acute care hospital, with 30 beds or fewer, is exempt from the provisions of this subsection provided that other licensed personnel perform the duties of this function.

§1165. Social Services Staffing

All residential health facilities shall employ a full-time social worker, except that facilities licensed for fewer than 100 beds may designate other personnel to assume the duties associated with that position in accordance with the rules and regulation promulgated and adopted pursuant to this subchapter.

§1166. Medicaid Reimbursement

- (a) The Medicaid reimbursement program shall be adjusted to reflect costs associated with the increased staffing levels described herein. Reimbursement rates for nursing wages will be adjusted to the 75th percentile under the current wage determination methodology for primary care under the state Medicaid program.
- (b) The Department shall ensure that 100% of Medicaid funds paid for primary care are expended by the residential health facility for primary care purposes. If, during any annual cost reporting period, a facility expends less than 100% of the primary care reimbursement it receives from Medicaid for primary care, the sum under-spent must be repaid to the Medicaid program. The repayment will be made through a cost settlement process when the provider files its annual cost report. The Department will revise its regulations and Medicaid cost report forms to require a cost settlement for the primary care reimbursement classification.
- (c) Medicaid reimbursement of providers shall be consistent with the provisions of this Act regardless of the payment methodology employed by Medicaid or its contractors, including managed care.

§ 1167. Outcomes monitoring

In addition to compliance monitoring, the Division shall use data collected by residential health facilities to monitor quality of care and patient outcomes pursuant to § 1162(g). The Division shall analyze this data in order to help target licensing surveys and inspections. The Department shall promulgate and adopt regulations that define the outcomes monitoring process.

§ 1168. Waiver

A residential health facility may seek from the Delaware Nursing Home Residents Quality Assurance Commission a time-limited waiver of the minimum staffing requirements required under § 1162(c) and § 1162(e). Such waiver will only be granted upon a showing of exigent circumstances, including but not limited to documented evidence of the facility's best efforts to meet the minimum staffing requirements under § 1162(c) and § 1162(e). Any such waiver will be time-limited and will include a plan and a timeline for compliance with this Act. The Commission may seek input from the Department of Labor in terms of issues of labor availability in connection with any waiver request under this section.

§ 1169. Regulations

The Department shall promulgate and adopt rules and regulations to fully and effectively implement the provisions of this subchapter. The regulations will become effective 60 days after adopted by the Department."

Section 3. The effective date of this Act shall be September 1, 2000.

Approved September 08, 2000

CHAPTER 491

FORMERLY

SENATE BILL NO. 395
AS AMENDED BY SENATE AMENDMENT NO. 1

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

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

WHEREAS, the State of Delaware disposes of approximately 800,000 tons of municipal solid waste each year, and

WHEREAS, the State of Delaware's participation in and promotion of recycling programs will significantly reduce the amount of solid waste disposed of by removing recyclable materials from the waste stream and making them available for reuse by industry; and

WHEREAS, for recycling programs to market the growing quantities of recyclable materials, industrial demand to use recycled materials in manufacturing processes must increase and consumer demand to purchase industry's finished products made from recycled materials must increase, and

WHEREAS, the State, as a consumer, purchases approximately \$170,000,000 worth of goods each year, and the State desires to purchase finished products made from recycled materials, designed for recyclability, or emphasizing waste reduction, wherever feasible; and

WHEREAS, Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. §6962) requires that states using federal funds for procurement buy recycled products in certain circumstances and the U.S. Environmental Protection Agency (EPA) has prepared Comprehensive Procurement Guidelines on specific materials for use by states in meeting the requirements of the law.

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

Section 1. Amend Title 29, Chapter 69, by adding a new subsection 6938 to read as follows:

"6938. Purchase of Recycled, Reusable and Recyclable Products

- a. The State shall have as a goal the maximum feasible purchase of recycled content products and reusable or recyclable products, and the maximum feasible percentage of post-consumer recycled content in its purchases. For any item that is being purchased by the State and for which the U.S. Environmental Protection Agency has developed a Comprehensive Procurement Guideline as required by Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. §6962), it shall be a goal of the State to purchase that item with a recycled content that meets or exceeds the EPA guideline standards.
- b. Prior to initiating a request for procurement of any product, an agency shall review its existing specifications for such product to determine whether recycled content products or reusable or recyclable products are directly or indirectly excluded. The agency must eliminate any such exclusion from its specifications, unless it can demonstrate in writing to the satisfaction of the agency head that the exclusion is either:
 - (1) operationally necessary;
 - (2) legally mandated; or
 - (3) necessary to avoid excessive cost. Excessive cost shall be defined as when the recycled product cost is greater than 5% of the equivalent virgin product cost.
- c. When requesting any purchase of a product for which the U.S. EPA has established a Comprehensive Procurement Guideline, an agency is required to buy the specified product unless the agency can demonstrate in writing to the satisfaction of the agency head that a product meeting the standards either:

Chapter 491
Vol.72

- (1) is not available competitively;
- (2) is not available within a reasonable time frame;
- (3) does not meet appropriate performance standards; or
- (4) is available only at an excessive cost as defined in (b) (3) above.

d. There is established an interagency work group comprised of one representative from the Department of Administrative Services, the Department of Natural Resources and Environmental Control, the Delaware Economic Development Office, the Department of Transportation, and the Department of Health and Social Services. This work group shall be known as the State Materials Recycling Team (SMRT) and its members shall be appointed by the respective Department Heads. The Chair of the SMRT will be selected by the team's membership. The work group's primary purposes shall be:

- (1) to educate state agencies about recycling and to promote the purchase of recycled products as called for in this Subsection,
- (2) to develop a methodology for tracking purchases made in accordance with this section,
- (3) to review and assess State agency recycling practices, and
- (4) to report to the Governor and the General Assembly on an annual basis its findings and conclusions with respect to the above purposes."

