

CHAPTER 87  
FORMERLY  
SENATE BILL NO. 190

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES FOR THE FISCAL YEAR ENDING JUNE 30, 2010; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE; APPROPRIATING FUNDS FROM THE TRANSPORTATION TRUST FUND; APPROPRIATING SPECIAL FUNDS OF THE DELAWARE TRANSPORTATION AUTHORITY; DEAUTHORIZING AND REAUTHORIZING CERTAIN FUNDS OF THE TRANSPORTATION TRUST FUND; APPROPRIATING GENERAL FUNDS AND SPECIAL FUNDS OF THE STATE; REVERTING AND REPROGRAMMING CERTAIN FUNDS OF THE STATE; DIRECTING THE DEPOSIT OF CERTAIN FUNDS TO THE GENERAL FUND; 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 2010 Capital Improvements Project Schedule Addendum. The General Assembly hereby authorizes the following projects in the following amounts for the purposes set forth in this Section and as described in the Fiscal Year 2010 Governor's Recommended Capital Budget and Project Information document. Any authorization balance (excluding Transportation Trust Fund balances) remaining unexpended or unencumbered by June 30, 2012, shall be subject to reversion or reauthorization.

Section 2. Authorization of Twenty-Year Bonds. The state hereby authorizes the issuance of bonds, to which the state shall pledge its full faith and credit, such bonds to be issued in such principal amount as necessary to provide proceeds to the state in the amount of \$159,500,000 and in the amount of \$41,180,547 local share of school bonds. Bonds authorized to be used by this Section shall mature not later than 20 years from their date of issuance. The proceeds of such bonds, except for local share of school bonds, are hereby appropriated for a portion of the purposes set forth in the Section 1 Addendum of this Act and summarized as follows:

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>		
Office of Management and Budget	\$15,360,000		
Delaware State Housing Authority	2,500,000		
Department of State	2,060,000		
Fire Prevention Commission	150,000		
University of Delaware	1,000,000		
Delaware State University	1,000,000		
Delaware Technical and Community College	1,000,000		
Department of Education	136,430,000		
		Maximum	
<u>Purpose</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Minor Capital Improvement and Equipment	\$ 6,181,000	\$ 4,035,588	\$10,216,588
Architectural Barrier Removal		106,700	106,700
Brandywine, Replace Brandywood ES (60/40)	7,785,900	5,190,500	12,976,400
Brandywine, Demolish Bush School (60/40)	347,500	231,600	579,100
Brandywine, Transportation Facility (Local Only)		3,079,000	3,079,000
Colonial, Renovate and Reconfigure			
New Castle MS (67/33)	5,472,400		5,472,400
Colonial, Renovate Carrie Downie ES (67/33)	1,969,800	970,200	2,940,000
Colonial, Renovate Pleasantville ES (67/33)	2,422,300	1,193,100	3,615,400
Colonial, Renovate Castle Hills ES (67/33)	2,720,000	1,339,700	4,059,700
Colonial, Renovate John G. Leach School (100% State)	2,678,400		2,678,400

Colonial, Renovate Eisenberg ES (67/33)	2,838,600	1,398,100	4,236,700
Appoquinimink, Renovate and Add to HS (73/27)	3,942,900	1,458,400	5,401,300
Appoquinimink, Renovate Cedar Lane ES (73/27)	9,371,400	3,466,134	12,837,534
Appoquinimink, Renovate Redding MS (73/27)	555,500	205,500	761,000
Appoquinimink, Renovate Meredith MS (73/27)	40,300	14,900	55,200
Appoquinimink, Brick Mill ES (73/27)	56,700	21,000	77,700
Appoquinimink, Renovate Silver Lake ES (73/27)	260,600	96,400	357,000
Caesar Rodney, Renovate Reily Brown ES (80/20)	6,618,100	1,654,500	8,272,600
Caesar Rodney, Renovate W.B. Simpson ES (80/20)	1,350,000	337,500	1,687,500
Capital, Central MS Gym Replacement (72/28)	1,231,800	479,000	1,710,800
Capital, Construct 600 Pupil ES (72/28)	1,342,100	521,900	1,864,000
Smyrna, Renovate and Add to HS (80/20)	21,921,300	5,480,300	27,401,600
Smyrna, Construct 600 Pupil IS (80/20)	6,806,500	1,701,625	8,508,125
Lake Forest, Performing Arts Addition HS (80/20)	1,732,300	433,100	2,165,400
Lake Forest, Renovate W.T. Chipman MS (80/20)	1,262,500	315,600	1,578,100
Lake Forest, Renovate Lake Forest HS (80/20)	1,893,800	473,400	2,367,200
Milford, Construct 720 Pupil ES (77/23)	10,780,000	3,220,000	14,000,000
Milford, Land Costs for Middle Academy (77/23)	298,700	89,300	388,000
Milford, Renovate Lulu Ross ES (77/23)	1,023,900	305,800	1,329,700
Milford, Construct Middle Academy (77/23)	9,468,100	2,828,100	12,296,200
Christina, School for the Deaf (100%)	15,442,700		15,442,700
Christina, Re-Start Porter Road ES (60/40)	3,925,700		3,925,700
Christina, Renovate Bayard ES to MS (60/40)	3,600,000		3,600,000
Polytech, Roof Replacement – Cafeteria and Office Wing (80/20)	418,200	104,600	522,800
New Castle County Vo-Tech, Renovate Howard HS (61/39)	671,000	429,000	1,100,000
Subtotal	\$136,430,000	\$41,180,547	\$177,610,547
		<b>TOTAL</b>	<b><u>\$159,500,000</u></b>

**Section 3. K-12 School Construction Prioritization Fund Reallocation.** (a) Notwithstanding any statutory provision to the contrary, the sum of \$4,800,000 currently in the K-12 School Construction Prioritization Fund established in 76 Del. Laws, c. 288, shall be deposited to the General Fund for Fiscal Year 2010.

(b) Notwithstanding any statutory provision to the contrary, it is the intent of the General Assembly that the sum of \$52,100,000 currently in the K-12 School Construction Prioritization Fund established in 76 Del. Laws, c. 288 are hereby appropriated to the following departments in the following amount for the purposes set forth in the Section 1 Addendum to this

Act:

<u>Purpose</u>	<u>Amount</u>
Office of Management and Budget	
(ERP Financials)	\$3,600,000
(Technology Fund)	1,985,000
(Minor Capital Improvement and Equipment)	1,700,000
(Environmental Compliance)	340,300
(Architectural Barrier Removal)	150,000
(Minor Capital Improvement and Security - Judicial)	500,000
(Delaware Health Information Network)	1,500,000
(Minor Capital Improvement and Equipment- State)	750,000
(Minor Capital Improvement and Equipment- Veterans Home)	305,000
(Minor Capital Improvement and Equipment -	3,400,000

Department of Health and Social Services)	
(Minor Capital Improvement and Equipment - Services for Children, Youth, And Their Families)	1,266,800
(Minor Capital Improvement and Equipment- Department of Correction)	2,900,000
(Minor Capital Improvement and Equipment - Safety and Homeland Security)	600,000
(Minor Capital Improvement and Equipment – Delaware National Guard)	600,000
Delaware Economic Development Agency	
(Strategic Fund)	9,000,000
(Fraunhofer Vaccine Development)	1,000,000
(Experimental Program to Stimulate Competitive Research)	1,000,000
(Diamond State Port Corporation)	2,000,000
(Riverfront Development Corporation)	2,350,000
Delaware State Housing Authority	
(Delaware Emergency Mortgage Assistance Program)	250,000
Department of State	
(Museum Maintenance)	350,000
Department of Finance	
(Drinking Water State Revolving Fund)	1,630,000
Department of Health and Social Services	
(Maintenance and Restoration)	2,750,000
Services for Children, Youth and Their Families	
(Maintenance and Restoration)	200,000
Department of Correction	
(Maintenance and Restoration)	3,135,400
Department of Natural Resources	
(Minor Capital Improvement and Equipment)	600,000
(Tax/Public Ditches)	1,148,700
(Beach Preservation)	2,150,000
(Conservation Cost Share)	1,500,000
Department of Safety and homeland Security	
(Twin Engine Helicopter Lease/Payment)	2,196,000
Department of Education	
(Minor Capital Improvement and Equipment)	1,082,800
(Architectural Barrier Removal)	160,000
<b>TOTAL</b>	<b><u>\$52,100,000</u></b>

(c) It is further the intent of the General Assembly that after the allocation of funds as listed above is complete that the K-12 School Construction Prioritization Fund established in 76 Del. Laws, c. 288 is hereby deauthorized.

Section 4. Continuing Appropriations. For the fiscal year ending June 30, 2009, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 2010.

Fiscal Year

<u>Appropriation</u>	<u>Account Codes</u>	<u>Remarks</u>
2006	01-08-02-0879	Bio Tech
2006	01-08-02-0891	Leg Hall Improvements
2004/06	10-02-05-0814	Technology Fund
2007	10-02-05-0823	Vehicle Equipment
2007	10-02-06-7700	Advanced Planning
2006	10-02-50-0819	Corrections MCI
2006	10-02-50-0821	Darley House
2006	10-02-50-0909	NC Arsenal

2005	10-02-50-7511	Kent County Courthouse
2006	10-02-50-7605	Capital Parking
2006	10-02-50-7607	Howard R. Young Center
2006	10-02-50-7611	Kent County Courthouse
2007	10-02-50-7706	Stockley Medical Center
2007	10-02-50-7711	Kent County Courthouse
1999	10-03-03-0805	Dover Civic Center
2005	10-03-03-0805	Delaware Civic Center
2001	10-03-03-0821	High Tech Business Incubator
2002	10-03-03-7212	DSU High Tech Incubator
2003	10-03-03-7311	DSU High Tech Incubator
2006	10-03-03-7601	Runway Ext
2006	10-03-03-7602	Dover Civic Center
2006	10-03-03-7611	High Technology Incubator
2007	10-03-03-7702	Dover Civic Center
2002	12-05-03-0888	GF Cap Reprogramming
1994	12-05-03-8101	Agency Reversions
1994	12-05-03-8102	School Reversions
1996	20-08-01-6616	North Wilmington Library
2002	20-08-01-7219	Harrington Library
2003	20-08-01-7312	Seaford Library
2007	20-08-01-7715	Hockessin Library
2007	20-08-01-7720	Coastal Library
2007	20-08-01-7721	Dover Library
2007	20-08-01-7722	Kirkwood Library
2007	20-08-01-7723	NCC South
2007	20-08-01-7724	NCC Bear
2007	25-01-01-0819	ERP
2005	35-05-20-0810	Fluoridation
2007	35-10-01-0801	DASCES IV
2004	37-01-25-0822	Cleve White Building
2005	38-06-06-0801	Women's Treatment
2007	40-01-01-0802	MCI
2007	40-01-01-0804	Avian Flu
2006	40-01-01-0879	Energy Efficiency
2004/05	40-05-02-0803	Dams/Water Control
2007	40-06-02-0804	Park Rehabilitation
2007	40-06-02-0823	C&D Interest
2006	40-06-02-7613	State Park Facilities
2006	40-07-02-0806	Little Mill
2003	40-07-02-7312	Resource, Conservation & Dev
2006	40-07-03-0802	Beach Preservation
2007	40-07-03-0807	Lewes Facility
2001	40-08-01-0801	Wilmington Sewer
2004/05	40-08-01-0802	Wilmington Sewer
2006/07	40-08-07-0801	Red Clay Study
2004	90-03-01-0802	Airway Science
2007	90-04-01-0803	Asset Preservation
2006	90-04-04-7611	Stanton Campus Expansion
2007	90-04-05-7710	Stanton Campus Expansion
2006	95-01-01-7601	Tech Prep

