

Clean Water and Flood Abatement Task Force

Monday, February 22, 2016

2:00 p.m. – 4:00 p.m.

Buena Vista Conference Center, Buck Library

Meeting Attendance

Task Force Members:

Present:

Senator Bryan Townsend
Senator Bryant Richardson
Secretary Jennifer Cohan
Secretary David Small
Holly Porter
Jeffrey Bross
Roy Miller
Howard Morrison
Brenna Goggin
Lew Killmer
Joseph Corrado
Michael Riemann
Paul Morrill
Gerald Kauffman
Gerard Esposito
Robert Baldwin
Christine Mason
George Haggerty
Gina Jennings
Thom May
Bruce Jones

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Absent:

Representative Michael Mulrooney
Representative Ronald Gray
Thomas Unruh
Patty Cannon
Jen Adkins
Dian Taylor
Sam Lathem
William Lucks
Andrew Jakubowitch

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Staff:

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Attendees:

David Athey
 Pamela Bakerian
 Laura Hill
 Charles Postles
 S. Douglas Hokuf
 Martha Narvaez
 Heather Warren
 Marjorie Crofts
 Terry Deputy
 Frank Piorko
 Edward Hallock
 Jeff Long
 David Spacht
 Hans Medlarz

Organization:

AECOM
 DE Farm Bureau
 DE Farm Bureau
 Farmer
 NCC
 UD
 DHSS
 DNREC
 DNREC
 DNREC
 DPH/ODW
 PDE
 AWC
 Sussex County

The Task Force meeting was brought to order at 2:02 p.m.

Consideration of Meeting Minutes

Senator Bryan Townsend, Co-Chair, thanked everyone for coming to the Task Force meeting and went directly to the Agenda. The Senator asked the Task Force members to consider the Meeting Minutes from their January, 25, 2016 meeting. He then asked if anyone had any changes. Seeing none, he asked for a motion to approve the Meeting Minutes.

Lew Killmer, Delaware League of Local Governments, motioned to approve.

Secretary Small, Department of Natural Resources and Environmental Control (DNREC), seconded the motion.

With all in favor the Meeting Minutes from January 25, 2016 were approved.

Senator Townsend thanked the members for the formality and noted that we were moving to items 2 (**Review of Updated Draft Legislation**) and 3 (**Group Discussion**) on the Agenda, as they might overlap with each other.

The Senator further noted that we had sent a last minute email to the Task Force members and included the email in the folders and on the public table, as a Michael Riemann, Delaware Homebuilders Association, wanted the group to see his thoughts broken down regarding the Task Force and Final Report.

Senator Townsend then turned the floor over to Brenna Goggin, Delaware Nature Society, and Paul Morrill, Committee of 100, to discuss the Updated Draft Legislation and how they worked hard to include and make changes based off our last Task Force meeting. This is an important topic, as the members need to decide if a draft piece of legislation should be included in our SCR 30 Final Report.

Review of Updated Draft Legislation

Mr. Morrill noted that he and Brenna incorporated the Memo used from the last Task Force meeting and used the feedback they received from the members. He wanted to make it clear that this was a very rough draft that incorporated the changes requested without crosschecking. Mr. Morrill feels it still needs a lot of work.

He further stated that at the last meeting it was discussed in different ways to include a clean water fee. They decided to go with the wastewater fee, as the feedback they received was that the wastewater fee had more support than others. He noted that whether it stays that way or not will be up to the Task Force at this point.

Mr. Morrill pointed out that the structure of language was lifted from the DTA (Delaware Transit Authority) language that was already in the Delaware Code. He compared it to the Trust structure that was in former Secretary O'Mara's bill, stating that he would leave it up to legal staff and noting they chose DTA given that the language was already in place. If recommending a smaller Trust Board, they felt it would be the most appropriate to mention the fees and process.

He then thanked Ms. Goggin and Mr. Riemann for helping make those changes and noted that he would answer any further questions. He also noted that the Task Force still had a great deal to discuss regarding details.

Senator Townsend asked if there were any questions.

Jeffrey Bross, Water Infrastructure Advisory Council (WIAC), mentioned the possible merits of "putting a foot note" in for just a second, and noted the advisability of at least sending along some type of draft legislation so long as it's clear that it is just a "Draft." Not only would this be Draft Legislation, but it also would be a starting point. He feels that not including Draft Legislation really leaves a lot more work to be done in terms of getting to the written report and in terms of action in whole by the legislature. We don't plan to preempt the legislature or even tell them what to do, but we can give them a good starting point. He also noted that he thought the Task Force had already agreed to this and that it was a good idea.

Senator Townsend briefly listed several topics the Task Force had reviewed, and he noted how complex and high-stakes the effort was. He pointed out that as a Task Force we have never taken a "Hand-up, Hands-down" vote, with the exception of approving Meeting Minutes. The Senator stated that there was agreement in prior meetings by many Task Force members. He also noted that the first point on Mr. Riemann's list indicates an "either/or" approach but that the Senator did think there needs to be a choice between Draft Legislation or a Report.

Mr. Morrill agreed strongly with Senator Townsend's statements on needing a full Final Report that incorporates Draft Legislation.

Mr. Riemann asked for clarification regarding his list. He thinks including Draft Legislation is fine, but he feels it needs to go along with a written document, if this effort is to go anywhere.

Senator Townsend, Mr. Bross and Mr. Morrill together stated yes.

Mr. Riemann explained that otherwise we should assume legislators are reviewing legislation and don't have a written document that summarizes everything that we've talked about as a Task Force and how we got to that point.

Senator Townsend made it clear that we will have a Final Report which includes, at a minimum, the Findings and Recommendations of the Task Force and an indicator of when members are not fully in agreement. The Senator noted that the topic of the Final Report will be discussed further at a later time so that we can work those types of issues out. He further noted that all Meeting Minutes will be included as an appendix to the Final Report. If Draft Legislation is included it will be made clear that the Task Force is not saying that this is the only possible legislation but that the legislation is a product of all the discussion that took place at length by a broad coalition of people who have different perspectives on the issues. We will try to find a "sweet spot" in all of this.

The Senator mentioned that he was now speaking for himself and not the other three legislators at the table, and that he would not take offense as a legislator to having this kind of coalition of people put forth recommended legislation. He further noted that this happens all the time, that legislation has been vetted by whole group of people or perhaps even having been put forward with little vetting at all. So, he feels that this would not be an insult to legislators by the Task Force putting forth a Draft Legislation in the Final Report. Senator Townsend pointed out that if we don't have legislation to recommend that clearly shows this group of people truly thought about it, crafted it, and vetted it, then we actually wouldn't have as much momentum in terms of getting this done.

Joseph Corrado, Delaware Contractors Association, stated if you read the draft as currently proposed, he thinks they'll find it very transparent and also very apolitical. We even suggested realigning the Council to better represent all constituents in the State, a change he would like to emphasize to everybody.

Senator Townsend sought confirmation from Mr. Corrado that he was discussing lines 188 through 201, regarding the thirteen-member Council.

Mr. Corrado said correct.

[Members took time to individually read and review the Updated Draft Legislation. The copy the members received at the meeting was marked in red font and yellow highlighting to show deletions, additions and/or concerns to address together as a Task Force.]

Please see the Updated Draft Legislation the Task Force members received, which is included in the pages that follow. It is the same copy the members received at the meeting, with the colors indicating changes from the previous draft:

AN ACT TO AMEND TITLES 29, 7, AND 30 OF THE DELAWARE CODE RELATING TO THE CLEAN WATER ACT FOR DELAWARE ACT.

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

1 Section 1. Amend Title 29, Chapter 80 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 Subchapter III. Clean Water for Delaware Act

4 § 8070. Short title.

5 This Act shall be known and may be cited as the "Clean Water for Delaware Act."

6 § 8071. Legislative findings.

7 (a) The General Assembly finds that:

8 (1) The State of Delaware has a compelling interest in ensuring that all Delawareans have access to clean
9 water.

10 (2). Delaware's continued economic vitality is dependent upon maintaining the state's water and
11 wastewater infrastructure, protecting and enhancing the state's water resources as an attraction for tourism and
12 new employers

13 (3) As of the date of this Act:

14 a. Some Delawareans do not have access to potable drinking water or basic wastewater disposal
15 in their homes.

16 b. Most of Delaware's waters do not meet water quality standards for their designated uses, such
17 as drinking, swimming, and supporting fish and other aquatic life.

18 c. Many Delaware communities are at risk from flooding and drainage hazards

19 d. Delaware's list of impaired waters includes 377 bodies of water that suffer from excess
20 nutrients, low dissolved oxygen, toxics, and bacteria.

21 e. Extensive analysis of chemical contaminants in fish has led to advisories that fish are unsafe
22 to eat in more than 30 waterways statewide.