Approved September 14, 2000

CHAPTER 492

FORMERLY

HOUSE BILL NO. 574

AN ACT TO AUTHORIZE AND APPROVE THE TRANSFER OF CERTAIN REAL PROPERTY IN NEW
CASTLE COUNTY KNOWN AS THE BANCROFT LANES

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

WHEREAS, certain property presently owned by the State, and used by the Division of Motor Vehicles as an inspection site, has been declared surplus by the State; and

WHEREAS, this parcel, known as the "Bancroft Lanes," has not been used since being discontinued as an inspection site; and

WHEREAS, there appears to be strong community interest in renovating the property for use as a community library, and the Wilmington Institute (Free Public Library) has agreed to assume ownership.

NOW, THEREFORE:

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

Section 1. Notwithstanding any provisions to the contrary, including those contained in Chapter 94, Title 29 of the Delaware Code, the transfer and conveyance of that certain parcel of land known as the Bancroft Lanes property to the Wilmington Institute (Free Public Library) hereinafter referred to as the "Wilmington Institute," for the consideration of one dollar (\$1.00) is hereby specifically approved.

Section 2. The appropriate State agency is hereby authorized and empowered to execute and deliver to the Wilmington Institute a good and sufficient deed to the said real property.

Section 3. The Wilmington Institute agrees to accept the property, occupy the property, keep the property in good repair, and to convert the property into a community library.

Section 4. The Wilmington Institute shall have three (3) years from the effective date of this Act to begin the renovations set forth in Section 3. If such project is not started within three (3) years from the effective date of this Act, the deed shall become invalid; and ownership of the above-described real property, known as the Bancroft Lanes, shall revert to the State.

Approved October 23,2000

CHAPTER 493

FORMERLY

SENATE JOINT RESOLUTION NO. 2
AS AMENDED BY SENATE AMENDMENT NO. 1

CREATING THE DELAWARE GENERAL ASSEMBLY TRICENTENNIAL COMMITTEE TO PLAN AND IMPLEMENT AN APPROPRIATE COMMEMORATION FOR THE 300TH ANNIVERSARY OF THE STATE LEGISLATURE WHICH WILL BE OBSERVED IN THE YEAR 2004.

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

WHEREAS, the year 2004 marks the 300th Anniversary of the Delaware General Assembly; and

WHEREAS, in 1704 the elected representatives of the "lower three counties" of New Castle, Kent and Sussex seceded from the then provincial government of Pennsylvania, establishing self government for what was later to become the "First State"; and

WHEREAS, the 300th Anniversary of the Delaware General Assembly provides an appropriate opportunity to reflect on Delaware's rich legislative history; and

WHEREAS, the members of the 140th Delaware General Assembly believe that this significant historical event should be the subject of a proper commemoration.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 140th General Assembly of the State of Delaware with the approval of the Governor, that the Delaware General Assembly Tricentennial Committee is hereby established for the purpose of planning and implementing an appropriate commemoration of the 300th Anniversary of the Delaware General Assembly.

BE IT FURTHER RESOLVED that this commemoration shall include, but not be limited to, the publication of a detailed and scholarly history of the first 300 years of the Delaware General Assembly, presented in book form.

BE IT FURTHER RESOLVED that the Delaware General Assembly Tricentennial Committee shall consist of the following members:

- (1.) Two members of the Senate, who also serve on the Legislative Council, one from each political party, to be appointed by the President Pro Tempore of the Senate.
- (2.) Two members of the House of Representatives, who also serve on the Legislative Council, one from each political party, to be appointed by the Speaker of the House.
- (3.) Six members, who shall serve in an ex-officio, non-voting capacity, who shall be: the Director of the Division of Historical and Cultural Affairs, the Administrator of the Delaware Public Archives, the Administrator of the Delaware State Museums, the Executive Director of the Delaware Heritage Commission, the Director of the Division of Research and the Executive Director of the Historical Society of Delaware.

BE IT FURTHER RESOLVED that the Chair of the Delaware General Assembly Tricentennial Committee shall be elected from among its members.

BE IT FURTHER RESOLVED that the Delaware General Assembly Tricentennial Committee shall develop and implement a workplan and budget for the commemoration of the 300th Anniversary of the Delaware General Assembly, subject to the approval of the Legislative Council.

BE IT FURTHER RESOLVED that all expenditures of the Delaware General Assembly Tricentennial Committee shall be subject to the approval of the Chairman of the Legislative Council.

Approved June 02,1999

CHAPTER 494

FORMERLY

SENATE JOINT RESOLUTION NO. 14

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 2001.

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

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "No appropriation, supplemental appropriation, or Budget Act shall cause the aggregate State general fund appropriations enacted for any given fiscal year to exceed 98 percent of the estimated State general fund revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous fiscal year"; and

WHEREAS, Section 6(b) also requires that "The amount of said revenue estimate and estimated unencumbered funds remaining shall be determined by the most recent Joint Resolution approved from time to time by a majority of the members elected to each House of the General Assembly and signed by the Governor";

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 140th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 2001 is \$2,524.6 million, estimated revenue refunds are \$181.2 million, estimated net State general fund revenue is \$2,343.4 million and estimated unencumbered funds are \$123.0 million.

Approved July 01,2000

CHAPTER 495

FORMERLY

HOUSE JOINT RESOLUTION NO. 14

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 1999.

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

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "No appropriation, supplemental appropriation, or Budget Act shall cause the aggregate State general fund appropriations enacted for any given fiscal year to exceed 98 percent of the estimated State general fund revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous fiscal year"; and

WHEREAS, Section 6(b) also requires that "The amount of said revenue estimate and estimated unencumbered funds remaining shall be determined by the most recent Joint Resolution approved from time to time by a majority of the members elected to each House of the General Assembly and signed by the Governor";

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 140th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 1999 is \$2,370.3 million, estimated revenue refunds are \$183.3 million, estimated net State general fund revenue is \$2,187.0 million and estimated unencumbered funds are \$214.2 million.

Approved June 30,1999

CHAPTER 496

FORMERLY

HOUSE JOINT RESOLUTION NO. 15

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 2000.