2005	95-02-02-0877	Market Pressure
2006	95-11-00-0874	Technology
2007	95-15-00-0872	MCI
2007	95-15-00-7710	600 Pupil ES
2006	95-17-00-0801	Arch Barrier
2004	95-17-00-0818	A/C Sussex Consortium
2007	95-17-00-7710	1600 Pupil HS
2006	95-23-00-7613	Seaford HS
2006	95-24-00-7615	600 Pupil ES
2007	95-24-00-7712	600 Pupil ES
2007	95-24-00-7715	Clayton ES
2005	95-29-00-7520	1600 Pupil HS
2006	95-29-00-7620	1600 Pupil HS
2007	95-29-00-7719	Construct 1000 Pupil MS
2007	95-31-00-0872	MCI
2005	95-31-00-0884	Market Pressure 600 Pupil ES
2007	95-31-00-0892	Market Pressure Matching Fund
2004	95-31-00-7416	Renovate Talley MS
2006	95-31-00-7617	Renovate PS DuPont HS
2006	95-31-00-7636	Market Pressure New ES
2006	95-31-00-7637	Market Pressure Construct ES
2007	95-31-00-7717	Renovate PS DuPont HS
2007	95-31-00-7718	Construct 600 Pupil ES
2007	95-31-00-7719	Renovate Springer MS
2007	95-31-00-7720	Renovate District Offices
2005	95-32-00-0832	Dickinson HS Field
2007	95-32-00-0835	Asbestos
2006	95-32-00-7608	Renovate Shortlidge ES
2006	95-32-00-7619	Stanton MS
2006	95-32-00-7623	Heritage ES
2006	95-32-00-7626	Renovate Wilmington Campus
2006	95-32-00-7631	Renovate HB Dupont MS
2006	95-32-00-7634	Richardson ES
2007	95-32-00-7726	Renovate Wilmington Campus
2007	95-32-00-7731	Renovate HB Dupont MS
2005/06/07	95-33-00-0872	MCI
2006/07	95-33-00-0873	MCI/VE
2005	95-33-00-7516	840 Pupil ES
2006	95-33-00-7523	Portable Classrooms
2005	95-33-00-7524	Autism Expansion
2005	95-33-00-7525	Christiana HS
2005	95-33-00-7527	Drew Pyle
2005	95-33-00-7529	Wilson ES
2005	95-33-00-7530	Downes ES
2005	95-33-00-7531	New ES
2006	95-33-00-7532	New MS
2006	95-33-00-7616	840 Pupil ES
2006	95-33-00-7621	800 Pupil MS
2006	95-33-00-7625	Christiana HS
2006	95-33-00-7628	Maclary ES
2006	95-33-00-7629	Wilson ES

2006	95-33-00-7630	Downes ES
2007	95-34-00-7721	New Castle MS
2003	95-36-00-7312	Frankford ES
2006	95-36-00-7313	Showell ES
2004	95-36-00-7419	Indian River HS
2005	95-36-00-7512	Renovate Frankford ES
2005	95-36-00-7519	Renovate HS
2006	95-36-00-7612	Frankford ES
2006	95-36-00-7619	Indian River HS
2007	95-36-00-7725	Renovate Ed Complex
2007	95-36-00-7726	Georgetown ES
2007	95-36-00-7727	Selbyville MS
2007	95-36-00-7728	Long Neck ES
2007	95-37-00-7712	Cafeteria Expansion
2007	95-37-00-7713	Classroom Addition
2007	95-38-00-0810	Skills Center
2007	95-40-00-7710	Sewer Connection
2007	95-40-00-7713	Replace Modular Classrooms
2006	95-51-00-7610	Replace Sterck
2007	95-51-00-7710	Replace Sterck

Section 5. Abandoned Property. For the fiscal year ending June 30, 2010, 29 Del. C. § 6102(s) shall be waived.

Section 6. Open Space Funding. Notwithstanding the provisions of 30 Del. C., c. 54, § 5423 (b)(2) and § 5423 (c)(1), at the close of Fiscal Year 2010, the State shall transfer \$450,000 of realty transfer taxes to the Endowment Account in the Delaware Land and Water Conservation Trust Fund and \$2,550,000 of realty transfer taxes to the Project Account in the Delaware Land and Water Conservation Trust Fund.

Section 7. Farmland Preservation Funding. Notwithstanding the provisions of 30 Del. C. c. 54 § 5426, for the fiscal year ending June 30, 2010, the State shall transfer \$3,000,000 of realty transfer taxes to the Farmland Preservation Fund maintained under 3 Del. C. c. 3.

Section 8. Resource, Conservation and Development Transfers - Project Funds Transfer from Prior Fiscal Years to Fiscal Year 2010. Within the same county, any Twenty-First Century funds or match remaining from completed projects as authorized as part of the Twenty-First Century Resource, Conservation and Development (RCD) project list pursuant to prior appropriations may be utilized for RCD projects in the Fiscal Year 2010 list of projects approved as part of the Fiscal Year 2010 Capital Improvements Act.

Section 9. Conservation Districts – Federal Acquisition Regulations. Conservation Districts shall not be required to follow the provisions of the Federal Acquisition Regulations unless specifically required under a contract(s) with a federal agency or federal grant. If the Conservation Districts are required to follow subpart 31.2 of the Federal Acquisition Regulations, then the Conservation District(s) are hereby authorized to charge an additional ten percent to their overhead cost rate to enable the Conservation District(s) to continue to fulfill their statutory duties and responsibilities.

Section 10. Conservation Districts – Rollover of Funds. If projects are discontinued and have 21<sup>st</sup> Century funding associated with them, the associated 21<sup>st</sup> Century funding would remain within the County from which the project originated and would roll over as new Fiscal Year 2010 funds for allocation among the remaining projects within that County.

Section 11. First State Preservation Revolving Fund, Inc. For Fiscal Year 2010, First State Preservation Revolving Fund, Inc. may continue to expend for administrative expenses the interest generated by the Community Redevelopment Fund appropriations of \$250,000 in each of Fiscal Years 1999 and 2000.

Section 12. Downtown Milford Inc. Any Community Redevelopment Fund appropriations to Downtown Milford Inc.- Structural and Façade Improvements may be used for private businesses and residences, as well as, institutional residences provided said properties are within the Downtown Milford project area.

Section 13. Laurel Redevelopment Corporation. Any proceeds from the sale of property funded in whole or in part from Community Redevelopment Fund grants to Laurel Redevelopment Corporation shall be reinvested in the Medical Center project.

Section 14. Community Redevelopment Fund Match. Notwithstanding the provisions of 29 Del. C. 6102(A), any unexpended Community Redevelopment Funds awarded to the Hockessin Community Center in fiscal years 1999, 2000, 2004 and 2005 shall not require a local match.

Section 15. Bond Bill Reporting Requirements. All state agencies and public school districts receiving funds from the Capital Improvements Act shall submit a quarterly expenditure status report to the Director of the Office of Management and Budget and Controller General on all incomplete projects that are wholly or partially funded with state and/or local funds, including bond funds. The format and information required in these quarterly reports shall include, but not be limited to, expenditures of both bond and cash funds. The report format will be developed by the Office of Management and Budget and include information as needed by the Department of Finance, Treasurer's Office and Office of Management and Budget to anticipate cash and bond requirements for the upcoming fiscal year.

Section 16. Notification. The Director of the Office of Management and Budget and Controller General shall notify affected state agencies and other instrumentalities of the State as to certain relevant provisions of this Act. Additionally, the Director of the Office of Management and Budget and Controller General shall notify the President Pro Tempore of the Senate and the Speaker of the House as to any legislative appointments required by this Act.

#### **OFFICE OF MANAGEMENT AND BUDGET**

Section 17. Construction Management. Notwithstanding any other State law, the Office of Management and Budget (OMB) shall be responsible for the design and construction of all the projects listed under Office of Management and Budget in the Section 1 Addendum of this Act. For those projects that are solely for the purchase of equipment, including projects that are funded in any MCI and Equipment line or any MCI line, OMB shall transfer the appropriate funding necessary to purchase the equipment to the agency for which the equipment is being purchased. The appropriate amount of funding shall be determined and agreed to by OMB and the agency for which the equipment is being purchased by September 1 of each fiscal year. For those projects for which the appropriation is passed to an entity and for which the State is not a party to the construction contract, OMB shall provide technical assistance.

(a) Notwithstanding any other State law, there is hereby created an Appeals Board, to be composed of the Lieutenant Governor, the Director of the Office of Management and Budget, and the Controller General. The Appeals Board shall approve the use of all unencumbered monies after that project is deemed substantially complete. A project shall be deemed substantially complete when the project is occupied by 75 percent of the planned tenants or when deemed complete by the Appeals Board. One year after a project is deemed substantially complete, any unencumbered authorization balance shall revert. In no case shall this Section empower the Appeals Board to allow for the expenditure of funds for uses other than for the funds authorized purpose(s). The Controller General shall notify the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program of any decisions of the Appeals Board.

(b) The use of Minor Capital Improvement and Equipment funds in order to ensure completion of a Major Capital Improvement project involving construction of a new facility is prohibited unless the use of such funds are necessary due to a legal settlement or emergency or unforeseen conditions as determined by the Director of the Office of Management and Budget, the Controller General and the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program.

(c) A quarterly status report shall be submitted to the Controller General on all incomplete projects.

(d) No project's budget should be increased beyond what is appropriated in any Bond and Capital Improvement Act, either with special funds or private funds, unless the use of those funds is approved by the appropriate cabinet secretary, the Director of the Office of Management and Budget, the Controller General and the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program.

Section 18. Judicial Construction Oversight. It is the intent of the General Assembly that a nine-member Executive Committee be created to oversee construction of new or major renovation of judicial facilities. The Executive Committee shall include two members of the Legislature appointed by the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program; the respective Chairs of the House and Senate Judiciary Committees; two members of the Judiciary as appointed by the Chief Justice; and three members of the Executive Department to include the Director of Facilities Management, the Director of the Office of Management and Budget and their designee. The Executive Committee shall work in conformation with existing construction oversight guidelines as written in Section 17 of this Act. The Executive Committee is hereby empowered to:

- (a) Select appropriate professionals necessary to program, site, design, construct, furnish and equip the facility;
- (b) Provide such oversight to ensure that the final facility provides optimal security and incorporates maximum operational efficiencies both within the Judiciary and in conjunction with other criminal justice agencies;
- (c) Ensure that new construction and/or renovations are completed on schedule; and
- (d) Ensure that the cost of new construction and/or renovations does not exceed the authorized budget.