23 (4) Although certain federal grants are available to local governments through the Safe Drinking Water
24 Act, the Clean Water Act and other programs, federal funding is insufficient to meet the State's demands, and
25 existing State resources are inadequate to meet current and future needs.

26 (5) It is fitting and proper for the State to encourage local governments, private entities, and farmers to
27 undertake clean water projects by establishing state mechanisms to finance such projects at the lowest reasonable
28 costs.

29 (6) It is fitting and proper for the State to more effectively leverage and maximize the impact of all
30 public, private, and philanthropic resources available for achieving clean water standards in all Delaware
31 waterways.

32 The General Assembly therefore determines that it is in the public interest to establish the Delaware Clean Water Trust
33 Fund to maximize and coordinate the management of resources available to the State for drinking water, wastewater,
34 stormwater, non-point source pollution reduction, toxics removal, ecological restoration, public education and outreach
35 efforts, and other eligible projects to be funded from the following sources:

36 (1) A Clean Water Fee as established pursuant to §8075 of this subchapter, which shall be levied on
37 wastewater connections, septic, and other wastewater disposal systems.

38 (2) Grants from the U.S. Environmental Protection Agency ("EPA") under the Clean Water Act and the
39 Safe Drinking Water Act, together with any matching state funds, or funds received from any other federal agency.

40 (3) Moneys received as repayments of principal and interest on loans, interest received on invested funds
41 and other funding made available to the Delaware Water Pollution Control Revolving Loan Fund established
42 pursuant to 29 Del. C. § 8003, or the Drinking Water Revolving Loan Fund established pursuant to 29 Del. C. §
43 7903.

44 (4) Funds from the Hazardous Substance Cleanup Fund for remediation projects related to water quality
45 improvements pursuant to 7 Del C. §§ 9113 et seq.

46 (5) Moneys received from other sources for the purposes directed by this subchapter.

47 § 8072. Definitions.

48 For purposes of this subchapter, the following terms shall have the following meanings:

49 (1) "Applicant" means a person who submits an application to the Department to receive funds from the Fee
50 Account.

51 (2) "Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. §1251 et seq.) as the same may
52 be amended from time to time.

53 (3) "Clean Water Fee" means the Clean Water for Delaware Fee established pursuant to § 8075 of this subchapter.

54 (4) "Clean Water Fee Account" means the account established under § 8075 of this subchapter and into which the
55 Clean Water Fee shall be deposited.

56 (5) "Water Pollution Control Fund" means the Delaware Water Pollution Control Revolving Fund established
57 under § 8003 of this title.

58 (6) "Clean Water Revenue Bonds" or "Bonds" mean any revenue bonds, notes, or other obligations issued by the
59 Trust pursuant to § 8077 of this subchapter, repayment of which is secured and repaid as provided therein.

60 (7) "Conservation Project" means a waterway or land conservation, a habitat or stream restoration, a wetlands or
61 stormwater mitigation bank, a project that generates water quality or quantity credits or a recreational infrastructure project
62 as permitted by § 5423 of Title 30 or § 6102A of this title; provided however, that no regional infrastructure project
63 hereunder shall be deemed to be a Conservation Project unless it is related to the provision, preservation, or maintenance of
64 clean water or water quality.

65 (8) "Cost" means the cost of all labor, materials, machinery and equipment, lands, property, rights and easements,
66 financing charges, interest on bonds, plans and specifications, surveys or estimates of costs and revenues, engineering and
67 legal services, and all other expenses necessary or incident to all or part of a Project.

68 (9) "DHSS" means the Department of Health and Social Services.

69 (10) "DNREC" or "Department" means the Department of Natural Resources and Environmental Control.

70 (11) "Drinking Water Fund" means the Delaware Safe Drinking Water Revolving Fund established pursuant to 29
71 Del. C. § 7903(14).

72 (12) "EPA Eligible Project" means any project permitted to be funded under the Safe Drinking Water Act and
73 Clean Water Act.

74 (13) "Funds" mean, collectively, the Clean Water Fee Account, the Drinking Water Fund, the Water Pollution
75 Control Fund, and the Hazardous Substance Cleanup Fund.

76 (14) "Issuing officers" means the Trust.

77 (15) "Local government unit" means a State authority, county, city, town, or any other political subdivision of the
78 State authorized to undertake any of the following:

79 a. Operation and maintenance of wastewater treatment systems.

80 b. Operation and maintenance of a public water supply system.

81 c. Construction, rehabilitation, operation or maintenance of water supply facilities.

82 d. Other provision of water for human consumption.

83 (16) "Project" means the acquisition, construction, installation, modification, renovation, repair, extension,
84 renewal, replacement, or rehabilitation of land, interest in land, buildings, structures, facilities, other improvements or
85 administration of such activity and the acquisition, installation, modification, renovation, repair, extension, renewal,
86 replacement, rehabilitation or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature
87 whatsoever used on, in, or in connection with an such land, interest in land, building, structure, facility, or other
88 improvement all for the purpose of or relating to the provision preservation or maintenance of clean water or water quality
89 and reduction of flooding. The term "Project" shall include any project described in § 8076(a) of this subchapter.

90 (17) "Public water utility" means any investor-owned water company or small water company.

91 (18) "Secretary" means the Secretary of the Department of Natural Resources and Environmental Control.

92 (19) "Safe Drinking Water Act" means the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq., as the same
93 may be amended from time to time.

94 (20) "Small Business" means any not-for-profit enterprise, sheltered workshop, or business enterprise which is
95 engaged in any phase of manufacturing, agricultural production or personal service, regardless of the form of its
96 organization, when such enterprise or workshop employs fewer than 50 persons, has gross receipts of less than \$10,000,000
97 and is not owned, operated or controlled by another business enterprise. To meet the definition of "small business" there are
98 three components:

99 (a) A not for profit enterprise, sheltered workshop, or business enterprise engaged in manufacturing, agricultural
100 production, or personal service regardless of form of organization; and

101 (b) Employs fewer than 50 persons and has gross receipts of less than \$10M; and

102 (c) It is not owned, operated, or controlled by another business enterprise (note: the owner controller entity is not
103 limited by size or receipts

104 (21) "Small water company" means any company, purveyor, or entity, other than a governmental agency, that
105 provides water for human consumption and which regularly serves less than 1,000 customer connections. This term
106 includes nonprofit, non-community water systems owned or operated by a nonprofit group or organization. (Definition
107 needs review)

108 (22) "Stormwater management system" means any equipment, plants, structures, machinery, apparatus
109 management practices, or land, or any combination thereof, acquired, used, constructed, implemented or operated to
110 prevent nonpoint source pollution, abate improper cross-connections and interconnections between stormwater and sewer
111 systems, minimize stormwater runoff and flooding, reduce soil erosion, or induce groundwater recharge, or any
112 combination thereof.

113 (23) "Trust" means the Delaware Clean Water Trust Fund authorized pursuant to this subchapter.

114 (24) "Trust Board" or "Board" means the board of directors of the Trust established pursuant to § 8073 of this
115 subchapter.

116 (25) "Wastewater" means residential, commercial, industrial, or agricultural liquid waste, sewage, seepage,
117 stormwater runoff, or any combination thereof, or other liquid residue discharged or collected into a sewer system or
118 stormwater management system, or any combination thereof.

119 (26) "Wastewater treatment system" means any equipment, plants, structures, machinery, apparatus, land, or any
120 combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation,
121 disposal, separation, or other treatment of wastewater or sewage sludge, or for the collection or treatment, or both, of

122 stormwater runoff and wastewater, or for the final disposal of residues resulting from the treatment of wastewater, including
123 pumping and ventilating stations, treatment plants and works, connections, outfall sewers, interceptors, trunk lines,
124 stormwater management systems, and other personal property and appurtenances necessary for their use or operation.

125 "Wastewater treatment system" shall include a stormwater management system or a combined sewer system

126 (27) "Wastewater treatment system project" means any work relating to the acquisition, construction,
127 improvement, repair or reconstruction of all or part of any structure, facility, or equipment or real or personal property
128 necessary for, or ancillary to, any wastewater treatment system; or any work relating to any of the stormwater management
129 or combined sewer overflow abatement projects identified in the stormwater management and combined sewer overflow
130 abatement project priority list or any work relating to any other project eligible for financing under applicable law.

131 (28) "Water supply facilities" means the real property and the plants, structures, interconnections between existing
132 water supply facilities, machinery and equipment and other property real, personal and mixed, acquired, constructed, or
133 operated or to be acquired, constructed, or operated, in whole or in part, by or on behalf of a public water utility or small
134 water company, or by on the behalf of the State or local government unit for the purpose of augmenting the natural water
135 resources of the State and making available an increased supply of water for all uses, or of conserving existing water
136 resources, and any and all appurtenances necessary, useful, or convenient for the collecting, impounding, storing,
137 improving, treating, filtering, conserving, or transmitting of water, and for the preservation and protection of these
138 resources and facilities, and providing for the conservation and development of future water supply resources, and
139 facilitating incidental recreational uses thereof. (Section of definitions for discussion)

140 (29) "Water supply project" means any work relating to the acquisition, construction, improvement, repair or
141 reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to
142 water supply, or any work relating to the purposes set forth in Section 8076 of this subchapter, or any work relating to any
143 other EPA Eligible Project for funding pursuant to the Safe Drinking Water Act.