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

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "No appropriation, supplemental appropriation, or Budget Act shall cause the aggregate State general fund appropriations enacted for any given fiscal year to exceed 98 percent of the estimated State general fund revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous fiscal year"; and

WHEREAS, Section 6(b) also requires that "The amount of said revenue estimate and estimated unencumbered funds remaining shall be determined by the most recent Joint Resolution approved from time to time by a majority of the members elected to each House of the General Assembly and signed by the Governor";

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 140th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 2000 is \$2,443.0 million, estimated revenue refunds are \$183.7 million, estimated net State general fund revenue is \$2,259.3 million and estimated unencumbered funds are \$187.5 million.

Approved June 30,1999

CHAPTER 497

FORMERLY

HOUSE JOINT RESOLUTION NO. 31
AS AMENDED BY SENATE AMENDMENT NO. 1

RECOMMENDING THE ABOLISHMENT OF COUNTY REGISTER IN CHANCERY AS AN ELECTED OFFICE THEREBY ENABLING THE COURT OF CHANCERY TO SELECT ITS OWN REGISTER IN CHANCERY.

WHEREAS, the Court of Chancery is a Statewide court; and

WHEREAS, the Court of Chancery plays a key role in continuing Delaware's preeminence as a State of Incorporation for corporations and a domicile for other business entities; and

WHEREAS, to maintain the Court of Chancery's effectiveness, that Court needs an integrated clerk's office with modern technology whose leader is answerable to the Court; and

WHEREAS, the Court of Chancery currently has three separate clerk's offices, each led by an elected county official known as a Register in Chancery, rather than an appointee of the Court; and

WHEREAS, of the three County Register in Chancery offices, only one has a modern docketing system using relatively current computer technology, and the one office that has modern computer technology has technology that is not compatible with that used by members of the Court and their direct staffs; and

WHEREAS, the three County Register in Chancery offices operate with different holiday schedules than the State, resulting in days when the Court is open and there is no Register's office staff to handle trials; and

WHEREAS, the Court of Chancery operates its docket on a Statewide basis, but is forced to process that docket through separate clerk's offices that do not follow common procedures; and

WHEREAS, the counties, for understandable reasons, have no incentive to invest heavily in the Register in Chancery offices because those offices are annexed to a properly State function and do not fulfill a core function of county government; and

WHEREAS, the State cannot responsibly invest in the Register in Chancery offices now, because the State does not control those offices; and

WHEREAS, the current situation leaves the Court of Chancery with no ability to implement a modern case processing system, usable by all court staff, and capable of meeting the needs of the court's constituency. In particular, the Court is currently ill-situated to move a system of on-line filing of pleadings, motions, and briefs, even though it is anticipated that most complex litigation of the type commonly heard in Chancery will involve such electronic filings in the near future; and

WHEREAS, the current situation requires the Chancellor to deal with three clerks of court when it would be more efficient for the Court to have one Register in Chancery who can operate a Statewide clerk's office in a manner responsive to the needs of the Court; and

WHEREAS, the Court of Chancery therefore desires that the General Assembly amend the Constitution to abolish the County Registers in Chancery as an elected office and to enable the Court of Chancery to select its own Register in Chancery (the "Proposed Constitutional Amendment"); and

WHEREAS, the Court recognizes that there are substantial fiscal and personnel issues that must be addressed to create a single clerk's office for the Court under the leadership of a Register in Chancery appointed by the Court; and

WHEREAS, the Court of Chancery is committed to working with all affected constituencies, including the existing Registers in Chancery, Register in Chancery employees, county governments, and the relevant State agencies to ensure that the transition to a new system is accomplished in a fair and fiscally prudent manner; and

WHEREAS, to that end, the Court is prepared to accomplish such work and to present, in cooperation with the Administrative Office of the Courts, the State Budget Office, the Department of Finance, and the State Personnel Office, a complete legislative and budgetary package to accomplish such transition so that the General Assembly can consider that package at the same time it considers the second leg of the Proposed Constitutional Amendment.

NOW, THEREFORE;

BE IT RESOLVED by the House and the Senate of the 140th General Assembly of the State of Delaware, with the approval of the Governor, that:

Chapter 497
Vol.72

1. The Court of Chancery shall undertake to work with all affected constituencies so as to develop the legislation necessary to effect a fair and fiscally prudent transition from the current Register in Chancery system to a Register in Chancery system headed by an appointee of the Court and staffed entirely by employees of the State. Such affected constituencies shall include: 1) the current Registers in Chancery; 2) the staffs of the current Register's Offices (and their collective bargaining representatives, if any); 3) the county governments; and 4) the relevant agencies of State government.
2. The Administrative Office of the Courts, the State Budget Office, the Department of Finance, and the State Personnel Office shall provide such reasonable staff support as the Court of Chancery may require to develop the legislation contemplated by this Resolution.
3. The Court of Chancery shall present the legislation required by this Resolution on or before January 30, 2001 and shall endeavor to seek inclusion of all necessary budgetary measures in the Chief Justice's recommended judicial budget and the Governor's proposed Fiscal Year 2002 budget.

Approved June 30, 2000

CHAPTER 498

FORMERLY

HOUSE JOINT RESOLUTION NO. 33
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

ESTABLISHING A COMMITTEE TO STUDY THE PRACTICE OF MIDWIFERY IN DELAWARE AND TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY.

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

WHEREAS, many Delawareans would like to have greater options available to them in choosing the manner, cost and setting for giving birth, including the use of midwives; and

WHEREAS, giving people greater options in selecting the setting and services in connection with childbirth could save health care costs; and

WHEREAS, Delaware now has very restrictive laws concerning the practice of midwifery; and

WHEREAS, there are national organizations which have developed standards for the practice of midwifery and the certification of midwives; and

WHEREAS, it is appropriate for the State to consider whether it should amend its current laws and regulations governing the practice of midwifery; and

WHEREAS, in this process it is important that the safe delivery of newborns be assured and that the health, safety and welfare of their mothers be protected.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 140th General Assembly, with the approval of the Governor, that a committee be established to consider whether the State should alter or amend its laws and regulations concerning the practice of midwifery and to make recommendations to the General Assembly.