This section shall apply to the following projects: Kent County Courthouse/O'Brien Building; Sussex County Family Court; Kent County Family Court and any Judicial construction or renovation project requested by either the Judicial Branch or recommended by the Office of Management and Budget for the Judicial Branch where the total project cost estimate exceeds \$10,000,000.

Section 19. Minor Capital Improvement and Equipment Supplement - Office of Management and Budget. Notwithstanding the provisions of any other State law to the contrary, not more than \$250,000 may be expended to enter into contractual agreements for project representatives and associated administrative support to ensure adequate oversight of State construction projects. The Director of the Office of Management and Budget is directed to provide an itemized budget for this amount to the Controller General by August 1, of each fiscal year, and expenditure reports to the Controller General by December 1 and June 1 of each fiscal year.

Section 20. New Castle County Courthouse. Notwithstanding any law or local government ordinance, resolution, or any deed restrictions to the contrary, the Director of the Office of Management and Budget shall designate the name of any state-owned or state-operated courthouse or other judicial building or facility in New Castle County purchased, constructed, or improved by funds appropriated pursuant to an Act of the General Assembly and shall have the sole authority to approve or disapprove the placement of any statues or memorials in or on the grounds of such courthouse or judicial building or facility.

Section 21. Belvedere State Service Center Project. Notwithstanding any State laws to the contrary, funds received from tenants in the Belvedere State Service Center shall be used by the Office of Management and Budget for the maintenance and operation of the center.

Section 22. COTS. The Section 1 Addendum to 75 Del. Laws, c. 98 appropriated funding to the Technology Fund in the Office of Management and Budget for the COTS Integrated Case and Financial Management System. Of said appropriation transferred to the Judiciary for COTS, up to \$645,000 may be used for personnel costs and contractual services expenses associated with providing additional personnel coverage for positions assigned to the COTS project in order to continue court operations. Eligible expenses for providing such personnel coverage include, but are not limited to, temporary promotion, dual incumbency, casual/seasonal assistance, contracting temporary personnel services and overtime service subject to the processes outlined under applicable State laws, rules, policy and/or procedures.

Section 23. 800 MHz. Notwithstanding 29 Del. C. c. 69 or any other statutory provision to the contrary, the Office of Management and Budget may use design/build project delivery methodology for the purpose of constructing 800 MHz



transmission towers. To enable the use of design/build methodology to construct 800 MHz transmission towers, all provisions of 29 Del. Code § 6962 are waived with the exception of those sections of § 6960 related to prevailing wage rates. Funds appropriated for the construction of the 800 MHz towers may be used to reimburse the Office of Management and Budget for all expenditures associated with the management of the design/build RFP process, including the hiring of a consultant, and management of the tower construction project(s).

Section 24. Kent County Courthouse Construction. It is the intent of the General Assembly that the Office of Management and Budget shall have the authority to develop and implement procedures and a methodology to engage a Construction Manager at Risk for all phases of the Kent County Courthouse Project including the construction of any required parking facilities. To enable the engagement of a Construction Manager at Risk, all provisions of 29 Del. C. c. 69 are hereby waived with the exception of § 6960 related to prevailing wage.

Section 25. Delaware Health Information Network. The Section 1 Addendum to this Act appropriates \$1,500,000 for the Delaware Health Information Network. As a joint initiative between private, federal and state funds, the \$1,500,000 shall be utilized to support the development of an interoperable network to exchange clinical information among all healthcare providers across the state to improve patient outcomes and patient-provider relationships. The system shall be designed to allow patient clinical information to be shared across all healthcare facilities and organizations and across public and private sectors. Prior to the disbursement of funds, the Delaware Healthcare Commission, working in conjunction with the Delaware Health Information Network (DHIN), shall provide the following:

- (a) A firm written commitment, on a dollar for dollar draw basis, that demonstrates a matching contribution from non-state sources (not including federal funds) to the Director of the Office of Management and Budget and the Controller General. The matching commitment for accessing said state funds in the aggregate shall be a minimum of \$1,500,000 from non-state sources (not including federal funds);
- (b) A budget that outlines the expenditure for the \$1,500,000 state appropriation including a breakdown of categories (personnel/contractual services/supplies, etc);
- (c) A total project budget over multiple years that includes funding allocations detailing federal, private and state requested amounts; and
- (d) A plan for staffing this initiative through contractual dollars.

The Delaware Health Care Commission is hereby authorized to establish interest-bearing special fund accounts for the purposes of receiving private matching funds, donations, gifts and other such funds for use in implementing DHIN. The Delaware Health Care Commission may accept such restrictions as the grantor(s) may impose; however, that no such restrictions contravene the laws of the State. These accounts shall be subject to audit by the State Auditor.

Section 26. Property on 900 King Street. During the fiscal year ending June 30, 2010, the Office of Management and Budget may have an appraisal completed by a licensed, Delaware appraiser on the state-owned property located at 900 King Street in Wilmington (tax parcel number 26.035.20.121). The property may be listed for sale at the appraised value and any proceeds resulting from said sale shall be deposited to the General Fund. For the purposes of this sale, the requirements of 29 Del. C. c. 94 shall not apply. Any such sale shall require the approval of the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program.

Section 27. Sale of Surplus Property. Notwithstanding the provisions of any law to the contrary, the Director of the Office of Management and Budget is authorized to solicit buyers, lessors or developers and negotiate the sale, long or short-term lease, development or adaptation of the State owned building and parking lot, commonly known as the Bank of America Building and State Employee Workforce Education and Training Center, located on the block bounded by French, 9th, 10th and Walnut Streets in Wilmington. Net proceeds resulting from a sale, lease, development or reuse of the building and or parking lot shall be deposited to the General Fund. The Director of the Office of Management and Budget must receive approval from the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program prior to executing an agreement of sale, lease, development or use of the building or parking lot for other than state agencies. The Director of the Office of Management and

Budget is authorized to solicit buyers, lessors, developers and others who may enable the sale, development, lease, or reuse of the property directly, use public advertisement, auction, reverse auction, sealed bids, or issue requests for information and requests for proposals. During Fiscal Year 2010, the Director of the Office of Management and Budget may identify additional State-owned real property that, with the concurrence of the co-chairs of the Joint Legislative Committee on the Capital Improvement Program and the Controller General, may be sold, leased or developed pursuant to the provisions of this section.

Section 28. Capitol Parking. It is the intent of the General Assembly that the Office of Management and Budget may use funds previously appropriated for Capitol Parking/Security in the Section 1 Addendum to 75 Del. Laws, c. 98 for the construction of the Kent County Courthouse and for the development and construction of parking required by the City of Dover to obtain a Certificate of Occupancy for the expanded Kent County Courthouse. The Office of Management and Budget may expand the scope of the contract for the construction of the Kent County Courthouse to include all required parking and may use design/build project delivery methodology to expedite completion of a parking structure, garage or other means to provide the required number of new parking spaces. The Office of Management and Budget shall evaluate all state-owned sites in and around the Capital Complex for the development of Courthouse-related parking, and may also enter into an agreement with the City of Dover to construct the required parking on city-owned land if that option is found to be advantageous to both the city and state. All provisions of 29 Del. C. c. 69 are hereby waived, with the exception of § 6960 related to prevailing wage rates, for construction of parking associated with the Kent County Courthouse project.

Section 29. Card Access Security Systems. Notwithstanding the provisions of any law to the contrary, the Office of Management and Budget, Department of Safety and Homeland Security, and the Department of Technology and Information shall jointly develop and maintain specifications and standards for card access security systems for all state facilities. Security system communications using State infrastructure will observe enterprise standards and policies as defined by Department of Technology and Information pursuant to 29 Del. C. c. 90C. The specifications and standards shall enable a single-card security solution for all State owned facilities, require the ability for concurrent central and local administration of card access functions, and shall include a registry of approved card readers and associated hardware required to implement card access security systems. It is the intent of this section to authorize Office of Management and Budget, Department of Safety and Homeland Security and Department of Technology and Information to jointly select a single supplier, manufacturer or technology of access cards and security management software for use by all state agencies. The Office of Management and Budget, Department of Safety and Homeland Security and Department of Technology and Information shall develop procedures and standards required for the evaluation and approval of agency requests for new or modified security systems of any type. Before a state agency may install a new security system or modify an existing system, the agency shall obtain the approval of the Office of Management and Budget, Department of Safety and Homeland Security, and Department of Technology and Information.

#### **DELAWARE ECONOMIC DEVELOPMENT OFFICE**

Section 30. Composites Research. The Delaware Economic Development Office is authorized to provide a match of up to \$100,000 to the University of Delaware Center for Composite Materials for federal research grants received that support the development and application of composite manufacturing technology for the benefit of Delaware companies. Such match shall be disbursed from the Strategic Fund upon documentation of the receipt of federal funds allocated to the Center during the fiscal year for these purposes and upon documentation of the relevance of these research projects to Delaware industries' needs and their participation within said projects.

Section 31. Delaware Industrial Park. The Delaware Economic Development Office is hereby prohibited from locating any operation that involves the use of hazardous materials at the former Helix Synthesis Technologies site within the Delaware Industrial Park. Hazardous materials are defined as any material of a gaseous, liquid or solid form that has the potential to cause temporary or permanent harm to humans or the environment.

Section 32. Diamond State Port Corporation. The Section 1 Addendum to this Act contains an appropriation of \$2,000,000 for the Diamond State Port Corporation. The expenditure of these funds shall be subject to the review and approval

of the Board of Directors of the Diamond State Port Corporation (DSPC). In addition, the DSPC may borrow, on an interest-free basis, \$2,000,000 of this authorization to meet its short term operating expenses during Fiscal Year 2010.

Section 33. Kalmar Nyckel. The scheduling of the Kalmar Nyckel by non-state entities shall require the approval of the Riverfront Development Corporation. Further, the Riverfront Development Corporation is encouraged to enter into negotiations with interested parties to review the disposition of loans to the Kalmar Nyckel.

Section 34. Transportation Property Disposition. The proceeds from the future sale of parcels of land the Department of Transportation acquired on Beech Street in the City of Wilmington and Delmarva Properties located in the Wilmington Riverfront area shall be deposited to the Transportation Trust Fund.

Section 35. Council on Development Finance. If the Delaware Economic Development Office (DEDO) makes an award not in agreement with the recommendations of the Council on Development Finance (CDF), the Director of the Economic Development Office shall notify the co-chairs of the Joint Legislative Committee on Capital Improvements within 10 business days. The notification shall include details of the actual award, the Council recommendations on the proposal, and a justification for why the Economic Development Office did not follow the recommendations of the Council.