144 § 8073. Establishment of Clean Water for Delaware Trust Fund and Board; members; compensation; designees;
145 dissolution.

146 (a) There is hereby established a body corporate and politic, to be known as the "Delaware Clean Water Trust
147 Fund." (the "Trust") The Trust shall be a public instrumentality of the State exercising public and essential governmental
148 functions, and the exercise by the Trust of the powers conferred by this chapter is hereby determined to be an essential
149 governmental function of the State in order to create a coordinated plan to clean the State's waterways, ensure clean and
150 safe drinking water for all Delawareans, and protect the State's citizens from the effects of flooding. The exercise of power
151 by the Trust pursuant to this chapter is hereby mandated by the State as sovereign (needed?)

152 (b) All action by the Authority shall be taken by resolution of the Board of Directors comprised of the Secretary of
153 Natural Resources and Environmental Control, who shall be Chair, the Secretary of Finance, and a person with expertise in
Meeting Minutes prepared by Michelle Zdeb, Legislative Assistant and Task Force Staffer

154 public and private finance to be appointed by the Governor and confirmed by the Senate. The position of Trust Fund
155 Administrator shall be created within the Department of Natural Resources and Environmental Control, to be appointed by
156 the Board to serve at the pleasure of the Board

157 (c) Each appointed director shall serve until his successor has been appointed and qualified. A director is eligible
158 for reappointment. Any vacancy shall be filled in the same manner as the original appointment, but for the unexpired term
159 only.

160 (d) The Trust may be dissolved by an act of the General Assembly on condition that the Authority has no debts or
161 obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon
162 any such dissolution of the Trust, all property, funds and assets thereof shall be vested in the State.

163 (e) The Trust shall make an annual report of its activities to the Governor, the Speaker of the House of
164 Representatives and the President Pro Tempore of the Senate of the General Assembly, the Controller General and the
165 Auditor of Accounts. Each such report shall contain a complete operating and financial statement covering the Trust's
166 operations during the past fiscal year of the Trust and shall include copies of the audits required to be obtained by the Trust
167 pursuant to this chapter.

168 (f) No director, officer, employee or agent of the Trust shall be interested, either directly or indirectly, in any
169 project or in any contract, sale, purchase, lease or transfer of real or personal property to which the Authority is a party. The
170 existence of any such interest shall not affect the validity of bonds issued pursuant to this chapter.

171 (g) No director, officer, employee, or agent of the Trust shall be deemed to have forfeited or shall forfeit any other
172 state office or employment or any benefits or emoluments thereof by reason of acceptance of an office of the Trust or
173 services therefor, subject to this chapter

174 § 8074. Powers of the Trust related to Clean Water for Delaware Projects

175 (a) The Trust shall be responsible for oversight of the financial assets of the Funds to maximize, and coordinate the
176 management of, the resources available for projects.

177 (b) At such time as the Trust determines that demand for funding for projects exceeds all available resources, the
178 Trust is authorized to issue bonds, notes, and other obligations as set forth in § 8077 of this subchapter, including the prior
179 enactment of an Authorization Act authorizing the issuance of such Bonds.

180 (c) In coordination with the Water Infrastructure Council, the Trust shall develop the framework required to
181 maximize private and philanthropic resources pursuant to the requirements set forth in this subchapter, determine program
182 structure, obtain and maintain credit ratings, maintain and manage cash and investment accounts including those necessary
183 for debt service or private financing repayment, coordinate bond and financing closings, disburse proceeds, and maintain
184 compliance with regulatory requirements.

185 §8075. Establishment of Water Infrastructure Council; members; compensation

186 (a) (There is hereby established a corporate body functioning as a subsidiary of the Clean Water for Delaware
 187 Trust Fund to be known as the “Water Infrastructure Council” (the “Council”).

188 (b) (The Council shall consist of up to 13 members, to be appointed by the Governor and confirmed by the Senate:

189 Chairperson

190 New Castle County Resident

191 Kent County Resident

192 Sussex County Resident

193 City of Wilmington

194 Delaware League of Local Governments

195 Delaware Association of Counties

196 Delaware Farm Bureau

197 Delaware Nutrient Management Commission

198 Delaware Association of Conservation Districts

199 Environmental Representative

200 American Council of Engineering Companies – Delaware

201 National Association of Water Companies - Delaware

202 (c) Members of the Council shall initially be appointed for staggered terms of from 1 to 3 years and shall thereafter
 203 be appointed for 3 year terms. A member is eligible for reappointment up to a maximum of three terms. Each appointed
 204 member may serve until his successor has been appointed and qualified.)

205 (d) Members of the Council shall not be compensated, but shall be reimbursed for reasonable expenses associated
 206 with service on the Council

207 Powers of the WIC [See WIAC Authorization in §8011 Title 29] Existing authority? Do we need to include
 208 language?

209 (e) The Water Infrastructure Council shall issue loans and grants in consideration of the common platform
 210 developed by the Council with the approval of the Trust, for soliciting, prioritizing, determining creditworthiness, closing,
 211 and managing loans and grants in accordance with EPA policy

212 (f) The Council shall be permitted to transfer funds available for loans between the Drinking Water and the Clean
 213 Water programs based on demand and contingent on the requirements of the EPA and others and providing that such
 214 transfers are identified in the Annual Plan for each revolving loan fund and consistent with financial policies established by
 215 the Trust

216 (c) Agricultural project set-aside.

217 (1) The Council shall add the cost-share and other soil and water conservation projects approved by the
218 Conservation Districts to the Council’s project priority listing as submitted.

219 (2.) If additional resources from the Clean Water Fund or other sources are to be provided for any
220 project, the Council shall consider the addition of such funds using the Council’s overall project prioritization
221 process.

222 (d) Hazardous Substance Cleanup projects set-aside

223 (1.) The Department shall submit a list of ranked HSCA projects to the Council for inclusion in the
224 Council’s annual plan.

225 (2.) If additional resources from the Clean Water Fund or other sources are to be provided for any HSCA
226 project, the Council shall consider the addition of such funds using the Council’s overall project prioritization
227 process.

228 (e) Flooding and drainage project set-aside

229 (3.) The Council shall set aside the lesser of \$2,000,000 or 20% of Clean Water Fee annually for
230 flooding and drainage projects approved by the Conservation Districts under a prioritization process approved by
231 the General Assembly.

232 (4.) Projects approved under the set-aside may not exceed \$250,000

233 (5.) The Council shall have the sole authority to provide funding above the project cap or set-aside
234 amount, provided the project(s) meet the prioritization criteria of the annual plan and the Clean Water Plan.

235 (i) The Trust and the Council shall provide an annual report to the General Assembly Joint Committee on Capital
236 Improvement and the Natural Resources Committee of both the House of Representatives and the Senate on accounting of
237 revenues, expenditures, and cash management, five year project priority lists, and progress toward achieving the State’s
238 Clean Water Plan. The annual report shall be delivered publicly to the aforementioned committees jointly by the Secretary
239 of the Department and the Chair of the Water Infrastructure Council and made available for public review.

240 § 8075. Establishment of Clean Water Fee.

241 (a) The Clean Water Fee (“Fee”) is hereby established to provide sustainable financial resources for undertaking
242 activities designed to enhance the quality of the waters of the State. The Clean Water Fee shall be assessed, collected and
243 administered, and handled as set forth in this section.

244 (b) Calculation of Clean Water Fee.

245 (1) For all single family residential entities, including but not limited to single family homes, duplexes,
246 townhouses, condominium units, and mobile homes which consist of one single family residential unit, the Clean
247 Water Fee shall be levied at the fixed rate of \$45 per annum

248 (2) For all entities defined as small business the Fee shall be levied at the fixed rate of \$150 per annum.

249 (3) For all business entities not included in the definition of Small Business shall be levied the Clean
250 Water Fee at the fixed rate of \$500.00 per annum.

251 (4) Each farm shall be liable for only one Clean Water Fee.

252 (5) The Clean Water Fee shall be reduced by 30% percent for entities located within municipalities and
253 within those unincorporated portions of a county that have created a local stormwater utility which assesses at least
254 \$50 per year.

255 (8) Entities liable for payment of the Clean Water Fee shall be subject to billing beginning July 1, 2017
256 for Fiscal Year 2018.