BE IT FURTHER RESOLVED, that in the course of its study, the committee should consider what is involved in the practice of midwifery; the standards currently required by Delaware law and the standards for certification imposed by national organizations; the laws of other States concerning the practice of midwifery; the effect the greater use of midwives might have upon costs of hospitalization and medical services; and any impact on the health and safety of newborns and their mothers.

BE IT FURTHER RESOLVED, that the Committee shall consist of twelve members, as follows: one Advanced Practical Nurse, one Certified Practical Midwife from each of the State's three counties; one homebirth mother from each of the State's three counties; one person appointed by the Speaker of the House; one person appointed by the President Pro Tempore of the Senate; one person appointed by the State Insurance Commissioner; one person appointed by the Medical Society of Delaware; and one person appointed by the Governor, who shall be Chairperson of the Committee. The Department of Health and Social Services shall provide staff services to the Committee.

BE IT FUTHER RESOLVED, that the Committee shall begin its work in September 2000 and shall file a report and recommendations with the General Assembly in March 2001.

Approved July 13, 2000

CHAPTER 499

FORMERLY

HOUSE JOINT RESOLUTION NO. 37
AS AMENDED BY SENATE AMENDMENT NO. 1

ESTABLISHING A TASK FORCE TO REVIEW AND REPORT ON BASIC LIFE SUPPORT FINANCIAL ISSUES RELATING TO DELAWARE VOLUNTEER FIRE COMPANIES AND VOLUNTEER AMBULANCE COMPANIES.

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

WHEREAS, Delaware volunteer fire and ambulance companies have expended and are continuing to expend considerable funds in order to improve fire and ambulance services to the people of Delaware; and

WHEREAS, the cost of these services can adversely affect the total budget of volunteer fire and ambulance companies, impacting their mission in their communities; and

WHEREAS, House Bill No. 332 was enacted into law in July, 1999, increasing the responsibilities of volunteer fire and ambulance companies; and

WHEREAS, because of increased responsibilities, volunteer fire and ambulance companies need additional funding from the General Assembly; and

WHEREAS, the State Fire Prevention Commission by Resolution urges this General Assembly to create a special task force to study the funding needs of the basic life support function being carried out by volunteer fire and ambulance companies;

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 140th General Assembly of the State of Delaware, with the approval of the Governor, that the Basic Life Support Financial Task Force (Task Force) is hereby established to review and report on basic life support financial issues relating to Delaware volunteer fire companies and volunteer ambulance companies, including a review and a report with recommendations on the funding needs of the basic life support functions of the companies.

BE IT FURTHER RESOLVED that the Task Force is composed of the following members:

- 1) one member of the House of Representatives, selected by the Speaker of the House;
 - 2) one member of the House of Representatives, selected by the House Minority Leader;
 - 3) one member of the Senate, selected by the President Pro Tempore of the Senate;
 - 4) one member of the Senate, selected by the Senate Minority Leader;
 - 5) one member from the State Budget Office, selected by the Governor;
 - 6) two members selected by the Chair of the State Fire Prevention Commission;
 - 7) one member from each county selected by the Delaware Volunteer Firemen's Association;
 - 8) the Chair of the Delaware Volunteer Firemen's Association Ambulance Advisory Committee;
 - 9) the State Auditor, or the Auditor's designee; and
 - 10) the Secretary of the Department of Health and Social Services, who is also the Chair of the Task Force.
- BE IT FURTHER RESOLVED that the Task Force shall submit its report with recommendations to the co-chairs of the Joint Finance Committee by January 31, 2001."

Approved July 13, 2000

INDEX

INDEX

Alcoholic Beverages

ABCC Agents	Chapter 379
ABCC Voluntary Assessment Plan	Chapter 378

Accountants

CPA Education Requirements	Chapter 468
----------------------------	-------------

Adoption

Birthparents, Privacy Protection	Chapter 1
Foreign Adoption Documentation	Chapter 306

Adult Entertainment Establishments

Limit Locations	Chapter 452
-----------------	-------------

Aggressive Driving

Chapter 216

Agriculture

Grain Testing	Chapter 471
Northeast Interstate Dairy Compact	Chapter 25
Nutrient Management Commission	Chapter 60
Plant Pesticide Regulations	Chapter 375
Land Tax Assessment	Chapter 90

AIDS

Testing	Chapter 22
---------	------------

Air Park

Funding	Chapter 7
---------	-----------

Alcohol

Replace ABCC Commissioner	Chapter 486
Delivery to Minors	Chapter 349
Property Closure from Illegal Sale	Chapter 31
Licenses	Chapter 351
Licensing, Substantial Objections	Chapter 157
Liquor License, Substantive Change	Chapter 221
Liquor Stores, Employ 18 yr. olds	Chapter 134
Minors in Taverns	Chapter 348

Minors in Taverns	Chapter 350
Access to Out of State Wine	Chapter 230
Tax Refund, Alcohol Sold to Armed Forces	Chapter 374
<u>Ambulance Attendants</u>	
Immunity from Civil Liability	Chapter 329
<u>Animals</u>	
Dog/Cat By Product Trade	Chapter 391
<u>"Anna Marie Fahey" Law</u>	Chapter 47
<u>Archives</u>	
Job Title Changes	Chapter 382
Separate Division	Chapter 91
<u>Arrest Records</u>	
Expungement	Chapter 150
<u>Automobile Dealers</u>	
Finance Changes	Chapter 218
<u>Bancroft Lanes</u>	
Property Transfer	Chapter 492
<u>Banking</u>	
Banking and Financial Services Amendment of 99	Chapter 15
Financial Institute Supervisor, Privilege	Chapter 286
Foreign Banking Amendments 99	Chapter 35
Franchise Tax, Employment Tax Credit	Chapter 331
Motor Vehicle Sales Finance Act	Chapter 127
<u>Birth Leave</u>	
School & State Employees	Chapter 174
<u>Birth Records</u>	
Minors	Chapter 70
<u>Boards and Commissions</u>	
Podiatry	Chapter 213