Section 36. DuPont Innovation Center Partnership Program. The State of Delaware and DuPont shall establish a partnership program to begin the transformation of DuPont's Experimental Station Labs into the DuPont Innovation Center. The purpose of this transformation is to support DuPont's commitment to Experimental Station Labs as its primary global research and development facility and to provide an impetus for future growth of aligned and supporting industries across the State and region. This partnership will require DuPont to make capital investments of \$80 million at Experimental Station Labs through 2009. DuPont will also be required to provide, over the next 5 years free of charge, 250 patents and proprietary technology packages to the Delaware Emerging Technology Center as part of the State's New Economy Initiative. DuPont will also collaborate with the State of Delaware to develop a Delaware Biotechnology Program for High School Students at Experimental Station Labs, consisting of at least 6 interactions per year beginning in calendar year 2006 through calendar year 2009. DuPont will be required to complete total capital investments of \$20 million at Experimental Station Labs by June 30, 2007, an additional \$20 million at Experimental Station Labs by December 31, 2008 and an additional \$40 million at Experimental Station Labs by December 31, 2009 for a total of \$80 million in capital investments. This partnership program will require DuPont to report its capital expenditures to the Delaware Economic Development Office within 30 days of each capital investment completion deadline and shall be subject to a grant agreement and remediation provisions deemed appropriate by the Development Office.

Section 37. New Markets Tax Credit Program. In the event that the Director of the Delaware Economic Development Office or the Director of the Delaware State Housing Authority and the Secretary of Finance determine that it is advisable to apply for participation in the New Markets Tax Credit Program under the U.S. Treasury Department, the Director is authorized to form a business entity or organization to apply for and manage this program on behalf of the State, as required by applicable federal legislation and regulations. Any such application for said program shall be subject to the approval of the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program and the Delaware State Clearinghouse Committee. Should such application receive final approval by the U.S. Treasury Department or other federal governmental entity charged with such authority, at least one public hearing shall be held for the purpose of presenting the program, the availability of financial assistance and the selection process and the 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 may be located, upon the submission of a request for financing and a decision to provide financing for such development pursuant to the New Market Tax Credit Program. In addition, the Housing Director shall so notify the Chief Executive Office of any local government in whose jurisdiction any development will be located.

Section 38. Riverfront Development Corporation Board. The composition of the board of directors of the Riverfront Development Corporation of Delaware as established by the 70 Del. Laws, c. 210 is hereby amended to provide for eight members to be appointed by the Governor, with one of those members being appointed chair.

Section 39. Kent County Levy Court Local Lodging Tax. Kent County Levy Court may issue up to \$20,000,000 in general obligation bonds for the Dover Civic Center with the resulting debt service to be paid from the annual operating revenues of the Center. Should the annual operating revenues of the Center be insufficient at any time during the debt repayment period to cover principal and interest payments, the Levy Court shall be authorized to impose, by duly enacted ordinance, a local lodging tax for any room or rooms in a hotel, motel or tourist home, as defined in 30 Del. C. § 6101, in an amount sufficient to repay any principal and interest deficits not covered by Center revenues for the period for which such deficiency exists. The Levy Court, in consultation with the State Treasurer and Secretary of Finance, shall establish the rate and duration of any necessary levy. The Levy Court's authority to levy said hotel tax shall sunset upon repayment of all principal and interest associated with the bond issuance.

Section 40. Fraunhofer Vaccine Development. The Section 1 Addendum to this Act appropriates \$1,000,000 for Fraunhofer Vaccine Development. It is the intent of the General Assembly and the Administration that said funds represent the fourth year of a five-year commitment by the State of Delaware to leverage a 2:1 matching grant of \$10,000,000 from Fraunhofer USA. Further, up to one-third of the aggregated state match shall be used to increase the capacity of Delaware farmers to participate in the commercial raising of plants for the production of biopharmaceuticals.

Section 41. Emerging Technology Center. Notwithstanding any other law to the contrary, funds appropriated to the Delaware Economic Development Office for the Emerging Technology Center, pursuant to 74 Del. Laws, c. 308 § 36(c), shall be expended by the Delaware Economic Development Office for the purpose of operating the Delaware Emerging Technology Center ("ETC"). Operating expenses may include, but are not limited to ETC software licensing agreements; patent maintenance fees; Delaware sponsored ETC investor forums, businesses plan competitions and conferences, marketing campaigns; and Intellectual Property Business Creation program implementation initiatives.

Section 42. Riverfront Development Corporation. (a) Funds appropriated for the Riverfront Development Corporation shall be disbursed to a special fund to be known as the Riverfront Development Corporation Fund hereinafter referred to as the Fund.

(b) The Fund shall be invested by the State Treasurer in securities consistent with the policies established by the Cash Management Policy Board. All monies generated by the Fund shall be deposited in the Fund.

(c) Funds appropriated to the Delaware Economic Development Office for the Riverfront Development Corporation of Delaware (RDC) shall be expended only with the approval of the board of directors of the RDC. Funds may only be expended for activities related to the redevelopment of the Brandywine and Christina riverfront areas, including: planning and design studies; the acquisition, construction and improvement of real property; environmental remediation; costs of operations and administration; conversion of the Bank One Center to a conference center; debt service; and other expenses in furtherance of the mission of the RDC.

Section 43. Delaware Competiveness Fund. Notwithstanding any other law to the contrary, the funds appropriated to the Delaware Economic Development Office (the "Development Office") for the establishment of the Delaware Competiveness Fund pursuant to 75 Del. Laws, c. 308 § 36(d), 75 Del. Laws, c. 98 § 39(d) and 75 Del. Laws, c. 353 § 40(d) shall be deposited by the Development Office into the Delaware Strategic Fund for use in accordance with the provisions of 29 Del. C. §§5027-5029 and regulations promulgated thereunder. 75 Del. Laws, c. 308 § 36(d), 75 Del. Laws, c. 98, § 39(d) and 75 Del. Laws, c. 353 § 40(d) are hereby stricken in their entirety.

Section 44. Limited Investment for Financial Traction (LIFT) Initiative. Notwithstanding any other law to the contrary, the Delaware Economic Development Office (the "Development Office") is hereby authorized to pay administrative fees associated with the LIFT Initiative from the New Delaware Strategic Fund not to exceed 2% of the program total.

Section 45. Strategic Fund. The General Assembly finds that a critical need exists for the State to employ new initiatives for expanding and attracting new investors and businesses to the State. As part of this recognition, up to \$50,000 of the existing balance within the Strategic Fund shall be used by the Delaware Economic Development Authority for a grant to Fry Mfg. LLC for the production of one demonstration countertop french fry machine. It is the intent of the General Assembly and

the Administration that said funds represent assistance to those organizations for projects considered a priority by the General Assembly. Notwithstanding the provisions of this Act or any other law to the contrary, the Council on Development Finance does not need to review the application for funding.

Section 46. Garrison Tract Fund. Amend Volume 72, Chapter 258, Section 48, Laws of Delaware by inserting at the end of the first sentence the following:

“including the latest technology electric generation plants fueled primarily by natural gas or solar power.”

**DELAWARE STATE HOUSING AUTHORITY**

Section 47. Housing Preservation. The Section 1 Addendum to this Act appropriates \$2,500,000 for Housing Development Fund - Preservation (10-08-01). It is the intent of the General Assembly and the Administration that said funds are to be used to leverage other funding sources, such as Low Income Housing Tax Credits (LIHTC) and tax-exempt bonds to help renovate and improve existing federally subsidized housing stocks in Delaware. The renovations may secure \$22 million in federal Housing Assistance Payment (HAP) rental subsidy funds over the next 30 years. The Director of the Delaware State Housing Authority shall report to the Controller General and the Director of the Office of Management and Budget no later than April 30, 2010 on the expenditure of the Housing Development Fund - Preservation funds appropriated in Section 1 Addendum to this Act. Said report shall also include the amount and expenditure of any non-state funds received by the State for said Housing Preservation projects.

**DEPARTMENT OF TECHNOLOGY AND INFORMATION**

Section 48. 800MHz. Any provision of law to the contrary notwithstanding, the Department of Technology and Information (DTI) is expressly authorized to commit the State of Delaware to indemnify and hold harmless tower owners and/or lessors in lease agreements entered into by DTI to utilize communications towers owned and/or controlled by Conectiv, the University of Delaware, Cingular, American Tower, and/or Clear Channel (or affiliates of such entities) for the purpose of undertaking improvements to the 800 MHz emergency communications system for any damages arising from the State’s use of such communications towers.

Section 49. Data Center Projects. In no instance shall any information technology data center project be initiated by a department/agency during this fiscal year until a formalized plan has been approved by the department/agency head, Director of the Office of Management and Budget and the State Chief Information Officer. This includes, but is not limited to, relocating, renovating and/or constructing new information technology data centers.

**DEPARTMENT OF STATE**

Section 50. North Wilmington Library. Funds authorized in the Section 1 Addendum of 70 Del. Laws, c. 210 shall be used to plan and construct a library within the First Senate District.

Section 51. Delaware River Main Channel Dredging. It is the intent of the General Assembly that any future appropriation of State funds for the main channel dredging of the Delaware River shall be contingent upon the following:

- 1) A written agreement between the Army Corps of Engineers and the Department of Natural Resources and Environmental Control dealing with the potential use of dredge spoils for Delaware beach preservation and habitat protection.
- 2) The Corps of Engineers shall meet all necessary DNREC permitting requirements.

Section 52. Museum Maintenance. The Section 1 Addendum to this Act appropriates \$350,000 to the Department of State for museum maintenance. It is the intent of the General Assembly that these funds be retained by the Department of State, Division of Historical and Cultural Affairs for use with the operations of State museums or for immediate, unscheduled repairs to those facilities under the control of the Division of Historical and Cultural Affairs.

Section 53. Library Construction. Proposals submitted by the Department of State to the Office of Management and Budget under 29 Del. C. § 6604A shall include a statement as to whether or not each of the libraries have the required 50 percent non-state share match as defined in 29 Del. C. § 6602A(2).

Section 54. City of Dover Library. The Section 1 Addendum to 76 Del. Laws, c. 288 appropriates \$4,000,000 to the Department of State for the City of Dover Library. The City may proceed with construction using local funds and any State assistance may be applied retroactively to costs incurred after the date that such library construction was certified by the Division of Libraries and the Delaware Council on Libraries.Section 54. Stabilization Endowment for the Arts. It is the intent of the General Assembly that previously appropriated funds from the Department of State to the Stabilization Endowment for the Arts may be used to fund operating expenses pursuant to appropriate controls and procedures adopted by the Board of the Arts Consortium of Delaware and upon concurrence of the Division of Arts.

