EXECUTIVE ORDER
NUMBER ONE HUNDRED FORTY-FOUR

TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES

RE: ESTABLISHMENT OF INDUSTRIAL REVENUE BOND COMMITTEE AND ALLOCATION OF STATE CEILING TO GOVERNMENTAL UNITS

WHEREAS, Section 103(n) of the Internal Revenue Code of 1954, as amended (the "Code"), provides that interest on a private activity bond [as defined in Section 103(n)(7) of the Code and in the temporary and proposed regulations under Section 103(n) of the Code issued by the U.S. Department of the Treasury and published in the Federal Register on October 5, 1984 (the "Regulations") issued as part of an issue will not be excludible from gross income if the aggregate amount of private activity bonds issued pursuant to such issue, when added to the aggregate amount of private activity bonds previously issued by the issuing authority during the calendar year, exceeds such authority's private activity bond limit for such calendar year;
WHEREAS, in addition to the State itself, the governmental units (within the meaning of the Regulations) within the State that have issued private activity bonds are Sussex County, New Castle County, and the City of Wilmington;

WHEREAS, under Section 103(n)(4) of the Code, the aggregate ceiling on private activity bonds that may be issued by the State and by other governmental units within the State during each calendar year after 1983 is $200 million (the "State Ceiling");

WHEREAS, under Section 103(n) of the Code, the private activity bond limit for each of the four (4) governmental units within the State that have issued private activity bonds is an allocable portion of the State Ceiling;

WHEREAS, for that portion of calendar year 1984 that precedes the date of this Executive Order, Section 103(n)(2) of the Code and the Regulations thereunder provide that fifty percent (50%) of the State Ceiling, or $100 million, is the private activity bond limit of the State, and Section 103(n)(3) of the Code and the Regulations thereunder provide that the private activity bond limit of each of Sussex County, New Castle County, and the City of Wilmington is that amount that bears the same ratio to the remaining $100 million of the State Ceiling that the population of each such governmental unit bears to the population of the entire State;
WHEREAS, during that portion of calendar year 1984 that precedes the date of this Executive Order, the aggregate face amount of private activity bonds (as defined in Section 103(n)(7) of the Code and the Regulations thereunder) issued by agencies of the State was $1,075,000, by Sussex County zero, by New Castle County $5,775,000, and by the City of Wilmington $2,350,000, so that as of the date of this Executive Order $190,800,000 of the State Ceiling for calendar year 1984 is available for reallocation;

WHEREAS, under the Regulations, no portion of the State's $100 million private activity bond limit for that portion of calendar year 1984 that precedes the date of this Executive Order is allocable to any agency of the State authorized to issue private activity bonds unless such agency is assigned part of the State's $100 million private activity bond limit;

WHEREAS, Section 103(n)(6)(B) of the Code and the Regulations thereunder authorize the governor of any state to proclaim an allocation of its state ceiling among the governmental units in such state having authority to issue private activity bonds under a formula that is different from the statutory allocation formula contained in Section 103(n)(2) and (3) of the Code; and

WHEREAS, the continued economic development of the State will be hampered if a system is not established for allocating the State Ceiling in a manner that will
least impair the ability to issue private activity bonds and if procedures are not established to ensure that the State Ceiling is available for use to the maximum extent possible;

NOW, THEREFORE, I, PIERRE S. duPONT, IV, by the authority vested in me as Governor of the State of Delaware, do hereby declare and order as follows:

1. Pursuant to the Regulations, there is hereby assigned to The Delaware Economic Development Authority $1,075,000 of the State's $100 million private activity bond limit that is applicable to private activity bonds issued during calendar year 1984 prior to the date of this Executive Order. A record of this assignment shall be maintained by The Delaware Economic Development Authority for the term of all private activity bonds issued by it during calendar year 1984 prior to the date of this Executive Order.

2. Pursuant to Section 103(n)(6)(B) of the Code and the Regulations thereunder, the $190,800,000 of the State Ceiling that is available for reallocation with respect to private activity bonds issued during calendar year 1984 on or after the date of this Executive Order by the State and by any other governmental units within the State having authority to issue private activity bonds shall, unless hereafter modified in accordance with the provisions of Paragraph 6 hereof, be allocated as follows:
(a) To the State, One Hundred Eighteen Million Nine Hundred Twenty-Five Thousand Dollars ($118,925,000);

(b) To Sussex County, Twenty Million Dollars ($20,000,000);

(c) To New Castle County, Twenty-Nine Million Two Hundred Twenty-Five Thousand Dollars ($29,225,000); and

(d) To the City of Wilmington, Twenty-Two Million Six Hundred Fifty Thousand Dollars ($22,650,000).