Nursing	Chapter 121
Medical Practice	Chapter 171
Land Surveyors	Chapter 265
Family Law Commission	Chapter 153
Delaware Health Fund	Chapter 198
Nursing Homes Quality Assurance	Chapter 199
Board of Chiropractic	Chapter 125
Electrical Examiners	Chapter 210
Funeral Services	Chapter 209
Health Resources	Chapter 64
Veterinarians	Chapter 207
 <u>Boating</u>	
Jet Skis	Chapter 358
<u>Speech Pathologist/Audiologists</u>	Chapter 266
<u>Boiler Safety Rules</u>	Chapter 418
<u>Bomb Threats</u>	Chapter 368
 <u>Bond Bill</u>	
FY 2000	Chapter 258
Community Redevelopment Fund	Chapter 268
FY 2001	Chapter 489
<u>Boot Camp Inmate Training Program</u>	Chapter 68
<u>Bridge Owners Inspection Requirements</u>	Chapter 201
 <u>Budget Bill</u>	
FY 2000	Chapter 94
FY 2000 Amendment	Chapter 255
FY 2001	Chapter 395
 <u>Business License</u>	
Failure to Obtain	Chapter 220
<u>Business Trusts</u>	Chapter 387
 <u>Cellular Phones</u>	
Exclude from PSC	Chapter 163
 <u>Charters</u>	
Bethany Beach	Chapter 321

Dewey Beach	Chapter 425
Dover	Chapter 277
Fenwick Island	Chapter 186
Henlopen Acres	Chapter 110
Laurel	Chapter 279
Leipsic	Chapter 466
Lewes	Chapters 13, 175
Milford	Chapter 148
Millsboro	Chapter 49, 86
Millville	Chapter 278
New Castle	Chapter 115, 116
Ocean View	Chapters 178, 263, 264, 183
Odessa	Chapter 339
Rehoboth Beach	Chapter 355
Selbyville	Chapter 19
Slaughter Beach	Chapter 48
South Bethany	Chapter 354
Wyoming	Chapter 5, 14, 373

Child Abuse

Detection, Reporting Training	Chapter 173
Records Use	Chapter 17
Registry, Right of Appeal	Chapter 469

Child Advocate

Establish Office	Chapter 167
Child Death Review Comm.	Chapter 327

Child Placement Review Act

Chapter 338

Child Victims

Videotaped Testimony	Chapter 212
----------------------	-------------

Child Welfare

Proceedings Representation	Chapter 451
Home Evaluation	Chapter 77

Cigarettes

Packs under 20 ban	Chapter 472
--------------------	-------------

Clean Air Act

Chapter 214

Collective Bargaining

Dispute Resolution Procedure	Chapter 272
Police Officers & Firefighters	Chapter 271

College Investment Plan

Governor to Select Chair	Chapter 114
Name Changes	Chapter 300

<u>Colon Cancer Screening</u>	Chapter 416
-------------------------------	-------------

Constitution

Secretary of State Residency	Chapter 24
Elections, Canvas Process	Chapter 437
Felons Right to Vote	Chapter 356
Gender Neutral	Chapter 136
Eliminate Mental Illness Language	Chapter 435
Register in Chancery Appointment	Chapter 357

Corporation Law

Chapter 123
Chapter 343

Corrections

Hospice Services	Chapter 475
Inmate Phone Call Monitoring	Chapter 51
Juveniles Sentenced as Adult	Chapter 149
Contraband	Chapter 108
Correctional Officer Ed. Assistance Fund	Chapter 273
Correctional Officer Recognition Week	Chapter 76
Replace Term "Prison awards"	Chapter 50

Cosmetology

Governor Appointments	Chapter 177
Practice without License	Chapter 176

Counties

Farm Land Taxation	Chapter 90
Sheriffs Sales, Final Bid Approvals	Chapter 138

Courts

Justice of the Peace	Chapter 239
Family Court	Chapter 238
Justice of the Peace Jurisdiction	Chapter 83, 147
Proof of Insurance	Chapter 54
Administrative Office Name Change	Chapter 190
Court of Common Pleas	Chapter 240
Tort Settlements	Chapter 117
Mistaken Identity	Chapter 78

Wrongful Death	Chapter 47
<u>Crime Victims Compensation</u>	Chapter 460
<u>Criminal Law</u>	
Shoplifting Tools	Chapter 222
Identity Theft	Chapter 297
AIDS Testing	Chapter 22
Animal Cruelty	Chapter 417, 75
Assault by Abuse or Neglect	Chapter 197
Carjacking	Chapter 34
Child Pornography	Chapter 480
Invasion of Privacy	Chapter 180
Pregnancy Abuse	Chapter 43
Prisoner Assault	Chapter 12
Victims Access to Information	Chapter 345
Drug Offense within 300 ft of Churches	Chapter 411
Feticide/Abuse	Chapter 43
Health Care Fraud	Chapter 337
<u>Criminal Justice Council</u>	Chapter 290
<u>Criminal Justice Information System</u>	Chapter 307
<u>Debris Disposal</u>	Chapter 318
<u>Deferred Compensation</u>	Chapter 488
<u>Defibrillators</u>	Chapter 412
<u>DEMA</u>	
Assistance Relief Fund	Chapter 324
<u>Dentists</u>	
Dental Hygienists Regs.	Chapter 481
Non Delaware Licensed Dentist Demonstrations	Chapter 41
<u>Diabetes</u>	
Tax Return Check Off	Chapter 330
Medical Insurance Benefits	Chapter 376
<u>DNA Testing</u>	
Extend Statute of Limitations	Chapter 320

Domestic Violence

Abuse, Treatment Program	Chapter 62
Coordinating Council Membership	Chapter 66
Protective Orders	Chapter 63

<u>Donated Leave</u>	Chapter 440
----------------------	-------------

<u>Drug Nuisances and Social Vices Abatement Act</u>	Chapter 484
--	-------------

Drug Testing

Criminal Background Checks	Chapter 2
Reporting Results	Chapter 366

DUI

Alcohol Concentration	Chapter 36
Ignition Interlock Devices	Chapter 92

<u>E-Mail</u>	Chapter 135
---------------	-------------

Education

Certificate of Incorporation	Chapter 433
Tax Credit	Chapter 256
Home School Enrollment Information	Chapter 81