#### **DEPARTMENT OF FINANCE**

Section 55. Bond Proceeds Reimbursement. Unless not permitted by the Internal Revenue Code of 1986, as amended, whenever the General Assembly authorizes the issuance of the State's General Obligation bonds or the Delaware Transportation Authority's (the Authority) revenue bonds to finance the costs of specific capital projects, it is the intent of the General Assembly that the interest on such bonds shall not be included in gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations (the Regulations) thereunder as they may be promulgated from time to time. Pursuant to the State's budget and financial policies, other than unexpected situations where surplus revenues render bond financing unnecessary or undesirable, no funds other than the proceeds of such bonds, are or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside by the State to pay the costs of such specific capital projects. Pursuant to the Authority's budget and financial policies, it is expected that approximately 50 percent of the costs of its capital projects shall be funded on a long-term basis from the proceeds of such bonds. However, after the authorization of such bonds but prior to their issuance, non-bond funds from the State's General Fund or the Authority's Transportation Trust fund or other funds may be advanced on a temporary basis to pay a portion of the costs of such specific capital projects. In that event, it is expected that these non-bond funds will be reimbursed from the proceeds of such bonds when they are issued. This reimbursement may cause a portion of such bonds to become reimbursement bonds within the meaning of Section 1.150-2 of the Regulations. Under those Regulations, to preserve the exclusion of the interest on such bonds from gross income for federal income tax purposes, it may be necessary to make a declaration of official intent. The Secretary of Finance is hereby designated as the appropriate representative of the State and the Secretary of Transportation is hereby designated as the appropriate representative of the Authority, and each is authorized to declare official intent on behalf of the State or the Authority, as the case may be, within the meaning of Section 1.150-2 of the Regulations, whenever and to the extent that such declaration is required to preserve such tax treatment.

Section 56. Qualified Zone Academy Bonds. A portion of the General Obligation bonds authorized under this Act for a school construction project may be issued in the form of Qualified Zone Academy Bonds within the meaning of the federal Taxpayer Relief Act of 1997 (QZABs). Such portion shall be equal to the maximum amount of QZABs which may be issued under such act. Authorization shall be given to eligible public schools authorized under this Act with the highest percentage of free and reduced lunch counts for the 2008-2009 school year that elect to participate in the QZAB program as determined by the Department of Education. The Secretary of Finance is hereby authorized to determine the terms and conditions of the QZABs and the manner by which they shall be awarded to the purchasers thereof, including private negotiated sale, notwithstanding anything to the contrary contained in 29 Del. C. c. 74; provided that the requirements of 29 Del. C. § 7422 must be observed.

Section 57. Qualified School Construction Bonds; Build America Bonds; and Amortization Requirements. A portion of the General Obligation bonds authorized under this Act or any previous authorization act may be issued in the form of Qualified School Construction Bonds ("QSCBs"), Build America Bonds ("BABs"), or any other bonds permitted by the federal American Recovery and Reinvestment Act of 2009 (the "ARRA"). The QSCBs may be issued in a principal amount not exceeding the maximum amount of QSCBs which may be issued under ARRA and are hereby authorized as part of the General Obligation bonds authorized under 29 Del. C. § 7422(b). Notwithstanding anything to the contrary contained in 29 Del. C. 74, the Secretary of Finance is hereby authorized to determine the terms and conditions of the QSCBs and the manner by which they shall be awarded to the purchasers thereof, including private negotiated sale.

Any bonds authorized in this Act or any previous authorization act may be issued during Fiscal Year 2010 or Fiscal Year 2011, and may be subject to any amortization requirements as shall be determined by the issuing officers notwithstanding anything to the contrary contained in Section 7406(b) of Title 29.

#### **DEPARTMENT OF HEALTH AND SOCIAL SERVICES**

Section 58. Stockley Medical Center. The Department of Health and Social Services, (35-00-00), is hereby authorized to lease Williams Cottage IV to La Red Health Center to operate a dental clinic for Sussex County residents and lease Williams Cottage #1 to Telamon Inc. for the purpose of expanding their existing early childhood programs for disadvantaged children. These leases will be exempted from the requirements of 29 Del. C. c. 94, Real Property Disposition.

#### **DEPARTMENT OF CORRECTION**

Section 59. Prison Construction. (a) The Director of the Office of Management and Budget, as provided through construction management services, shall consult with the Commissioner of Correction to ensure expedient programming, planning and construction of authorized correctional facilities. None of the funds authorized herein or in prior fiscal years are intended to supplant federal funds.

(b) Use of any federal grant funds awarded and approved by the Delaware State Clearinghouse Committee for the purpose of constructing correctional facilities shall have the technical oversight of the Director of the Office of Management and Budget as defined in the appropriate Section of this Act pertaining to management of the construction to ensure proper use and timely completion of all such construction projects authorized herein.

Section 60. Community Restoration. The Department of Correction may, to the extent resources and appropriately classified offenders are available, direct these offenders to assist with community restoration projects. These projects may include beautification, clean up and restoration efforts requested by civic, governmental and fraternal organizations approved by the Commissioner.

Section 61. Maintenance and Restoration. The Section 1 Addendum to this Act appropriates \$3,135,400 to the Department of Correction for Maintenance and Restoration projects. The Department must submit a bi-annual report to the Director of the Office of Management and Budget and the Controller General, detailing the expenditure of such funds and the respective projects. The Department shall submit a preliminary plan to the Director of the Office of Management and Budget and Controller General for maintenance projects for the following fiscal year by October 31.

Section 62. Central Supply Warehouse. Notwithstanding 29 Del. C. c. 69 or any other statutory provision to the contrary, the Department of Correction is hereby authorized to expend Minor Capital Improvement funds, in whole or in part, necessary to make critical repairs and replace the current freezer space of the Central Supply Warehouse in Smyrna, Delaware, and is further authorized to select a firm to perform the work using a design build contract; provided however, that such contract shall comply with the prevailing wage provisions in 29 Del. C. c. 69.

#### **DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

Section 63. Beach Preservation. The General Assembly hereby appropriates \$2,150,000 to the Department of Natural Resources and Environmental Control in the Section 1 Addendum to this Act to renourish and preserve the State's beaches. The Department may not encumber the funds appropriated herein for privately-owned beaches.

Section 64. Conservation Cost-Sharing Program. The Section 1 Addendum to this Act appropriates \$1,500,000 to the Department of Natural Resources and Environmental Control for the Conservation Cost-Sharing Program. This appropriation shall be allocated to only those projects with an adopted pollution control strategy.

Section 65. DNREC Land Acquisition. Except for land acquired by approval of the Open Space Council or approved through a Bond and Capital Improvements Act, land shall not be purchased by the Department of Natural Resources and Environmental Control without prior approval of the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program provided, however, that the Department is not prohibited from conducting studies, surveys or other contractual arrangements that would normally precede land acquisition procedures.

Section 66. Open Space Match Requirements. Notwithstanding the provisions of 29 Del. C.

§ 6102A(c) (2), upon written request by the Open Space Council and notification of the Secretary of Finance, the Co-Chairs of the Joint Legislative Committee on Capital Improvements are hereby empowered to waive on a case-by-case basis the match requirements for a specific Open Space land purchase if it can be demonstrated that meeting said match requirements would prevent the timely purchase of said parcel.

Section 67. Army Corps of Engineers Project Cooperation Agreements. By using funds approved by Bond and Capital Improvements Acts, the Secretary of the Department of Natural Resources and Environmental Control is authorized to sign Project Cooperation Agreements with the Department of the Army and other appropriate sponsors for planning, construction, operation and maintenance for projects entered into by said Agreements.

Section 68. Indian River Marina. In accordance with the provisions of 73 Del. Laws, c. 350, § 70, the Department of Natural Resources and Environmental Control (DNREC) under the direction of the Director of the Office of Management and Budget may utilize up to \$9,900,000 in funds from the Twenty-First Century Fund for the Parks Endowment Account as established in 29 Del. C. § 6102A(e), for the purpose of revitalizing and enhancing public amenities within the Delaware Seashore State Park in and around the Indian River Marina Complex and related support facilities as presented to the Joint Legislative Committee on Capital Improvements on May 15, 2002. DNREC will repay both the principal borrowed and interest on the principal borrowed equal to that interest lost as a result of borrowing from the Account. Repayment shall not exceed twenty years.

Section 69. Newark Reservoir. Of the funds allocated from the Twenty-First Century Water/Wastewater Management Account in 72 Del. Laws, c. 258 and c. 489, \$3,400,000 has been set aside for the Newark Reservoir Project. If the City of Newark annexes the property referred to as New Castle County Tax Parcel #08-059.20-002, the City must repay to the State those monies appropriated in the Fiscal Year 2000 and 2001 Bond and Capital Improvement Acts for said project.

Section 70. Tax Ditches. The Section 1 Addendum to this Act appropriates \$1,148,700 to the Department of Natural Resources and Environmental Control for Tax/Public Ditches.

Section 71. Seventh Street Marina. It is the intent of the General Assembly to classify the Seventh Street Marina, located on East Seventh Street, being Tax Parcel # 26.044.00.0013 containing 7.86 acres of land (of which 5.27 acres, more or less, is above the high water line) as existing marina for purposes of the State of Delaware Marina Regulations, adopted on March 29, 1990 and amended on February 22, 1993. Such classification does not exempt any person seeking to make physical improvements to the marina from permit application fees pursuant to 7 Del. C. c. 66 and 72.

Section 72. Buried Debris Remediation Program. Funding for the remediation of buried debris will follow the priority list established by date of application to DNREC for assistance. If, in the opinion of the Secretary of DNREC, a site represents an exigency, that site can be given a special priority and remediated as quickly as practicable. Of the \$1,000,000 appropriated in the Section 1 Addendum to 75 Del. Laws, c. 353 for Debris Pit Remediation, the \$1,000,000 appropriated for Debris Pits from the Resource, Conservation and Development Fund in 74 Del. Laws, c. 308, § 14, and the \$1,000,000 appropriated in the Section 1 Addendum to 76 Del. Laws, c. 79, \$150,000 will be provided to the New Castle Conservation District for cost-share assistance to landowners with buried debris on their properties. To be eligible for cost-share, the site must be listed on the DNREC priority list and meet the DNREC established criteria for buried debris removal. For projects that cost up to \$40,000, the landowner must provide twenty-five percent of the cost of remediation including disposal costs. For projects that cost more than \$40,000, the landowner must provide \$10,000 plus 10 percent of the cost in excess of \$40,000, including disposal costs. Any unencumbered funding from these cost-share funds as of April 1, 2010 shall become available for the DNREC Debris Pit Remediation Program. The provisions of this Program shall commence with those projects entitled "FY 2005 New Projects" as contained in the approved Fiscal Year 2005 Resource, Conservation and Development Projects list. The \$1,000,000 allocated for debris pit remediation in Delaware shall be administered by DNREC, Division of Soil and Water Conservation. New Castle County shall provide \$250,000 match.

Section 73. Assawoman Canal Dredging. It is the express finding of the General Assembly that the benefits of dredging and maintaining the Assawoman Canal exceed the costs of such project and the Secretary of Natural Resources and



Environmental Control is hereby directed to initiate all necessary actions to dredge the Canal pursuant to all terms and conditions provided for in the state and federal permits issued for the project and initially authorized by Secretary's Order 2004-W-0047 dated August 12, 2004.