257 (c) Collection of Clean Water Fee; Reimbursement of expenses

258 (1) Public Wastewater Systems

259 (a.) Wastewater systems operated by a county or municipal shall collect the Clean Water Fee
260 from all its customers who are liable for the Fee by adding an identified Clean Water Fee line to their regular bill and shall
261 deposit the funds collected with the State Treasurer to the account of the Delaware Clean Water Trust Fund.

262 b. When in question, the Department shall determine the whether the customer should be
263 classified as a residential, small business, or business user.

264 c. The public entity collecting the Fee is hereby authorized and shall charge the same late fees
265 and penalties as apply to regular wastewater charges. When so authorized under the local governing laws, the Fee shall be
266 due and owing until paid and may be considered a lien on the property on which it was levied. Further, for purposes of
267 collecting the Clean Water Fee, the Department shall be considered a ‘claimant agency’ under §545(b)(1), Title 30 of the
268 Delaware Code.

269 (2) Private Wastewater Systems which bill customers

270 (a.) Wastewater systems operated by a private entity shall collect the Clean Water Fee from all its
271 customers who are liable for the Fee by adding an identified Clean Water Fee line to their regular bill and shall
272 deposit the funds collected with the State Treasurer to the account of the Delaware Clean Water Trust Fund.

273 (b.) If the rates charged by the private wastewater utility are governed by the Delaware Public Services
274 Commission, the Clean Water Fee shall be considered part of the rate base and not subject to review or approval
275 by the PSC [need to amend Code and add to bill title?]

276 (c.) The private entity collecting the Fee is hereby authorized and shall charge the same late fees and
277 penalties as apply to regular wastewater charges. At lease annually, the private wastewater entity shall provide the
278 Department with an accounting of delinquent customers. For purposes of collecting the Clean Water Fee, the
279 Department shall be considered a ‘claimant agency’ under §545(b)(1), Title 30 of the Delaware Code.

280 (3) Private Wastewater Systems that do not bill its users

281 (a.) The Department shall bill, or cause to be billed, private wastewater systems, including but
282 not limited to community septic systems, the Clean Water Fee as a single business entity and shall deposit
283 the collected Fee with the State Treasurer to the account of the Delaware Clean Water Trust Fund.

284 (b.) Wastewater systems with fewer than 5 connections shall be billed as a Small Business
285 [\$150]

286 (c.) Wastewater systems with greater than 5 connections shall be billed as a Business. [500]

287 (d.) For purposes of collecting the Clean Water Fee, the Department shall be considered a
288 'claimant agency' under §545(b)(1), Title 30 of the Delaware Code.

289 (4) Individual private wastewater systems

290 (a.) The Department shall bill, or cause to be billed, individual private wastewater systems, such
291 as septic systems and cesspools, the Clean Water Fee at the appropriate fee level and shall deposit the
292 collected Fee with the State Treasurer to the account of the Delaware Clean Water Trust Fund.

293 (b.) For purposes of collecting the Clean Water Fee, the Department shall be considered a
294 'claimant agency' under §545(b)(1), Title 30 of the Delaware Code.

295 (5) Public and private entities which bill and collect the Clean Water Fee are eligible for reimbursement
296 of their actual and overhead costs not to exceed the lesser of 5% of monies collected or \$500,000. The Department shall be
297 reimbursed its actual costs of direct billing small and individual wastewater systems.

298 (d) Clean Water Fee Account.

299 (1) 100% percent of revenues generated by the Clean Water Fee shall be allocated to the Trust

300 (2). Lockbox language **Constitutional amendment see SB 166**

301 (3) Under the oversight of the Trust, the Water Infrastructure Council will manage and administer the
302 Clean Water Fee Account for the exclusive purpose of funding specific, sustainable activities designed to enhance
303 the State's water quality in accordance with the Trust's fiscal policies and the Clean Water Plan. The Clean Water
304 Fee Account may be expended for the purposes of this subchapter including, but not limited to, providing low-
305 interest loans, grants, leveraged financing, and other incentives, including the purchase or funding the
306 development of water quality or quantity credits, to implement Projects, including those designated to reduce
307 toxics, pollution, sediment, or nutrient loads, and bacteria impacts in the surface and ground waters of Delaware as
308 well as to increase the resiliency of communities, enhance economic development, and reduce the risk of flooding.

309 (4) The Clean Water Fee Account shall constitute a Special Fund of the State.

310 (5) An amount not exceeding 7% of the funds deposited in the Clean Water Fee Account may be used to
311 pay the costs of administering this Act, including the 2% allowable for costs of collection of the Fee.

312 § 8076. Clean water loans or grants issued by the WIC

313 (a) The Trust may make and contract to make loans or grants to state agencies, local government units, non-profit
314 entities, private entities, or private persons that are legally authorized to borrow or receive funding to finance the costs of
315 any project. Project applications must include details on how infrastructure, preservation, and conservation practices will be
316 sustained and maintained and reduce the level of pollution going into Delaware's waterways. The projects eligible for loans
317 or grants shall include the following:

318 (1) Upgrades to wastewater treatment systems, including connecting properties with septic systems,
319 seepage pits, failing community systems to central sewer systems or repairing or replacing failing or at-risk
320 individual, community, non-profit or homeowner association-owned systems.

321 (2) Upgrades to drinking water treatment systems, including source water protection and other water
322 supply projects.

323 (3) Stormwater management and resiliency projects that both reduce flooding risks and improve water
324 quality.

325 (4) Projects that eliminate, reduce, or sequester toxics in waterways or adjacent soils as identified in the
326 Watershed Approach to Toxics Assessment and Restoration work plan.

327 (5) Agricultural natural resource conservation cost-share programs developed with the Department of
328 Agriculture and Conservation Districts, including but not limited to cover crops, forested and grass buffers,
329 manure relocation, tax ditch restoration, and other best management practices that are consistent with and
330 implement nutrient management plans.

331 (6) Conservation Projects, including but not limited to protection and ecological restoration of wetlands,
332 forests, stream restoration, and habitat conservation, and the establishment and maintenance of watershed
333 mitigation banks.

334 (7) EPA Eligible Projects.

335 (8) Hazardous waste cleanup projects related to the provision, preservation, or maintenance of clean
336 water or water quality.

337 (b) Preference shall be given to projects that do one or more of the following:

338 (1) Utilize and enhance natural infrastructure to provide ecological benefits that both improve water
339 quality, provide flood and drainage mitigation and improve community resilience to extreme weather, sea-level
340 rise, and other climate impacts.

341 (2) Benefit low-income and traditionally underserved communities through lower interest rates and
342 affordability grants.

343 (3) Leverage public funds through the attraction of private and philanthropic investment through
344 innovative financing models, including the purchase, generation, or sale of water quality or quantity improvements
345 or water quality and quantity credits.

346 (c) The loans or grants made pursuant to this section shall be made subject to such terms and conditions as the
347 Council shall determine to be consistent with the purposes hereof. Each loan by the Trust and the terms and conditions
348 thereof shall be consistent with the fiscal policies established by the Trust.

349 (d) The Council shall review information, statistical data, and reports of independent consultants or experts as it
350 shall deem necessary in order to evaluate the requested loan or grant. Each loan to a local government unit, public water
351 utility, or any other person shall be evidenced by notes, bonds, or other obligations issued to the Trust. In the case of each
352 local government unit, notes and bonds to be issued to the Trust by the local government unit shall be authorized and issued
353 as provided by law for the issuance of notes and bonds by the local government unit. Each loan to a local government unit,
354 public water utility, or any other person and the notes, bonds, or other obligations thereby issued shall bear interest at such
355 rate per annum as the Trust and the applicant may agree.

356 §8077 Clean Water Revenue Bonds; refunding bonds; security for obligations.

357 (a) Except as otherwise expressly provided herein, the Trust may from time to time issue Clean Water Revenue
358 Bonds in any principal amounts, subject to this subchapter, as in the judgment of the Trust and on the advice of the Council
359 shall be necessary to provide sufficient funds for any of its corporate purposes, including the funding of loans made for any
360 project, the establishment or increase of reserves or other funds to secure or to pay the Clean Water Revenue Bonds, as the
361 case may be, or interest thereon, and all other costs or expenses of the Trust incident to and necessary to carry out its
362 corporate purposes and powers. Such Clean Water Revenue Bonds may only be issued in the amounts as shall be approved
363 by an Authorization Act of the General Assembly.

364 (b) Clean Water Revenue Bonds of the Trust shall be negotiable instruments and securities under the Uniform
365 Commercial Code of the State.

366 (c) Clean Water Revenue Bonds of the Trust shall be authorized by a resolution of the Trust and may be issued in
367 one or more series and shall bear such date, mature at such time, bear interest at such rate, be in such denominations, be of a
368 single denomination payable in installments, be in such form, either registered or book-entry, carry such conversion or
369 registration privileges, have such rank or priority, be executed in such manner, be payable in any coin or currency of the
370 United States which at the time of payment is legal tender for the payment of public and private debts, at such place or
371 places within or without the State, and be subject to such terms of redemption by the Trust or the holders thereof, with or
372 without premium, as such resolution may provide. A resolution of the Trust authorizing the issuance of Clean Water
373 Revenue Bonds may provide that such Clean Water Revenue Bonds be secured by a trust indenture between the Trust and a
374 trustee, vesting in the trustee any property rights, powers and duties in trust as the Trust may determine.