Eel Fishing

Minimum Size, Licensing	Chapter 296
Commercial Debris Monthly Reports	Chapter 53

Elections

Felon Voting Rights Procedures	Chapter 314
Canvas Process	Chapter 437
Certificates of Election Revision	Chapter 434
Felon Voting Rights	Chapter 356
Registration, Transfers, Absentees	Chapter 275
Children accompanying parents in voting booth	Chapter 470
Voter Information including Phone Number	Chapter 711

Electric Cooperatives

Capital Credits	Chapter 142
-----------------	-------------

Electricity

Overhead High Voltage Lines	Chapter 193
-----------------------------	-------------

Deregulation of Sale	Chapter 10
<u>Electronic Transactions Act</u>	Chapter 457
<u>Emergency Medical Services Oversight Council</u>	Chapter 421
<u>Engineers, Professional</u>	Chapter 298
<u>Escheat</u>	
Revenues to Transportation Trust Fund	Chapter 251
Gift Certificates	Chapter 45
<u>Estates</u>	
Jointly Owned Real Property	Chapter 342
Qualified Dispositions in Trust	Chapter 195
Taxes	Chapter 397
<u>Fiduciaries</u>	
Investments	Chapter 55
Investment Changes	Chapter 33
<u>Fishing</u>	
Gill Nets	Chapter 363
Headboats	Chapter 362
<u>Flea Markets</u>	
Prohibit Sale of Baby Food	Chapter 419
<u>Forestry</u>	
Dept. of Forestry Powers & Duties	Chapter 235
<u>Foxes</u>	
Red Fox Hunting	Chapter 332
<u>Fraudulent Claims Liability</u>	Chapter 370
<u>Fraudulent Transfer Restrictions</u>	Chapter 226
<u>Freedom of Information</u>	
Violent Crimes Compensation Board	Chapter 459

Funerals

Increase Volunteers Funeral Expenses Paid	Chapter 284
Funeral Procession Injuries Liability	Chapter 456

Grants-in-Aid

FY 2000	Chapter 102
FY 2001	Chapter 396

Guns

Restriction on Possession In Abuse Cases	Chapter 61
---	------------

Handicapped

Private Placement	Chapter 257
State Parks Reservations	Chapter 381

Harness Racing

License fees increase	Chapter 227
Breeders Program Fund	Chapter 261
Medication Testing	Chapter 455

Hazardous Substances

Reauthorization of Cleanup Act	Chapter 353
Prompt Notice of Site	Chapter 322
Risk Management Act Updates	Chapter 96

<u>Head Start Week</u>	Chapter 283
------------------------	-------------

Health Fund

Created with Tobacco Monies	Chapter 198
-----------------------------	-------------

<u>Home Improvement Fraud</u>	Chapter 462
-------------------------------	-------------

<u>Horse Breeding Program</u>	Chapter 74
-------------------------------	------------

Horse Racing Commission

Interstate Licensing Compact	Chapter 292
Thoroughbred License Fees	Chapter 291

Housing Authority

Low Income Tax Credit Program	Chapter 394
-------------------------------	-------------

<u>Ignition Interlock Devices</u>	Chapter 92
<u>Incinerators</u>	
Setback Requirements	Chapter 289
<u>Industrial Accident Board</u>	
Appeal Periods	Chapter 139
Independent Medical Exams	Chapter 399
Medical Examinations	Chapter 206
<u>Insurance</u>	
Casualty Contracts Revisions	Chapter 448
18 year olds	Chapter 310
Financial Planners	Chapter 420
Liquidation of Insurers	Chapter 400
Reinsurance Laws	Chapter 405
Viaticals Settlement Act	Chapter 132
Colon Cancer Screening	Chapter 416
Diabetes Equipment and Supplies	Chapter 376
Pre existing Conditions	Chapter 383
Contraceptive Devices	Chapter 311
Pap Smears	Chapter 408
<u>Juneteenth National Freedom Day</u>	Chapter 269
<u>Jury Duty</u>	
Employers Docking Pay	Chapter 38
<u>Labor</u>	
Industrial Affairs Administrative Assessments	Chapter 80
Minimum Wage Increase	Chapter 16
Statute of Limitations for filing complaints	Chapter 144, 145, 146
Workers Comp. Fund	Chapter 79
Merit System	Chapter 359
<u>Land Surveyors</u>	Chapter 265
<u>Land Use</u>	
Appeals	Chapter 333
Planning & Education	Chapter 237
Development Rights Transfer	Chapter 122
<u>Laurel Readiness Center Property-Transfer</u>	Chapter 422