Section 74. Waterway Management. The Department of Natural Resources and Environmental Control (DNREC) is directed to provide dedicated, comprehensive waterway management for state waters. DNREC will: maintain design depths and mark navigational channels of the State that are not maintained and marked by any entity of the federal government; remove nuisance macroalgae; remove abandoned vessels; remove derelict structures, trees and other debris that threatens safe navigation; and perform any other waterway management services that may be identified to preserve, maintain and enhance recreational use of the State's tidal waters, as well as improve environmental conditions as warranted or directed by the Governor or Secretary of DNREC. DNREC is further directed to undertake a study of the sediment sources and patterns of sediment movement that results in deposition within State waterways to determine if there are methods to reduce the dependency on dredging to remove deposited sediments.

Section 75. Clean Water Funding Leverage. The Department of Natural Resources and Environmental Control under advisement from the Clean Water Advisory Council is encouraged to evaluate the potential leveraging of the Water Pollution Control Revolving Fund and/or the Twenty-First Century Fund Wastewater Management Account. This evaluation is based on the recommendation of the Dialogue on Financing Wastewater and Stormwater Infrastructure report sponsored by the Delaware Public Policy Institute, Office of the Governor, and Office of the Lt. Governor, Department of Natural Resources and Environmental Control and the Clean Water Advisory Council.

Section 76. Land and Water Conservation Trust Fund. For the Fiscal Year ending June 30, 2010, the \$900,000 scheduled for deposit into the Parks Endowment Account (12-05-03-0804) shall instead be deposited into the Land and Water Conservation Fund Interest Account (40-06-04-8021). Any funds in the Earnings Account in excess of \$1,500,000 shall be transferred into the Stewardship Account in order to continue the projects funded through this account.

Section 77. Conservation Districts. It is the intent of the General Assembly that the Division of Soil and Water Conservation of DNREC and the Conservation District as established by 7 Del. C. c. 39 shall have the authority to transfer Twenty First Century Funds among projects that are located within their respective districts. Projects into which funds are transferred shall have their full non-Twenty First Century funding in place before any such transfer can occur and in no case shall any project from which funds are taken be dropped from the project list for construction when funds become available. The Division of Soil and Water Conservation of DNREC shall report a list of completed transfers to the Controller General and the Director of the Office and Management and Budget on December 15, 2009 and May 15, 2010.

Section 78. Yard Waste Drop Sites. It is the intent of the General Assembly that all yard waste drops sites in New Castle County remain operational unless otherwise directed by the General Assembly. The Department of Natural Resources shall conduct public hearings on and submit a plan for maintaining operations of the yard waste drop sites to the General Assembly by May 2010. The Department shall relocate the yard waste disposal site currently located at the Cauffiel Estate to a new location suitable for residents within the surrounding area.

Section 79. Town of Elsmere. Notwithstanding the provisions of any law to the contrary, the Town of Elsmere is authorized to sell a portion of parcel #1900500073 to an adjacent property owner, Hawkins and Sons Inc., for the purpose of business expansion. Such sale must be approved by the Town Council of Elsmere. For purposes of this sale, the Town of Elsmere shall be considered the owner and seller of said property.

The portion of land sold must be adjacent to the business and the portion of land sold may not be more than 30 feet deep. Landscaping must be installed at the owner's expense to shield the expanded business from the remaining portion of the parkland. Landscaping, which may be installed on either the parkland or the business owner's property, must be approved by the Town Council. The sale of this property must be completed in Fiscal Year 2010.

Section 80. New Castle County Conservation District. Notwithstanding any provision of the Delaware Code to the contrary, the Department of Natural Resources and Environmental Control is authorized to enter into a long-term lease or direct

transfer of a portion of lands under the custody and control of the Department for the use of the New Castle County Conservation District, now part of the acreage used for the District offices near Bear, Delaware, to the Glasgow Reformed Presbyterian Church, for purposes of providing adequate access to certain church property adjacent to the District offices, or terms satisfactory to the District, the Department, and the church.

**DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

Section 81. Helicopter Sale. During the fiscal year ending June 30, 2010, the first \$250,000 in funds derived from the sale of State Police helicopter #407SP shall be retained by the Department and allocated to the lease/training costs associated with the purchase of a twin-engine helicopter. The remaining sale proceeds shall be used to support the following:

- (1) Purchase fixed fuel system at each DSP hangar location: Summit Aviation in New Castle County and Georgetown Airport in Sussex County;
- (2) Complete capital improvement upgrades to the Georgetown Airport Hangar as necessary; and
- (3) Use the balance or remaining funds to paint the existing two helicopters dark blue to match the remainder of the fleet.

**DEPARTMENT OF TRANSPORTATION**

Section 82. General Provisions. The Department of Transportation (Department) is hereby authorized and directed to use all its designated powers and resources to carry out the following legislative mandates:

- (a) Transportation Trust Fund Authorizations. Sums not to exceed \$ 329,421,500 (State: \$ 72,897,000; Federal: \$230,037,800; Other: \$ 26,486,700 are authorized to be withdrawn from the Transportation Trust Fund to carry out the projects and programs as set forth in the Section 1 Addendum of this Act.
- (b) Reauthorization of Previous Fund Balances. Of the \$329,421,500 authorized in subsection (a) above, the sum of \$37,188,042.27 (state) for newly authorized projects within the Road Systems and Support System authorizations shall be funded from previously authorized, but unexpended balances in the following appropriations:

<u>Deauthorize</u>	<u>Amount</u>
6300 Safety Program	\$ 18,279.84
6400 Paving & Rehabilitation	\$ 45.50
6500 Bridge Rehabilitation & Replacement	\$ 10,015.11
6600 Corridor Preservation	\$ 259,851.56
7400 Program Development	\$ 53,454.75
7500 System Preservation	\$ 483,786.86
7300 Transit System	\$ 91,775.64
7600 Support System	\$ 989,028.91
7700 Road System	\$35,281,804.10
Total:	\$37,188,042.27

<b>Reauthorize</b>	<b>Amount</b>
7700 Road System	\$30,000,000.00
7600 Support System	\$ 7,188,042.27
Total:	\$37,188,042.27

Section 83. Maintenance and Operations Facilities. Building structures and facilities constructed, or to be constructed, within the Department of Transportation's operating right of way that facilitate maintaining the highway system and are used to assist in the operational and maintenance activities for all roads, shall not be subject to zoning, subdivision, or building code ordinances or regulations by any political subdivision of the State. Types of structures may include; equipment sheds, crew quarters, equipment maintenance, equipment washing, material storage sheds (i.e. salt, sand and other bulk materials), fuel centers, and other maintenance structures required to maintain the highway system such as security (cameras and fences) including necessary maintenance and replacement items such as upgrades to existing facilities. The Department shall not construct any such facility or make improvements in any such existing facility without first conducting a public workshop to describe such plans and gather public input into the effect of such plans.

Section 84. Transportation Enhancements. (a) It is the intent of the General Assembly that the Department provide notice to all State agencies, political sub-divisions within the State, and other parties of the availability of, and rules governing, the Transportation Enhancements program. Such notice shall include, but not be limited to, the definitions of eligible projects, the requirements for matching funds, and such other requirements as may be necessary to insure that any interested entity may work to become a participating recipient under the program. For new projects, the Department of Transportation is directed to submit a detailed list of all projects funded within the Transportation Enhancement Program to the Office of Management and Budget and Office of the Controller General on an annual basis. The State funding for this program shall be limited to the required 20 percent match of the related Federal Authorization. The projects funded by this program shall be limited to the allowable categories as outlined by the Federal Highway Administration. Any deviation from this process must be approved by the Office of Management and Budget, Office of the Controller General and Co-Chairs of the Joint Committee on Capital Improvements.

(b) Upon the award of Transportation Enhancement Program funds and prior to the allocation of funding for any Transportation Enhancement project, the Department of Transportation shall notify the respective Senators and Representatives in which said project shall be located.

Section 85. Grants and Allocations. The Section 1 Addendum of this Act appropriates the sum of \$ 8,375,000 (State) for projects within the Grants and Allocations classification. The General Assembly further defines its intent with respect to those appropriations as follows:

(a) The sum of \$ 8,375,000 (State) shall be used for the Community Transportation Fund, in accordance with the rules and regulations as adopted by the Joint Legislative Committee on the Capital Improvements Program, as amended from time to time.

Section 86. 5310 Program. The Delaware Transit Corporation is authorized to expend up to \$1,058,200 (\$ 211,000 State; \$ 847,200 Federal) from the Transit System classification (73/00) appropriated in this Act for the 5310 Program, administered by the Federal Transit Authority.

Section 87. DeIDOT Work Impacts on Private Property and its Owners. When the Department and/or any of its contractors determines that it would be in the best interests of the State to undertake construction/reconstruction work past 9:00 pm or before 7:00 am, and such work is to be conducted immediately adjacent to a residential neighborhood.

(a) The Department shall first ensure that residents of the neighborhood are notified in a timely fashion of the Department's desire to undertake such work. It must explain the benefits and costs to the State and the neighborhood of working under regular hours and the proposed extended hour schedule. Such notification shall include a description of the proposed work to be conducted, the proposed use of any equipment that may cause noise, vibration or odor disruptions to the neighborhood, and an estimate of the time required to complete the project. The Department may proceed with its extended hours of work if it does

not receive a significant number of objections from the notified residents. Pursuant to the provisions of the Delaware Code, it shall offer temporary relocation to any residents who request such relocation.

(b) The Department may proceed with its extended hours of work so long as jack hammering or other high noise activities do not impose an excessive nuisance to residents within the designated work zone.

(c) If the Department determines that the proposed work (regardless of its scheduled time) will produce noise that exceeds the applicable noise ordinances of the appropriate jurisdiction, the Department shall ensure that it seeks and receives a waiver from that jurisdiction before commencing the work.

(d) If the Department determines that the proposed work may cause any vibration or other damage to neighboring property, it shall complete a pre-work survey of the potentially affected properties to determine the base-line condition of those properties. It shall monitor the properties during construction to insure that any vibration or other damage is minimized. If any damage does occur, the Department must reimburse the private property owners pursuant to the provisions of the Delaware Code. The Secretary of the Department may waive the provisions of this section if he/she determines that any such work is necessary in order to respond effectively to an emergency caused by a natural disaster, an accident, or a failure of a transportation investment.

Section 88. McMullen Farm. The General Assembly has previously authorized the Department to enter into contracts with the owners of property located in Bear, Delaware known as the McMullen Farm in order to promote improved transportation access and circulation, to promote healthy economic growth, and to preserve and enhance critical open space. The Department is authorized to continue its negotiations for the improvements to Routes 7 and 40, to the system of roads connecting to these arteries, and to the lands adjacent between the bounds of Route 273 and Route 40, Route 1 and Salem Church Road. All previous authorizations to the Department, and other affected State agencies, shall remain in force and effect, and the Secretary of the Department shall report to the Governor and the General Assembly on progress toward the completion of the transportation improvements, development of the excess lands, and creation and improvement of the community parkland no later than May 1, 2010.