3. Pursuant to Section 103(n)(6)(B) of the Code and the Regulations thereunder, the $200 million State Ceiling for all private activity bonds issued in any calendar year after 1984 by the State and by any other governmental units within the State having authority to issue private activity bonds shall, unless hereafter modified in accordance with the provisions of Paragraph 6 hereof, be allocated as follows:

(a) To the State, One Hundred Twenty Million Dollars ($120,000,000);

(b) To Sussex County, Twenty Million Dollars ($20,000,000);

(c) To New Castle County, Thirty-Five Million Dollars ($35,000,000); and

(d) To the City of Wilmington, Twenty-Five Million Dollars ($25,000,000).
The allocation made by this Paragraph shall terminate upon the effective date of any State legislation that provides a different allocation of the State Ceiling.

4. The Chairman of The Delaware Economic Development Authority is hereby designated as the public official responsible for hereafter assigning the State's private activity bond limit under either Paragraph 2 or Paragraph 3 hereof to agencies of the State authorized to issue private activity bonds. Unless and until the Chairman of The Delaware Economic Development Authority makes a different assignment, all of the State's private activity bond limit under Paragraphs 2 and 3 hereof is hereby assigned to The Delaware Economic Development Authority.

5. Any governmental unit (other than the State) authorized to issue private activity bonds that is allocated a private activity bond limit pursuant to this Executive Order may assign all or any portion of such private activity bond limit to the State. The Chairman of The Delaware Economic Development Authority, may, on behalf of the State, assign to any governmental unit or agency within the State that is authorized to issue private activity bonds any private activity bond limit allocated or assigned to the State or any agency of the State pursuant to this Executive Order (including, without limitation, pursuant to the immediately preceding sentence). Any such assignment shall be made in writing, a record of such assignment shall be
maintained by the assignee in its records for the term of all private activity bonds it issues in each calendar year while such assignment is applicable, and a copy of such assignment shall be filed with the Chairman of The Delaware Economic Development Authority. The Chairman of The Delaware Economic Development Authority shall maintain a record of such assignment during the term of all private activity bonds issued by the assignee in each calendar year to which such assignment applies. No assignment of any private activity bond limit under the authority of this Paragraph shall result in loss of qualification for tax-exempt status for any private activity bond issued prior to the date of such assignment.

6. To the full extent allowable under Section 103(n) of the Code and the Regulations thereunder, there is hereby specifically reserved to the Governor of the State the right to modify hereafter the allocations made in Paragraphs 2 and 3 hereof; provided, however, that no such modification shall cause a private activity bond issued prior to the date of such modification to lose its qualification for tax-exempt treatment under the Code. The authority hereby reserved shall be exercisable by the Governor in his discretion, but the Governor shall consider any recommendation of the committee established by Paragraph 7 hereof that is adopted by a majority of its members.
7. There is hereby established the Industrial Revenue Bond Committee ("the Committee"), to be composed of the Chairman of The Delaware Economic Development Authority and one representative each from Sussex County, New Castle County, and the City of Wilmington appointed by each jurisdiction pursuant to those procedures deemed by such jurisdiction to be necessary and appropriate. The purpose of the Committee shall be to make recommendations to the Governor regarding modification of the allocations of the State Ceiling made in Paragraphs 2 and 3 hereof and to make recommendations to the Chairman of The Delaware Economic Development Authority regarding assignments and reassignments of private activity bond limits pursuant to Paragraph 5 hereof. The Chairman of The Delaware Economic Development Authority shall be the Chairman of the Committee. The Committee shall be responsible for monitoring the volume of private activity bonds issued by each of the participating jurisdictions and for recommending changes in the allocation of the State Ceiling and assignments and reassignments of private activity bond limits as circumstances dictate. The Committee shall meet at such times and in such places as its members determine to be appropriate for carrying out its functions and purposes.

8. On or before the fifteenth (15th) day after the date of this Executive Order, and monthly thereafter, Sussex County, New Castle County, and the City of Wilmington
shall each file with the Chairman of The Delaware Economic Development Authority such reports as he may deem to be necessary to carry out the purposes of this Executive Order. Each such report shall contain at least the following information with respect to each private activity bond issued (or approved for issuance by an inducement resolution or other comparable preliminary approval) by such jurisdiction during the calendar year since the period covered by the immediately preceding report:

(a) A brief description of the project financed or to be financed with the proceeds of such bond;

(b) The face amount of such bond issued or approved; and

(c) The date of issuance of such bond if issued, or the date of the inducement resolution (or other comparable preliminary approval) approving the issuance of such bond if such bond has not yet been issued.

9. The Committee shall engage in such other activities as it deems necessary to promote the cooperation of jurisdictions on economic development projects and shall report to the Governor and General Assembly at the conclusion of each fiscal year on the projects financed with private
activity bonds and on such other matters as it may deem appropriate.

APPROVED this 19th day of October, 1984

[Signature]
Governor

ATTEST:

[Signature]
Secretary of State