Law Enforcement Officers

Include Fire Marshals, DNREC Agents Chapter 371

Legislative Council

Register of Regulations Chapter 88

Legislative Essay Scholarship Fund Chapter 461

Library

Fund Establishment Chapter 454

Library Services Contracts Chapter 93

License Fees

Racing Chapter 227

Limited Liability Companies

Revisions Chapters 129, 389

Long Term Care Facilities Chapter 2

Managed Care

Health Care Appeals Program Chapter 441

Medical Director Requirement Chapter 200

Manufacturers

Definition Clarification Chapter 202

Marriage

Judges to Perform Chapter 82

Lascelles & Sabatino Chapter 42

Neuhaus & Rash Chapter 37

Sullivan & La Combe Chapter 11

Mechanic's Lien Chapter 203

Medical Treatment of Minors

Caregivers Consent Chapter 187

Merit System Chapter 359

Midwives Chapter 181

Mileage

Increase for State Employee Reimbursement Chapter 67

Minimum Wage Increase Chapter 16

Mortgages

Satisfactions of Chapter 189

Motor Vehicles

Aggressive Driving	Chapter 216
Antique Vehicles, Motorcycle	Chapter 336
Auctions, Temporary Tags	Chapter 97
Brake Fluids	Chapter 84
Buses, Flashing White Lights	Chapter 364
CDL, Farmers & Firefighters	Chapter 56
Cinderella Law	Chapter 477
Central Nervous System Disease	Chapter 57
Driver Examination	Chapter 365
Driver License Information Protection	Chapter 479
Unpaid Fines, Suspension of Licenses	Chapter 458
Drivers Social Security Numbers	Chapter 32
Driving without Insurance	Chapter 58
Identification Cards	Chapter 335
Proof of Insurance Card	Chapter 219
Two wheel Vehicle license fee increase	Chapter 225
License Suspension Driving Penalties	Chapter 231
Custodian Sponsored Minor's Driver License	Chapter 344
Proof of Insurance, Out of State Vehicles	Chapter 20
Proof of Insurance, Voluntary Assessment Center	Chapter 380
Registration/Inspection/5 years	Chapter 18
Sales Finance Act	Chapter 127
Selective Service Registration	Chapter 485
Speed Limit on Rt #1	Chapter 403
Three Wheel Vehicle Licenses	Chapter 46
Traffic Signal Law Enforcement	Chapter 325
Traffic Signal Violations, Increased Fines	Chapter 407

National Guard Chapter 106

New Castle County

Board of Adjustment	Chapter 302, 165
Council Membership	Chapter 414
Council Super Majority Voting Requirements	Chapter 432
Issuance of Bonds	Chapter 162
Justice of the Peace Increase	Chapter 239
Planning Board, Term Limits	Chapter 369

Northeast Interstate Dairy Compact Chapter 276

Notary Publics Chapter 65

Natural Resources

Debris Disposal	Chapter 318
Hazard Substance Site Notice	Chapter 322
Parks/Concession Agreements	Chapter 260
Shooting of Red foxes	Chapter 52
Subaqueous Land leases	Chapter 474
Commercial Elder Monthly Reports	Chapter 53
Third Party Payments	Chapter 482
Charter Boat Fishing Permits	Chapter 362
State Parks Handicapped Reservation	Chapter 381
State Park Open Space	Chapter 156
Water Utility Certificates	Chapter 280

Nursing

Interstate Nurse Licensure Compact Chapter 344

Nursing Assistants Chapter 168

Nursing Facilities

Adult Abuse Registry	Chapter 476
Violations Enforcement	Chapter 428
Provisional License	Chapter 305
Residents Quality Assurance Comm.	Chapter 199
Financial Exploitation of Patients	Chapter 89
Licensing Fee Structure	Chapter 3
Definition of Neglect	Chapter 120
Quality in Hiring	Chapter 2
Staffing, "Eagle Law"	Chapter 490

Nutrient Management Commission Chapter 60

Optometry

Contact Lens Technicians	Chapter 424
Contact Lens Dispensing	Chapter 172

Pagers

Exemption from Public Utility Tax Chapter 101

Paramedics

Public Health Rules Promulgation Chapter 360

Improvement Act	Chapter 137
<u>Pardons Board</u>	
Applicant Psychological Exam	Chapter 429
<u>Parental Rights</u>	
Termination for Abuse or Neglect	Chapter 179
Termination for Abandonment	Chapter 431
<u>Patients Record</u>	
Physicians Transfer Procedure	Chapter 308
<u>Pension Rate</u>	Chapter 4
<u>Pensions</u>	
Norman A. Barron	Chapter 446
Death Benefits Increase	Chapter 169
Paraplegic Veterans Increase	Chapter 154
Police & Firefighters	Chapter 143
Police & Firefighters Retirees	Chapter 439
Post Retirement Increase	Chapter 152, 447
State Employees Multiplier	Chapter 438
Reduce Early Retirement Penalty	Chapter 253
State Police, 20 years	Chapter 483
State Police calculation	Chapter 384
Tax Exemptions	Chapter 246
<u>Pesticides</u>	
Applicator Licenses	Chapter 233, 234
<u>Pet Warranty Law</u>	Chapter 293
<u>Pharmacy</u>	
Electronic Prescription Transmission	Chapter 159
<u>Pilots</u>	
River and Bay, Licensing	Chapter 87
<u>Plant Pests</u>	
Education Regulations	Chapter 375

Poet Laureate

Governor Appointment Chapter 352

Police

Jurisdictions assisting State Police Chapter 131
Police Chief Dismissal Appeals Chapter 317
De State University Police Dept. Chapter 367
Police Office Appreciation Day Chapter 40
Police Officers & Firefighters Employment
Relations Act Chapter 271
State Road Police Station Name Change Chapter 340
Mutual Aid Agreement Chapter 130
Increase in State Police Chapter 431

Prevailing Wage Advisory Council Chapter 170

Private Investigator Licensing Chapter 427

Probation before Judgment

Eligibility Chapter 453
Terms and Conditions Chapter 126

Probation Officers Chapter 224

Property

Definition of Abandoned Personal Chapter 192
Trust may own in Perpetuity Chapter 385

Property Transfer

Bancroft Lanes Chapter 492
Georgetown Brick Hotel Chapter 270
Hazel Smith Chapter 223

Public Service Commission

Exclude Cellular Phones Chapter 163
Electric Utility Restructuring Act Chapter 10