Section 89. Indian River Inlet Bridge. State funds authorized in this and previous Acts of the General Assembly for the design and construction of a new bridge at the Indian River Inlet and the construction of new park amenities, access and circulation roads, and other transportation and recreation improvements shall be used, to the maximum extent possible, to match federal funds previously available, or to become available in the future. In keeping with the strong sense of community involvement and sense of ownership, the Department shall continue to provide periodic progress updates through such media as it determines to best address the community's needs. And finally, because in order to accomplish this project in an efficient and cost-effective manner, the Department and its contractors will have to occupy portions of the State's adjacent campground and marina facilities, the General Assembly authorizes and directs the Secretary of the Department to enter into reimbursement agreements with the Secretary of the Department of Natural Resources and Environmental Control (DNREC). Such agreements will insure that during the period of construction of the bridge and other necessary improvements, DNREC shall be equitably indemnified from the loss of critical tourist revenues, which are necessary to fund the operations of all of the State's outdoor recreational facilities.

Section 90. City of Wilmington Beautification. In order to maintain the urban tree canopy available in the City of Wilmington, the General Assembly authorizes and directs the Department to establish, and maintain a program of tree maintenance and replacement in cooperation with the Delaware Center for Horticulture (Center) and/or Urban Forestry in the Department of Agriculture. It is the intent of the General Assembly that such program shall be funded exclusively by allocations made from time to time by members of the General Assembly from their Community Transportation Funds. The Department shall make payments to the Center and/or Urban Forestry in the Department of Agriculture for work accomplished, and appropriately vouchered, from the CTF funds herein identified.

Section 91. Supplies of Road Materials. Section 109 of 74 Del. Laws, c. 308 is suspended until such time as the Department of Transportation shall suggest its re-institution and such suspension has been overridden by an Act of the General Assembly.

Section 92. System Capacity Preservation. The General Assembly hereby determines that it is in the public interest to limit future residential, commercial, or industrial growth along certain portions of the State's highway network. Such potential growth would produce unsafe driving conditions as increased traffic seeks access to, and movements along, a number of local roads and collectors in critical locations through the State. The General Assembly further determines that it would be infeasible or imprudent for the Department to attempt to design and construct modifications to the State's highway network adjacent to these locations because such improvements would irrevocably destroy the important scenic and historic nature of the view sheds and other environmental attributes associated with these locations. Accordingly, the Secretary of the Department of Transportation (Secretary) is authorized and directed to use State funds appropriated to the Transportation Enhancements program authorized and funded in the Section 1 Addendum of 74 Del. Laws, c. 308, together with such other funds from any public or private source as may be available and appropriate, to purchase land, or such rights in land, as the Secretary deems necessary to protect the following properties, pursuant to the stipulations stated herein. Expenditures of these funds for these purposes shall be with the review and approval of the Director of the Office of Management and Budget and Controller General. The provisions of 17 Del. C. c. 1 and 29 Del. C. c. 93 and 95 shall govern such purchases, and any other purchase by the Department authorized by this Act.

(a) Millcreek Farm (Yearsley) Property - Four parcels totaling approximately 35 +/- acres adjacent to Mill Creek (SR 282) and Stoney Batter (SR 283) Roads in New Castle County. The Department shall work with members of the surrounding community, plus State and local officials, to develop a master plan for the permanent protection of the site as community recreation and open space, and upon satisfactory completion of such plans, may transfer the parcel to New Castle County for a fee to be determined.

Section 93. Denny Road/Route 896 Alignment Completion. Upon completion and final inspection of the Denny Road/Route 896 Realignment Project, the frontage property consisting of two parcels (0.93 and 0.929 acres) along Route 896, currently landscaped and maintained by the community of Meadow Glen, shall revert back to the community which had owned said parcels prior to 1994. Notwithstanding the provisions of 17 Del. C. § 137, the Department shall deed these parcels to the community and remain in their possession in perpetuity.

Section 94. Port of Wilmington. Subject to the review and approval of the Board of Directors of the Diamond State Port Corporation (DSPC):

(a) The DSPC may make application to the Delaware River and Bay Authority (DRBA) for such assistance in the acquisition and improvement of facilities at the Port as the Board of the DSPC deems appropriate, in accordance with the Compact authorized under 17 Del. C. § 1701. For purposes of those negotiations, any such project selected by the DSPC shall be construed to have been approved by the General Assembly and Governor as required by law subject to the conditions that any such project shall be subject to 29 Del. C. c. 69 and that such projects are subject to the approval of the Director of the Office of Management and Budget, the Controller General and the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program.

(b) The Diamond State Port Corporation is authorized to arrange for the lease of equipment from the State's master lease, secured by the State's full faith and credit, in an amount not to exceed \$5,000,000 in the aggregate. The expenditure of these funds and the terms of the lease shall be subject to the review and approval of the Board of Directors of the Diamond State Port Corporation. A report of equipment leased including terms and amounts due shall be made available to the Secretary of Finance, Director of the Office of Management and Budget and Controller General annually.

(c) For purposes of restructuring the loan agreement dated November 30, 2001 between the DSPC and the Transportation Trust Fund, the Secretary of the Department of Transportation is authorized and directed to defer the fiscal 2010 payments to be made by the DSPC and prepare a new amortization schedule for full repayment.

Section 95. Wakefield Drive. The Department of Transportation shall be prohibited from reopening Wakefield Drive in Newark through to Old Baltimore Pike.

Section 96. Community Transportation Funding Levels. The Department is directed to account for the Community Transportation Program funds as cash which shall be equal to the amounts authorized in Appendix A of this Act as well as previous Bond and Capital Improvement Acts. The funds authorized within the Community Transportation program shall not be subject to reallocation by the Department under any circumstances.

Section 97. Red Light Safety Enforcement. Pursuant to 73 Del. Laws, c. 350, § 92, the General Assembly authorized and directed the Department of Transportation to engage in a 36-month pilot project, in cooperation with Seaford, Dover, Newark, Elsmere, Wilmington, and the Delaware State Police, in operating, maintaining and enforcing a civil video red light safety enforcement program. Pursuant to 75 Del. Laws, c. 353, § 113, the Department was further directed to evaluate and report on this program to the Joint Legislative Committee on the Capital Improvement Program by no later than February 28, 2007, under terms and conditions relating to extending the program through June 30, 2007, and including the preparation and consideration of a program evaluation and report. Having received that evaluation and report, the General Assembly directs that the program shall be permitted to continue in operation on an open-ended basis, under the following conditions:

- (1) The assessments collected as a result of the Department's administration of this pilot program in unincorporated areas of the state shall be deposited into the Transportation Trust Fund created under 2 Del. C. c. 14.
- (2) Any enforcement location shall remain in place for not less than five years in order to obtain useful statistical information about the suitability of the location in reducing angle crashes.
- (3) The Department shall continue to use recognized safety and accident criteria in determining whether and where to add any new enforcement locations to this program, and in any event shall continue to confirm that any such new locations are not objected to by the incumbent state Senator and Representative for the districts in which such locations are proposed.
- (4) To assure integrity and propriety, no person involved in the administration or enforcement of this program shall own any interest or equity in the vendor used by the Department to support the administrative elements of the program. Any such person with an ownership or equity interest in such vendor must divest from this ownership or investment no later than ninety days after the effective date of this act. This restriction applies to anyone with either direct involvement in administering or enforcing this program and those in any supervisory capacity above such persons.

Section 98. Design-Build Contracts. The Department of Transportation is hereby authorized to continue utilization of the design-build contract mechanism for a total of twelve transportation construction projects ( eight of which have been authorized). Design-build is a project delivery method under which a project owner, having defined its initial expectations to a certain extent, executes a single contract for both architectural/engineering services and construction. The selection processes and other terms of such contracts may vary considerably from project to project. The design-build entity may be a single firm, a consortium, joint venture, or other organization. However, the fundamental element of design-build delivery remains that one entity assumes primary responsibility for design and construction of the project.

The Department of Transportation is authorized to continue the use of these experimental approaches to completing its projects, subject to the following conditions:

- (a) The contract terms shall include provisions to pay the prevailing wage rates determined by the Department of Labor, as provided in 29 Del. C. § 6960, in conjunction with Federal prevailing wage rates for such work;
- (b) The following additional provisions of 29 Del. C. c. 69 shall also be incorporated into these design-build contracts: § 6962(d)(4)a. (anti-pollution, conservation environmental measures); § 6962(d)(7) (equal employment opportunity assurances); and § 6962(d)(8)(performance bonding requirements);
- (c) Any such contracts shall conform to all applicable Federal laws and regulations concerning design-build contracting, including but not limited to 23 C.F.R. Part 636, without regard to the source of funds; and

(d) Any design-build contract for the construction of any transportation facility shall also be subject to the provisions of 17 Del. C. c. 8 (construction payments held in trust for protection of subcontractors and suppliers).

All other provisions of 29 Del. C. c. 69 shall not be applicable to these projects.

The Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program and the Director of the Office of Management and Budget shall approve all other projects subject to this section.

Section 99. New Development Road Widening. When planning and/or permitting additional road widening directly related to new residential development, the Department of Transportation, Division of Planning, shall make every attempt to require the necessary right-of-way land be acquired from the developer owned land.

Section 100. W. L. Gore Site. In evaluating and recommending improvements to the transportation system related to the development of what is known as the W.L. Gore site, located in New Castle County and situated on the north side of Sunset Lake – east of SR896 and southeast of Old Cooch’s Bridge Road, the department will make every effort to ensure that the improvements made facilitate and encourage traffic to travel toward and use SR896 and to discourage additional use of Old Cooch’s Bridge road east of the entrance to the W.L. Gore property. This is in recognition of the historic characteristics of Old Cooch’s Bridge road in the vicinity of the intersection with Old Baltimore Pike.

Section 101. Route 301 Spur Road Segment. The General Assembly directs the Department to implement the US 301 Corridor project in Phases, beginning with the US 301 mainline section.

Section 102. Astra Zeneca Project. The Department shall carry out property boundary adjustments and easements for transit, bicycle and pedestrian, storm water management, wetlands and stream restoration, beautification, historic preservation, conservation and other improvements in concert with the Department of Natural Resources and Environmental Control, Delaware Economic Development Authority, City of Wilmington, New Castle County, New Castle County Conservation District, and such other public and private entities as may be necessary to accomplish timely completion of the Blue Ball Master Plan.

## **AGRICULTURE**

Section 103. Farmland Preservation. For the fiscal year ending June 30, 2010, county funds committed to farmland preservation shall be spent to preserve farmland only in the respective counties where the funds originate. Farms to be preserved shall be selected by the counties according to county selection criteria from eligible farms as listed by the Aglands Preservation Foundation.

All state-appropriated funds for Fiscal Year 2010 shall be utilized by the Aglands Foundation to preserve eligible farms statewide not selected by the counties.

## **FIRE PREVENTION COMMISSION**

Section 104. Hydraulic Rescue Tools Replacement. It is the intent of the General Assembly that the funds authorized in the Section 1 Addendum of this Act be used to reimburse the Fire School, Newark, Cranston Heights, Goodwill, Holloway Terrace, Houston, Minquas, Odessa, Bowers, Camden-Wyoming, Cheswold, Frederica, Bethany Beach, Blades, Dagsboro, Indian River, Lewes, Millsboro, Millville and Selbyville fire companies. Upon submitting the receipt of sale, each company will be reimbursed up to \$7,500 by the Fire Prevention Commission - State Fire School (75-02-01).