375 (d) Prior to issuance of the Clear Water Revenue Bonds, the issuing officers shall approve the issuance of such
376 Clean Water Revenue Bonds by resolution adopted by the unanimous vote of the issuing officers. Each issuing officer may
377 designate a deputy to represent the issuing officer at meetings of the issuing officers with full powers to act and vote on the
378 issuing officer's behalf. Clean Water Revenue Bonds shall be issued for the purposes authorized by this subchapter. Clean
379 Water Revenue Bonds may be issued regardless of the treatment of interest thereon for federal income tax purposes.

380 (e) Following approval by the Board, the Clean Water Revenue Bonds shall be executed by the chair of the Trust
381 and shall not require additional consent of any department, division, board, bureau, or agency of the State and without any
382 other proceedings or the happening of any other conditions or things, other than those consents, proceedings, conditions, or
383 things which are specifically required by this section.

384 (f) Clean Water Revenue Bonds may be sold at any price and in any manner as the Trust may determine. Each
385 such Bond shall mature and be paid not later than 30 years from the effective date thereof. All Clean Water Revenue Bonds
386 may be sold at public or private negotiated sale for such price as the Trust shall determine. If sold at public sale, the
387 procedures applicable to the sale shall be set forth in the resolution.

388 (g) Clean Water Revenue Bonds issued hereunder shall not be general obligations of the State and shall not pledge
389 the full faith and credit of the State. Other than as provided in this subchapter, such Bonds shall not be considered as debt of
390 the State and shall not be treated as a tax supported obligation of the State as that term is defined in § 7422 of Title 29. All
391 Bonds, unless funded or refunded by Clean Water Revenue Bonds, shall be payable solely from revenues or funds pledged
392 or available for their payment as authorized herein. Each Clean Water Revenue Bond shall contain on its face the
393 statements to the effect that:

394 (1) The Trust is obligated to pay the principal thereof or the interest thereon only from its revenues,
395 receipts or funds pledged or available for their payment.

396 (2) Neither the State nor any political subdivision thereof is obligated to pay the principal of, or interest
397 on, such Clean Water Revenue Bonds.

398 (3) The faith and credit of the State, or any political subdivision thereof, is not pledged to the payment of
399 the principal of or the interest on the Clean Water Revenue Bonds.

400 (4) The Trust has no taxing power other than collecting revenues, including the Clean Water Fee,
401 delineated in this subchapter.

402 (h) All Clean Water Revenue Bonds issued pursuant to this section and the interest thereon shall be exempt from
403 income taxation by the State or any political subdivision thereof.

404 (1) The aggregate principal amount of Clean Water Revenue Bonds shall not exceed the amount approved
405 from time to time by Acts of the General Assembly. Such limitation shall exclude all the Clean Water Revenue

406 Bonds, which shall be issued for refunding purposes whenever the refunding shall be determined to result in a
407 savings.

408 (2) The Trust may authorize the issuance of refunding bonds to refund, prior to their stated maturity, all
409 or any portion of the outstanding Clean Water Revenue Bonds, issued by the Trust and costs incidental thereto;
410 provided, however, that the present value of the aggregate principal and interest payments of the refunding bonds
411 must be less than the present value of the aggregate principal and interest payments on the Clean Water Revenue
412 Bonds to be refunded.

413 (3) Refunding bonds may be issued in a principal amount which exceeds the principal amount of the
414 respective Clean Water Revenue Bonds to be refunded, so long as the present value of the aggregate principal and
415 interest payments of the refunding bonds are less than the present value of the aggregate principal and interest
416 payments on such Clean Water Revenue Bonds to be refunded.

417 (i) Each issue of Clean Water Revenue Bonds shall be issued as special obligations thereof payable out of
418 particular revenues, receipts, or funds and may be secured by one or more of the following as set forth in the resolution:

419 (1) Pledge of revenues and other receipts to be derived from the payment of the interest on and principal
420 of notes, bonds, or other obligations issued by state agencies, local government units, or private companies and
421 held in the Water Pollution Control Fund or the Drinking Water Fund. Said notes, bonds, and obligations shall be
422 designated and described in the Trust's resolution authorizing the issuance of the Bonds, and may only be pledged
423 if such issuance complies with all EPA requirements applicable to the Water Pollution Control Fund and the
424 Drinking Water Fund. Subject to the foregoing, DNREC and DHSS are hereby authorized to assign and pledge
425 such notes, bonds or other obligations as security for any Clean Water Revenue Bonds.

426 (2) Pledge of payments made pursuant to loans to be made by the Trust from the proceeds of the Clean
427 Water Revenue Bonds or from amounts held in the Clean Water Fee Account, the Land and Water Conservation
428 Trust Fund, and the Hazardous Substance Cleanup Fund.

429 (3) Pledge of the Clean Water Fee and all amounts held in the Clean Water Fee Account and the
430 Hazardous Substance Cleanup Fund.

431 (4) Pledge of all moneys, funds, accounts, securities, and other funds held pursuant to a trust indenture
432 securing the Clean Water Revenue Bonds, including the proceeds of the Clean Water Revenue Bonds.

433 § 8078. Agreement not to abridge Trust powers; preventing diversion of funds through securitization; pledges of
434 future revenues.

435 (a) The State does pledge to and covenant and agree with the holders of any bonds of the Trust issued pursuant to
436 the authorization of this subchapter that the State will not limit or alter the rights or powers vested in the Trust to perform
437 and fulfill the terms of any agreement made with the holders of the bonds or to fix, establish, charge and collect any rents,

438 fees, rates, payments or other charges as may be convenient or necessary to produce sufficient revenues to meet all
439 expenses of the Trust and to fulfill the terms of any agreement made with the holders of Bonds, including the obligations to
440 pay the principal of and interest and premium on those Bonds, with interest on any unpaid installments of interest, and all
441 costs and expenses in connection with any action or proceedings by or on behalf of the holder and shall not limit or alter the
442 rights and powers of any local government unit to pay and perform its obligations owed to the Trust in connection with
443 loans received from the Trust, until the Bonds of the Trust, together with interest thereon, are fully met and discharged or
444 provided for.

445 (b) Any pledge of revenues, receipts, moneys, funds or other property or instruments made by the Trust shall be
446 valid and binding from the time when the pledge is made. The revenues, receipts, moneys, funds, loans, or other property so
447 pledged and thereafter received by the Trust or by the Water Pollution Control Fund, the Drinking Water Fund, the Clean
448 Water Fee Account, or the Hazardous Substance Cleanup Fund shall immediately be subject to the lien of the pledge
449 without any physical delivery thereof or further act and the lien of any pledge shall be valid and binding as against all
450 parties having claims of any kind in tort, contract or otherwise against the Trust, DNREC, DHSS, or any of the Funds,
451 irrespective of whether the parties have notice thereof. Neither the resolution, trust indenture, nor any other instrument by
452 which a pledge under this section is created need be filed or recorded, except in the records of the Trust.

453 (c) Any loan held in the Water Pollution Control Fund or Drinking Water Fund, and any loan made by the Trust
454 pursuant to the powers set forth in this subchapter shall be subject to the terms of this subchapter and, if applicable, shall be
455 identified as security for any series of Bonds in the resolution of the Trust adopted in connection with the issuance of such
456 Bonds.

457 (d) The State pledges to the owners of all Clean Water Revenue Bonds that it will not reduce the amount of the
458 Clean Water Fee imposed under Section § 8075 of this subchapter and will not expand any exemptions or discounts from
459 such fee so long as any bonds secured thereby are outstanding.

460 § 8079. Personal liability on Clean Water Revenue Bonds.

461 Neither the Secretaries of Finance or DNREC, nor any person executing Clean Water Revenue Bonds issued
462 pursuant to this subchapter shall be liable personally on such Bonds by reason of the issuance thereof.

463 § 8080. Exemption from taxation.

464 All bonds of the Trust issued pursuant hereto are declared to be issued by a body corporate and politic of the State
465 and for an essential public and governmental purpose and those bonds, and interest thereon and the income therefrom and
466 from the sale, exchange, or other transfer thereof shall at all times be exempt from taxation by the State or any political
467 subdivision thereof.

468 § 8081. Receipts pursuant to Act; application.