Public School Employment Relations Act Chapter 146

Public Utility Tax

Electricity Chapter 39

Public Employment Relations

Dispute Resolution Procedure Chapter 272

Public Utilities Chapter 10

Public Works Projects Chapter 133

Railroad Station

Name change of Dover station Chapter 423

Real Estate

Mortgage Satisfaction Chapter 141

Seller Disclosures Chapter 426

Recorder of Deeds

Duplicate Filings Chapter 26

Notice of Pendancy Chapter 27

Partial Payment Chapter 29

Reporting Inventory Chapter 28

Recycled Products

State Agency Purchases Chapter 491

Register in Chancery Chapter 357

Register of Regulations Chapter 88

Research and Development Tax Credit Chapter 23

Residency Requirements

Cabinet Secretaries Chapter 140

Secretary of State Chapter 24

Scholarships

Chuck Hebner Chapter 347

George Washington Chapter 196

Michael Ferguson Chapter 309

School Board Elections Chapter 8

Schools

Calendar Chapter 6

Enrollment	Chapter 299
Charter Admission Preference	Chapter 316
Charter	Chapter 473, 118, 312
Disruptive Students	Chapter 236
Driver Education	Chapter 158
Education Outcome Report	Chapter 430
Private Placement of Handicapped	Chapter 257
Home Schools	Chapter 81
Interest on Funds	Chapter 304
Lead Poison Testing	Chapter 449
Neighborhood School Act	Chapter 287
Occupational-Vocational Funding	Chapter 393
Registration	Chapter 208
Tax Rate Deadline	Chapter 274
Taxes levied by District	Chapter 21
Tax Reduction Program	Chapter 252
Teacher Accountability	Chapter 294, 295
Teaching Partners	Chapter 215
<u>Sex Offender Registration</u>	Chapter 410
<u>Sexual Contact Definition</u>	Chapter 109
<u>Sheriff's Sales</u>	Chapter 138, 194
<u>Slamming/Cramming</u>	Chapter 487
<u>Snakes</u>	
Prohibit Possession of Poisonous	Chapter 285
<u>Snow Geese</u>	Chapter 52
<u>Social Security Number on Drivers License</u>	Chapter 32
<u>Standardbred Development Fund</u>	Chapter 74
<u>State Employees</u>	
Establish Benefit Commission	Chapter 204
National Guard	Chapter 413
<u>State Symbols</u>	
State Butterfly	Chapter 44
State Soil	Chapter 288
State Star	Chapter 398
<u>Structured Settlement Protection Act</u>	Chapter 303

Subaqueous Lands

Lease Renewal Chapter 474

Surplus Property Sales Chapter 313

Surveying Chapter 95

Tattoo Parlors Chapter 124

Taxes

Blue Collar Jobs Tax Credit Chapter 442

Research & Development Tax Credit Chapter 23

Firefighters Tax Credit Chapter 244

Land and Historic Resource Tax Credit Chapter 254

Neighborhood Assistance Tax Credit Chapter 250

School Tax Credit for Elderly Chapter 256

Travelink Chapter 188

Tax Return Mailing Forms Chapter 113

School Tax Reduction Program Chapter 252

Personal Income Tax Credit Chapter 247

Conform to IRS Code Chapter 39

Sale of Electricity Chapter 39

Phamaceutial Exemption, Gross Receipts Chapter 464

Housekeeping, Changes, DE Tax Code Chapter 104

Pagers Exemption Chapter 101

Reduction on income over \$60,000 Chapter 242

Estimated Tax Chapter 445

Gas Consumption Chapter 249

Capital Gains Chapter 243

Charitable Trusts Chapter 111\

Construction Transportation Contractors Chapter 166

Gross Receipts Chapter 245

Married Persons Deduction Chapter 241

Pass through Entities Chapter 467

Pensions Chapter 246

Reduction on Personal Income Chapter 248

Realty Transfer Tax Exemptions Chapter 217, 372

Teacher Accountability Chapter 294, 295

Technology Block Grant Chapter 450

Telecommunications Chapter 487

Telemarketing Chapter 262

Telephones

Answered by Live Person at State Agencies Chapter 281

Tires

Scrap Tire Pile Regulations Chapter 205

Tobacco

Create Delaware Health Fund Chapter 198
Product Packaging Chapter 301
Employer Liability for Sale of Chapter 69
Master Settlement Agreement Chapter 182
Vending Machines Chapter 472

Torts

Court of Common Pleas Settlements Chapter 472
Pre Judgement Interest Chapter 117

Transit Corporation

Insurance Coverage Chapter 160
Public Notice of Fare Increase Chapter 72

Transportation Dept.

Prioritization Process Chapter 229
Public- Private Initiative Program Chapter 164
Public Carriers Tax Reporting Period Chapter 326
Classification of Offenses on State Property Chapter 282

Truancy

Chapter 346

Trusts

Amendments Chapter 388
Estate Chapter 341
Disposition of Chapter 59
Trustee Protection from Liability Chapter 226

Underground Utility Damage Prevention & Safety

Chapter 323

Unemployment Compensation

Benefits Increase Chapter 103
Domestic Violence Chapter 361
Fraudulent Overpayments Chapter 100
Employer Assessment Appeals Chapter 315

Supplemental Assessment Rate	Chapter 107
<u>Uniform Commercial Code</u>	
Deletions	Chapter 30
Revisions	Chapter 401
<u>Uniform Partnership Act</u>	Chapters 151, 390
<u>Veterans Day Holiday</u>	Chapter 105
<u>Veterans Pension Increase</u>	Chapter 154
<u>Victims</u>	
Access to Offender Information	Chapter 345
<u>Vital Statistics</u>	Chapter 70
<u>Warner-Grant Trust Lands</u>	Chapter 99
<u>Water Coordinator, New Castle County</u>	Chapter 409
<u>Water Utilities</u>	
Certificate of Public Convenience	Chapter 465
Well Permits	Chapter 402
<u>Water and Sewer Authority Bonds</u>	Chapter 328
<u>Weights & Measures</u>	Chapter 377
<u>Welfare Reform Education and Training Assistance Act</u>	Chapter 119
<u>Wilmington Housing Authority</u>	
Commissioner Removal	Chapter 9
<u>Wilmington Housing Projects</u>	Chapter 406
<u>Wiretapping</u>	
In Correctional Institutions	Chapter 51
<u>Witness</u>	
Protection	Chapter 21
Videotaped Testimony	Chapter 212

Workers Compensation

Immediate Families Exemptions	Chapter 185
Up to 8 Employees Exemption	Chapter 184
Statute of Limitations for Reimbursement	Chapter 319
Appeals	Chapter 79
HAZMAT Coverage	Chapter 155
Official Duty Injuries	Chapter 73
Issuance of Subpoenas	Chapter 463
Mileage	Chapter 85

Workforce Investment Board

Chapter 392

Wrongful Death Actions by Siblings

Chapter 47

Zeneca Bill

Chapter 23

Zoning Changes

Notification of Adjacent Owners

Chapter 415

**END
OF
VOLUME**