## **NATIONAL GUARD**

Section 105. Delaware National Guard. Notwithstanding 29 Del. C. c. 69 or any other statutory provision to the contrary, the Delaware National Guard may use design/build project delivery methodology for the purpose of constructing a wind turbine system at their Training Site in Bethany Beach. To enable the pursuit of a design/build methodology to construct wind turbine system, all provisions of 29 Del. C. c. 69 are hereby waived with the exception of § 6960 related to prevailing wage.

## **DELAWARE TECHNICAL AND COMMUNITY COLLEGE**

Section 106. College-wide Asset Preservation Program. The Section 1 Addendum of this Act provides funds for Delaware Technical and Community College (90-04-00) for the College-wide Asset Preservation Program. This appropriation may be used for the acquisition of computer hardware and software.

Section 107. Stanton Campus Expansion. Delaware Technical and Community College shall apply for all permits and approvals required pursuant to any applicable provision of Titles 9 and 22 of the Delaware Code, or any other ordinance, rule or regulation enacted pursuant thereto in connection with the design and construction of the Stanton Campus Expansion (90-04-04); provided, nevertheless, that any such permit or approval shall be granted within 45 days from the day upon which the college makes application therefore. If any required permit or approval is not granted within 45 days as set forth above, the college may commence construction and shall be immune from any legal action or liability for failing to obtain such permit or approval.

**DEPARTMENT OF EDUCATION**

Section 108. School Building and Custodial Verification. By September 30 of each calendar year, each school district shall notify the Department of Education of its intended use for each school building and administrative office building. School districts shall notify the Department about changes in the use of such buildings to include the sale of property, closing of a building, lease of property to another agency, and additions and renovations. The Department of Education shall establish a standard reporting mechanism that school districts shall utilize to gather and submit required information.

By October 30 of each calendar year, the Department of Education shall verify and reissue custodial allocations to each school district based on the information obtained annually.

Section 109. Land Donation for School Construction. Any land donated to a school district with an approved major capital improvement program shall be required to return to the State one-half of the State share amount originally budgeted for land purchase costs. In such case, the district shall be entitled to keep the remaining one-half State share amount, as well as the full local share amount in accordance with the certificate of necessity.

Section 110. Minor Capital Improvements. It is the intent of the General Assembly that the sum of \$7,263,800 allocated in the Section 1 Addendum to this Act be used for minor capital improvements to school buildings in the following amounts. Districts must use the funds in the amounts below on projects listed on the facility assessment website hosted by the Department of Education.

<u>School District</u>	<u>Maximum State Share</u>	<u>Maximum Local Share</u>	<u>Total Cost</u>
Appoquinimink	\$ 469,716	\$313,144	\$ 782,860
Brandywine	552,667	368,445	921,112
Special	2,713	-	2,713
Christina	906,012	604,008	1,510,020
Special	45,210	-	45,210
Colonial	562,541	375,027	937,568
Special	8,680	-	8,680
New Castle Vo Tech	395,951	-	395,951
Red Clay	844,707	563,138	1,407,845
Special	12,568	-	12,568
Caesar Rodney	345,532	230,355	575,887
Special	18,898	-	18,898
Capital	327,629	218,419	546,048
Special	11,031	-	11,031
Lake Forest	210,336	140,224	350,560
Milford	222,922	148,615	371,537
Polytech	105,249	-	105,249
Smyrna	252,653	168,435	421,088
Cape Henlopen	234,261	156,174	390,435
Special	18,174	-	18,174
Delmar	62,826	41,884	104,710
Indian River	453,820	302,547	756,367
Special	10,850	-	10,850
Laurel	113,496	75,664	189,160



Seaford	184,023	122,682	306,705
Sussex Tech	113,116	-	113,116
Woodbridge	110,240	73,493	183,733
Campus Community	32,389	-	32,389
Academy of Dover	12,912	-	12,912
Delaware College Prep			
Academy	6,076	-	6,076
DE Military Academy	28,537	-	28,537
East Side Charter	19,260	-	19,260
Family Foundations	21,104	-	21,104
Kuumba Academy	13,726	-	13,726
Maurice Moyer Academy	17,632	-	17,632
M.O.T. Charter	36,620	-	36,620
Newark Charter	69,768	-	69,768
Odyssey Charter	15,896	-	15,896
Pencader Charter	31,195	-	31,195
Positive Outcomes	6,510	-	6,510
Prestige Academy	5,588	-	5,588
Providence Creek	36,403	-	36,403
Sussex Academy of Arts	17,523	-	17,523
Thomas Edison	44,758	-	44,758
Wilmington Charter	<u>52,082</u>	-	<u>52,082</u>
Total to Schools	\$7,063,800	\$3,902,254	\$10,966,054
Vocational Equipment	85,000	56,667	141,667
State Board Contingency	115,000	76,667	191,667
TOTAL	\$7,263,800	\$4,035,588	\$11,299,388

Section 111. Dickinson High School. Funding for the Red Clay School District including bond authorizations for renovations of the John Dickinson High School and the transfer of major capital construction funds shall be contingent upon the following:

1. The lighted football field at Dickinson High School may be used at night only for Dickinson home games and Dickinson band practice; and
2. The District is required to maintain the fencing between Dickinson High School and the community of Montclare, keep the gate between the properties locked at all times (except by mutual agreement between the District and the Montclare Civic Association), and provide, maintain and replace, if necessary, the Leland Cypress trees along the fence line bordering the homes on Salem Drive.

Section 112. Sterck School. The Section 1 Addendum to 76 Del. Laws, C. 288, appropriates \$5,422,700, Section 1 Addendum of this Act appropriates \$15,442,700; Section 1 Addendum to 75 Del. Laws, c. 98 appropriated \$2,700,000; Section 1 Addendum to 75 Del. Laws, c. 353 appropriated \$8,000,000; and Section 1 Addendum to 76 Del. Laws, c. 79 appropriated \$10,000,000 to the Sterck School. It is the intent of the General Assembly that the funding herein and previously appropriated to the Sterck School shall be utilized solely for the planning, design and construction of the replacement facility. Further, it is the intent of the General Assembly that the new Sterck School be constructed on State of Delaware-owned land along Chestnut Hill Road (Tax Parcels 09-028.00-001, 09-028.00-002 and 09-022.00-118).

Section 113. School Construction Fund Transfers. Notwithstanding any law or other provision to the contrary, the Department of Education, with the approval of the Director of the Office of Management and Budget and Controller General, may transfer funding between major capital construction projects within the respective school districts. These transfers shall not authorize any changes in conditions or incur any obligations in excess of the approved Certificate(s) of Necessity.

Section 114. School District Financial Reviews. It is the intent of the General Assembly that for school districts receiving funds appropriated in the Section 1 Addendum to this Act, should a school district financial position report as required under 14 Del. C. § 1507 demonstrate less than one month of carryover, or if at any time during the course of the fiscal year a school district is projected to not be able to satisfy its local payroll obligations, the Director of the Office of Management and Budget, in coordination with the Secretary of Education and Controller General, is authorized to conduct a comprehensive review of the school district's capital construction program.

Section 115. School Construction Contractual Documents. Effective January 1, 2007, all school districts that receive State funds for major capital construction projects shall use standard bid and contract documents developed by the Office of Management and Budget, Facilities Management. School districts may enhance the standard bid and contract documents with additional contractual or project-specific requirements as long as the enhancements do not diminish and are not in conflict with the provisions of the standard documents. The Department of Education, in consultation with the Office of Management and Budget, Facilities Management, shall approve any modifications or changes to the provisions of the standard bid and contract documents before a school district may use or enhance the modified documents.

Section 116. Brandywine School District Space Consolidation and Grade Reconfiguration. The Section 1 Addendum to 76 Del. Laws c. 79 appropriates \$1,600,000 to the Department of Education in planning money for the renovation of Hanby Middle School in the Brandywine School District and further authorized a local match share of \$1,066,700. In light of declining enrollment and to avoid increasing operating costs, the District has decided to close the Hanby Middle School and has realigned the feeder pattern for its remaining schools. The closure of the Hanby Middle School will allow the District to forego the \$13,134,014 in state share and \$8,756,009 in local match share that would have been required to renovate the school. In lieu of renovating the Hanby Middle School, the Brandywine School District is hereby authorized to use the planning funds previously authorized to demolish the Hanby Middle School and for other costs associated with the District's Space Consolidation and Grade Reconfiguration Plan approved by the Brandywine School District Board of Education on February 25, 2008. Approval is also hereby given to construct the Brandywood Elementary School, approved on C.N. # 0631B, on the site of Hanby Middle School and to complete the renovations of P.S du Pont, on C.N.# 0631C, as a Middle School.

Notwithstanding any other state law or regulation to the contrary, the district is authorized to transfer funds with the approval of the Director of the Office of Management and Budget and Controller General across any of the approved Certificates of Necessity C.N. # 0631A-I to meet costs associated with the transition to new grade configurations and to utilize such funds for expenses required to reconfigure grade levels at Harlan Elementary School and Claymont Elementary School.

The Brandywine School District shall not be authorized to incur any obligation in excess of the amounts listed on Certificates of Necessity #0631A-I.

Section 117. Porter Road Elementary School. Section 2 of 76 Del. Laws, C. 288 authorizes the local share of the Christina School District's Porter Road Elementary School in the amount of \$2,617,100. In order to ensure the timely completion of the school thereby complying with the District's Neighborhood School Plan, the District is authorized to proceed to construction without the required State share by using funds/savings from other means including, but not limited to, the following:

1. rebidding construction contracts/reducing construction contingencies;
2. major capital construction transfers from other Christina projects;
3. project scope reduction/delay;
4. voluntary school assessment funds; and
5. sale of Christina's 83 E. Main Street Property: the former District Administration Building owned in totality by Christina.

The State shall provide the required State share at such time as revenues are sufficient to fund to the level where the Porter Road project appears on the Department of Education's Priority Listing of Major Capital Improvement Projects. At the time

when the State revenues become available to the District, funds borrowed from the areas listed above will be returned to those projects.

Section 118. Sussex County Orthopedic School. Amend 29 Del. C. §7503 (b) by inserting after the word “Consortium” as it appears in the fourth paragraph of said subsection the words “Sussex County Orthopedic School”.

Section 119. Bond Verification. All bonds issued, or herein before or herein authorized to be issued, by the State are hereby determined to be within all debt and authorization limits of the State.

Section 120. Inconsistency. Insofar as the provisions of this Act are inconsistent with the provisions of any general, special, or local laws, or parts thereof, the provisions of this Act shall be controlling.

Section 121. Severability. If any section, part, phrase, or provision of this Act or the application thereof be held invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Act or the application thereof.

Section 122. Effective Date. This Act shall take effect in accordance with the provisions of State law.

**SYNOPSIS**

This Bill is the Fiscal Year 2010 Bond and Capital Improvements Act.

Author: Joint Legislative Committee on the Capital Improvement Program

Approved July 01, 2009