469 Sums of money received, whether as proceeds from the sale of particular Bonds or as particular revenues or
470 receipts of the Trust, are deemed to be funds of the Trust and are to be held and applied solely as provided in the resolution
471 or trust indenture under which a particular series of Bonds are authorized or secured. Any officer with whom, or any bank
472 or trust company with which, those sums of money are deposited as trustee thereof shall hold and apply the same for the
473 purposes thereof, subject to any provision as the aforementioned acts and the resolution or trust indenture authorizing or
474 securing such series of Bonds may provide.

475 § 8082. Liberal construction of subchapter.

476 This chapter, being necessary for the prosperity and welfare of the State and its citizens, shall be liberally
477 construed to effect the purposes hereof.

478 Section 2. Amend Section 8003, Title 29 of the Delaware Code by making deletions as shown by strike through
479 and insertions as shown by underline as follows:

480 § 8003. Powers, duties and functions of the Secretary.

481 (12) The Secretary is empowered to administer a state revolving loan program in accordance with the
482 requirements set forth in Title VI of the Federal Water Pollution Control Act.

483 d. Coordination with Clean Water for Delaware Trust

484 The administration by the Secretary of the Delaware Water Pollution Control Revolving Fund set forth in
485 this section shall be subject to the provisions of subchapter III of this title. In the event of any conflict or
486 inconsistency between the provisions of this section and said subchapter, the provisions of subchapter III of this
487 title shall govern

488 Section 3. Amend Section 7903(14) of the Delaware Code by making deletions as shown by strike through and
489 insertions as shown by underline as follows:

490 § 7903 Powers, duties and functions of the Secretary.

491 The Secretary may:

492 (14) The Secretary is empowered to administer a state revolving loan program in accordance with requirements
493 set forth in the Federal Safe Drinking Water Act [42 U.S.C. § 300f et seq.].

494 c. Administration of Fund subject to chapter 80, subchapter III of this Title. -- The administration of the Delaware
495 Safe Drinking Water Revolving Fund shall be subject to the provisions of Subchapter III, Chapter 80 of this title. In the
496 event of any conflict or inconsistency between the provisions of this section and said subchapter, the provisions of
497 Subchapter III, Chapter 80 of this title shall govern.

498 Section 4. Amend Section 9113, Title 7 of the Delaware Code by making deletions as shown by strike through
499 and insertions as shown by underline as follows:

500 § 9113. Hazardous Substance Cleanup Fund.

501 (f) The administration and application of the amount in this Hazardous Substance Cleanup Fund as provided in this
502 chapter shall be subject to the provisions of Subchapter III, Chapter 80 of Title 29. In the event of any conflict or
503 inconsistency between the provisions of this chapter and said subchapter, the provision of subchapter III, Chapter 80 of
504 Title 29 shall control.

505 Section 5. Amend Section 5423, Title 30 of the Delaware Code by making deletions as shown by strike through
506 and insertions as shown by underline as follows:

507 Section 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the
508 invalidity does not affect any other provisions or applications of the Act which can be given effect without the invalid
509 provision or application; and, to that end, the provisions of this act are declared to be severable.

SYNOPSIS

This legislation establishes a framework for oversight, implementation and a funding source to enhance Delaware's efforts in cleaning up contaminated streams, rivers, bays and groundwater through construction of much needed wastewater, drinking water and stormwater infrastructure projects and increased use of agricultural best practices. Most of the state's waters do not meet water quality standards to support their designated uses such as for drinking, swimming or to support aquatic life.

The State currently faces a backlog of water infrastructure projects. Over the next five years, more than \$500 million in wastewater facility upgrades are needed statewide including wastewater and drinking water systems for underserved communities and numerous at-risk systems currently operated by homeowner's associations in Sussex County. In addition, more than \$150 million in stormwater upgrades are needed throughout the state, along with more than \$75 million for removing toxics from various waterways. Further, demand for agriculture cost share funds used to reduce pollution from nutrients far surpasses available resources.

Specifically, the legislation creates a Clean Water Fee that will be collected by Total receipts are estimated to be \$15 million annually. The Clean Water Fee will leverage more than \$60 million in total financing annually for clean water investments and support more than 500 jobs per year in science, engineering and construction. Funds will be placed in a Trust managed by a three-member Board comprised of the Secretaries of the Department of Finance and Natural Resources and Environmental Control, Health and an appointed member with financial expertise. The Trust is authorized to issue Clean Water Revenue Bonds upon authorization by the General Assembly, and a Water Infrastructure Council will administer the funds with the goal of assisting municipal and county governments in implementing more affordable water quality infrastructure projects through low- interest loans, grants and other leveraged funds. The Trust and Council are is required to develop a Clean Water Plan, a five-year project priority list and report annually to the General Assembly on its activities.

Roy Miller, Delaware Center for the Inland Bays, asked if the Chairman could entertain a discussion of the membership beginning on line 188, or if it would be premature.

Senator Townsend gave Mr. Miller the okay to proceed with his topic and noted that we are at the point of an open floor discussion on the topic of the legislation; he noted again that the “Report Discussion” will be occur at a later point in the meeting and asked Mr. Miller to continue.

Mr. Miller explained that when he looks down the list, which is very comprehensive and strong on government oriented organizations, he doesn’t see major constituent groups directly represented. Specifically, he thinks recreational swimming, fishing and boating industries are glaringly absent from this list. He knows that some of these groups might not be fishermen or boaters but they’re not specifically representing that particular type of advocacy group.

He further went on to say that there is an environmental representative, so hopefully that individual would speak for those agencies that don’t have representation. He till feels that fisherman, boaters and recreational users of our waters are not going to have representation for their resources and he would like to see them added. He recalled Mr. Kauffman’s numbers from a prior meeting, of \$2.4 billion annually from the industry.

Senator Townsend noted his appreciation for Mr. Miller’s point. He stated that he doesn’t want to be the “bad cop” regarding Council membership but that the challenge is “where to draw the line.” He then used the example of his wedding invitations from a couple years ago. *All Laughed* He knows that the Ag (Agriculture) community had made clear their hopes to be more included in this issue. He noted that he does not know directly or officially if there is a small list of organizations that are best fit to represent the specific concerns Mr. Miller raised or if we can take into account the inclusion of a Sussex or Kent County resident. The Senator’s only concern would be if we put a specific industry person on the list, what other groups are there that are going to want to be put on that list. He concluded by noting that Mr. Miller has brought up a fair point, and he suggested the Task Force have the conversation.

Mr. Miller noted that DNREC has an Advisory Council made up of fishermen and outdoorsmen, recreational groups, etc. Perhaps their advisory part of council membership could be drawn from to put a representative on this particular WIC (Water Infrastructure Council).

Senator Townsend asked for any other questions.

Mr. Killmer asked a question whether the word “resident” in lines 190 to 192 is talking about a typical person who lives in the County or someone else. He asked for clarification of the term “resident” in this legislation.

Senator Townsend said that he was happy to punt this to those who have drafted this part of the language. However, he noted that for many boards and commissions there is a geographical requirement to achieve balance, and that is why he thinks it's included here.

Mr. Killmer confirmed that if that is what it's for, then he is fine with it as it is, but wanted to point out we need to be careful and wanted clarification that you must reside in the County you're representing.

Mr. Bross asked that he speak to the Council membership, stating that all individuals on the Council are appointed by the Governor. Our current Governor and the one prior to Governor Markell have taken great care in appointing people who are knowledgeable about water issues in Delaware and in some instances bring a geographical, technical or advocacy position. He feels the "proof is in the pudding." In 20 years WIAC went from 9 members to 13 and basically has been a good cross-section of Delaware in terms of organizations, geography, and expertise while remaining an apolitical body. To some extent we are going to have to rely on the Governors to appoint good folks, which is the process in place. We have had a number of different Councils over the years and they have all been extraordinarily well staffed, so at some point we have to have some trust in the process.

Mr. Killmer noted in lines 207 and 208 he would say no and just reference the legislature because we are just making this document even bigger.

Mr. Bross agreed, while further mentioning that in terms of size the Council has become bigger and bigger and noting that 13 is already unwieldy. We started at 9 then went to 13 when we added drinking water. From a selfish perspective Mr. Bross would hate to see it get much bigger than 13.

Senator Richardson stated anything that brings \$2.4 billion into the State is worth considering.

Senator Townsend agreed, but noted he thinks that someone in the Kent or Sussex County slot would be in the position to represent those industries. He explained that this is just discussion of the pros and cons in terms of how it will all work. For example, including an "environment" representative would also be relying on such a broad term that may or may not be taken to include certain groups.

Bruce Jones, American Council of Engineering Companies - Delaware, noted he had other questions and comments unrelated to this topic.

Senator Townsend said expressed an understanding that the Task Force will not always be able to stay on one topic, and he asked Mr. Jones to proceed.

Mr. Jones preferred to wait.

George Haggerty, representing the New Castle County County Executive, stated he wanted to go back to Mr. Corrado's statement of an apolitical group. It looks to him like the three counties themselves are not represented, given that the term "resident" is used and thus it could be anybody from each respective county to fill the county positions. He feels the other positions are more specific to have the correct representation, such as the City of Wilmington and Delaware Farm Bureau. He's not stating that a citizen couldn't do a great job, but he does feel people in the various County Offices have important background knowledge.

Mr. Corrado stated that the point of the Council is to represent the entire State. There was no intent to represent any political body or entity. When Mr. Corrado was Chairman of WIAC he made that point very clear. He feels that Mr. Bross has made that same point as well. Whatever WIAC did, it did for the betterment of the State. In coming up with the funding programs that we did, the way we addressed regulations and requirements, and even when we disseminated information, we did it for the betterment of the State. With that being said, Mr. Corrado feels if the Task Force doesn't do anything else, with respect to what we have worked hard for the Task Force should at least put out legislation or a Report that works towards the betterment of the State and not for a political body, political entity, or politics period.

Jerry Esposito, Delaware State Chamber of Commerce, noted that they had included the associations of counties in the Draft Legislation.

Mr. Corrado agreed.

Senator Townsend confirmed he was referring to line 195.

Mr. Esposito posed the question to Mr. Haggerty: is that not enough?

Mr. Haggerty made known he was not here to advocate and was just making a reflection.

Senator Townsend stated that there is no sin in advocating. It's just that we need to get to the meat of it and "keep chewing" on these important topics.

Mr. Haggerty feels that New Castle County has other issues then just wastewater or storm water issues.

Senator Townsend stated he would refer that topic to Mr. Haggerty to triage. He then noted that other members have had their hands up, so if no one had a specific question or comment on the current topic, we should move on to the other members. He then turned the floor over to Mr. Jones

Mr. Jones stated that he feels the Draft Legislation does a good job incorporating what the Task Force has deliberated around the table so far. His question was more specific as

to terminology and the identification of projects that may be perceived to have some overlap. He hopes there will be time to work on some of that terminology. In particular his question is in respect to wastewater verses storm water. By most definitions they are two different things.

Senator Townsend asked Mr. Jones and all members to reference the line numbers in the Draft Legislation so that the Task Force as a whole can follow along.

Mr. Jones clarified he was referring to line 116 and 108 where it talks about “storm water management.” Specifically in lines 116 through 125 it says wastewater treatment systems shall include storm water management systems. Mr. Jones is not sure if the purpose of that was to include or combine sewer systems, but he wanted to note that storm water and wastewater are separate and different.

Mr. Morrill stated Mr. Jones is correct and that when updating the Draft Legislation they did not get into the definitions section. The only thing they did was add a “small business” definition into the draft, as that was important for what the clean water fee would be.

Mr. Jones responded that he had just wanted to point this issue out, as he wasn’t sure if the lack of change was purposeful.

Mr. Esposito stated that he struggled with the definitions, too. Depending on the difference between “projects” versus “systems,” the definition would stand to determine whether projects are eligible or not. He agrees with Mr. Jones and thinks that someone really needs to look into these definitions. If the intent is to make sure storm water projects are eligible, then the corresponding language should be included in the definition.

Mr. Jones confirmed he understood and wanted to make sure certain projects don’t get eliminated that already are being funded.

Senator Townsend asked for confirmation that Mr. Jones wants to make sure that certain projects do get it in or do not get in.

Mr. Jones clarified that they should get in, and he would like to see language to make sure it happens.

Mr. Killmer asked who would put storm water into a sewer system.

Mr. Jones and Mr. Morrill both answered: the City of Wilmington.

Mr. Morrill stated no one said it was a good idea. *All Laighed*

Holly Porter, Department of Agriculture (AG), appreciated that topic coming up, as that was going to be one of AG's questions. From AG's perspective, and particularly in terms of poultry farms, looking at wastewater and storm water being combined in one definition caused a negative perception.

Senator Townsend asked if this meant they were open to these suggestions and going back to the language with some of these changes.

Ms. Porter and Mr. Jones both confirmed yes.

Senator Townsend noted that thankfully we have several more meetings together.

All Laughed

Mr. Morrill wanted to suggest to the Task Force the possibility of having a sub-committee that continues to meet with interested parties to scrub down these definitions and such and sit down with Mr. Piorko or whoever it would be.

Senator Townsend explained the complexity of submitting a formal subcommittee is that then it needs to subject to the Administrator Procedures Act and the public be notified to be able to be present if they so choose. The Senator's thought would be there is no need to form a subcommittee, since we are very transparent with our conversations here and are "not shy about speaking out," which is a good thing.

Secretary Small asked to move off of this topic and to another area. He feels that Mr. Jones touched on the topic but first wanted to echo the thanks to the group who took the previous draft, took our concepts and put forth this Updated Draft Legislation. The Secretary's comments are really around the Trust, the Council, and then the programs that they implement. He noted that we can see the intent as the architecture has been laid out but feels it might be a little more helpful to talk about the intent. He would suggest in terms of composition of the Trust itself, if it is supposed to be providing the overarching guidance, policy and direction, that it would be well served to expand to include perspectives from DHSS and AG, among others.

Beyond that the Secretary is trying to figure out the decision making points and the relationship between the Council and programs within the Department that make daily decisions about how to save money on a cleanup site, for example. Is it envisioned that the Council is working from a carve-out and not only a list? For example, from AG or DHSS in the Drinking Water Program, or DNREC programs through HSCA (Hazardous Substance Cleanup Act)? Those projects would be identified in advance, so does it come from the Council or the Department level? Secretary Small felt it was not very clear on how this part was going to be anticipated or how that relationship would work.

Mr. Morrill in response to Secretary Small noted that they created three set-asides to encompass at least the major programs they knew about and had established processes and are spending money today. As we have our own prioritization process, we did not want to disturb that process of the Clean Water Council or the Water Infrastructure Council. If we start to add that expertise then it can become too big and then “blow up.” We carved those out with the intention that those programs would run as they already do today with their project priorities. They could incorporate them into the Council’s plan as long as the revenue stream that supports one of those projects could be leveraged and become more substantial. The Council would have some say in that because the Trust Fund would be the source of funds that would be leveraged, and similarly, additional funding could be plugged into any of those programs from the Clean Water Fee under the Council’s prioritization, which would be another decision the Council would have a say in. In the normal course of things, projects (for example that would come from AG) would come through as they do now.

Mr. Bross chimed in, that it is almost like an advisory role.

Mr. Morrill agreed yes, that was the intent.

Secretary Small thinks they got close, but wanted to make sure he was reading it as intended.

Mr. Bross stated that certainly if you wanted to expand the Trust we could do so, however their goal was to try and keep it efficient. They view it more as a financial administrative body rather than a policymaking body. Mr. Bross mentioned Mr. Morrill’s comments on the carve-out or break-outs, which operate as they operate today, so the Council would then still be in the role of advising Secretaries in terms of policy. Their goal is not to create two policymaking bodies.

Secretary Small suggested that we tighten up the Draft Legislation a little bit.

Mr. Bross confirmed this would be completed.

Senator Townsend asked if this question could be addressed and the corresponding language integrated between now and the next meeting.

Secretary Small confirmed yes

Mr. Miller asked a question about lines 188-201, noting that he agrees with Mr. Morrill and Mr. Corrado that having thirteen members of Council is already a fairly high number. But Mr. Miller sees no reason why if you have one representative from each County it could not be specified in the act that one or more of them should be a fisherman, recreational boater, or something of that nature, to make sure that those very important

interest groups are included in the decisionmaking, which is one of the real reasons we are here.

Senator Townsend showed this is a good point to determine how specific we should be with the structure. There are thirteen members now and a Chairman.

Mr. Bross agrees that the point is not to tinker with the current structure, as it has been successful. He explained that the Governor appoints the Chair, who serves at the pleasure of the Governor. Clearly it would seem to be the Governor's prerogative to do that. Mr. Bross stated that the Governor has made two bad choices that he can think of. However, for the most part it has been pretty successful.

Senator Townsend stated let the record show no one officially agreed with Mr. Bross's statement. *All Laughed*

Mr. Morrill stated Michelle Zdeb, Task Force Staffer, noted that down. *More Chuckles*

Mr. Bross further stated as of right now Ms. Adkins serves as the Environmental Representative and she is a strong advocate for shellfish and fisheries. He can't say for certain if she is a fisherman or not. When a Governor looks at appointments that he or she is going to make, they do get some advice from the Council even if they don't always take the advice. The idea is to try to create diversity, which has been the strength of the Council, so that we don't have a lot of special interests carrying undue weight. We might have special interests, but the Council is very diverse to allow for lively debates, good policy, and wise decisions coming from the Council.

Senator Townsend clarified Mr. Miller's point that there are pros and cons as well as rigidity. He further noted that when Mr. Miller brought the topic up, the Senator's first instinct was to wonder if we should make it a Sussex County representative who is a member of a specific industry. He further noted that Sussex has many different industries, and someone who is a fisherman or a boater in that regard might then leave out Sussex farmers. On the other hand, there already would be representation from the Delaware Farm Bureau. He doesn't know if there is a magic answer to this valid question and topic.

Mr. Bross apologized for interrupting the Chair but wanted to address something that was a point of discussion. He noted there is a preamble in the Draft Legislation that talks about the diversity of representation on the Council. He further noted that this might be a good place to insert exactly what Mr. Miller is discussing. No one is arguing about the benefit of having someone who understands recreational fishing or even to some extent commercial fishing, which may become more viable here in Delaware. He feels putting it in the preamble would help it guide the Governor as he or she is making the decision regarding whom to appoint. He then turned to Mr. Morrill to ask for the section it is in or the line number so the members and public could see what he was referring to.

Senator Townsend stated he is not looking to not have this very detailed conversation or to avoid this point. To Mr. Miller's original point and Senator Richardson's follow-up, it is a large industry. The Senator did not want to minimize the importance of having a specific group represented or the significance of having a specific voice on the Council. It is more of cringing at the idea of adding a fourteenth member to Council, which would probably make it fifteen members, and then we are off to the races. Where do we stop before the Council membership number is too high? He did note that there are all different ways of slicing this and that he is happy to keep talking about it, but he doesn't think it is best to ask for a show of hands at this particular moment in time.

Senator Richardson asked how Senator Townsend can fear a 13-, 14- or 15-member Council when we have 24 members sitting here on our Task Force.

Senator Townsend stated "because he's deathly afraid of what we have here."

All Laughed

Senator Richardson said that "we all work so well together though."

Senator Townsend agreed with Senator Richardson and that it is a good point. However, he feels that the Task Force was driven by having so much difference and know-how at the table to make a different kind of change in Delaware. If administrating that change going forward can be done differently in a more streamlined way then there's an extreme benefit. He also noted how he and Senator Richardson encounter, in Sunset Committee, a number of boards that struggle to get a quota over the years because it's too big of a board. If there is another pressing group that we feel has merit then there might be a reason and we go up to 15. The Senator noted that he hates being the bad cop.

Senator Richardson stated he's always an advocate of adding those who will be a revenue generator on a committee to make sure that their interests are looked after too.

Senator Townsend responded that he completely understands both Senator Richardson and Mr. Miller's point. He noted Mr. Morrill and Mr. Bross's point that we see this frequently in the Senate when we go to appoint a nominee whose requirements are very similar to county residency and we know that he or she is being nominated not just because of living in Sussex or Kent County but because he or she has a certain expertise that was important. So, it does work, it's not like we just pick a person who has no connection to clean water; ultimately, it's a balancing act.

Mr. Bross suggested that maybe the way to deal with this is to put the preamble back into the Draft Legislation. By including it, we can use it as guidance for the Governor when making appointments.

Senator Townsend offered that an alternate approach would be on lines 190-192 to include a comma and then broad language. The idea that the appointee is not going to have some kind of connection to clean water in some shape or form is technically permitted by the language but very unlikely to happen. Not to mention that you might have Senators from Sussex County whom might be consulted on the nominee for the Sussex County Resident membership and ditto for the other memberships of New Castle County Resident or City of Wilmington, which to Senator Townsend's knowledge is how it often works on current boards and commissions.

Mr. Killmer noted lines 94-98 and 99-103 were redundant.

Mr. Morrill stated the language was pulled directly out of the Transparency Act, which included both language and examples. He stated that we could lose the examples yet still have the same affect.

Mr. Killmer further noted that they are the same examples being repeated as well, stating that A, B and C are word for word the same.

Senator Townsend stated it makes him want to go back and amend the regulatory language. He then turned to Mr. Killmer and stated that he thinks Mr. Killmer is just getting warmed up. *Chuckles*

Mr. Killmer noted in lines 42 and 43 the subchapters were left out. The original draft had the subchapters noted. For example, it had section 803 with subchapter 12 and now it only states 803. He noted the same with lines 44 and 45.

Mr. Morrill stated the only thing that was taken out of the original draft was the Land and Water Conservation Trust Fund. That was purposely taken out, as that would have brought the Open Space funding into this.

Ms. Goggin clarified that Mr. Killmer is referring to the numbers in parentheses, which is specifying the subchapter they are in under the Code.

Mr. Killmer stated exactly, they just were transferred over.

Ms. Goggin stated that it was an error and mistaken for something else. She clarified that they would put it back in.

Ms. Porter noted she had a couple questions. First she wanted to follow up on Secretary Small's question referencing lines 216-221, seeking clarification as to what those lines mean. Currently funding for projects relating to conservation comes through the Conservation District or AG's Nutrient and Management program, which uses general funds. Would this stay as is? And then anything additional would go into the prioritization ranking for use of additional funds?

Mr. Morrill stated yes, that is the intent. Where existing programs or projects are already in place they would go from WIAC to the WIC and would just be adopted. The only time the WIC would have discretion would be if a leverageable revenue stream was going to be borrowed against or if additional funds from the Clean Water Fee would be supplemented.

Ms. Porter further asked Mr. Morrill if line 46 would exclude what is already occurring from the Bond Bill.

Mr. Morrill agreed that he sees her point and stated that it might need clarification. He further explained the original intent to having that in the legislation was to one of the points that Mr. Riemann made in his memo. Regarding one of the ways that we capture private fees, we could lose them due to the storm water program. If we could bring them in somehow into the Trust Fund and leverage them, then we should be doing it. Or if we wanted to set up some type of Nutrient Trading Program and develop our Storm Water Fees to apply and add conservation projects, this language would have allowed that. But he understands Ms. Porter's point, so if we need to exclude something, they have no problem doing that.

Ms. Porter stated she had one more question about prioritization. We have looked at the prioritization that WIAC uses now. She noted that she tries to look at it from the AG perspective. When all is said and done, is the prioritization list going to be reviewed again under WIC or just kept as is? She further noted that the process can be apples and oranges, especially with conservation being added in, or if there is a broadening of the projects that WIAC might not have originally looked at.

Senator Townsend asked Ms. Porter to clarify.

Ms. Porter stated right now WIAC has a process they use, and we have all seen the prioritization list at a prior meeting. So, now she is trying to look at: what if the Conservation District or Nutrient Management or any of these groups want to get included into the prioritization list, which they are not currently included? Clarifying her question further: will everything fall under what WIAC is currently doing or is this process going to be relooked at under WIC to make sure all aspects are being looked at for the possibility of being included on the prioritization list?

Mr. Morrill mentioned that we talked about the WIC and how it will create along with the Trust a Clean Water Plan. He feels that they envisioned a revisiting of all of the prioritization issues because he thinks everyone is aware that there will need to be some tweaks. He noted that he goes back to the very first meeting of the Task Force regarding some areas that Mr. Esposito was talking about, including who didn't have clean water to drink. Somehow, maybe as a Task Force and certainly the Council, people are going to have to come to some decisions of kind of a global prioritization basis in what we value

the most. What role does leveraging private funds play? He referenced HSCA, as it leverages \$17 in private investments for every public dollar. These are the conversations we have to have, including certainly the leveraging power of cover crops in terms of impact on water quality.

Senator Townsend interjected regarding Ms. Porter's point in referring to lines 327 to 330 in terms of eligibility. Since it is seen in terms of eligibility, the discussion now is, how is it going to be prioritized? We've mentioned it before in the pros and cons and trying to put rigidity in the legislation itself. In regards to Mr. Morrill, as long as it's mentioned in the overall plan there will be input to make sure we're getting this right.

Ms. Porter yes, summarized well.

Senator Richardson questioned Ms. Porter if there was something specific that she was fearful that would not have a priority that she felt should have a priority.

Ms. Porter responded not necessarily. She noted that she feels it's apples and oranges at this point regarding AG and conservation, versus what works really well with what the WIAC has done. This has been a great group in looking at what the charge is. Ms. Porter just wants to make sure that when they are blended it still covers all aspects.

Pamela Bakerian, on behalf of Thomas Unruh – Delaware Farm Bureau, added in that there is an increase. The whole point of getting the AG community to sign off is that there would be an increase in funding for conservation practices.

Senator Townsend noted on lines 338 to 340 in terms of the preference. Then he questioned if that captured the AG projects we're talking about or does natural infrastructure not really cover it.

Ms. Porter answered yes, in a lot of ways. She noted that would be her definition of it.

Senator Townsend agreed. He pointed to the three-tier structure: projects that are eligible based on (1) definitions, (2) preference, and (3) the actual, policy-driven prioritization scheme. He further noted line 345, which begins the discussion of the 2nd tier "preference" and ultimately ends up on the prioritization scheme. The Senator mentioned he wanted everyone to be able to review this part to be able to give any comments or suggestions.

Mr. Morrill pointed out that if you compare some of the findings between this and the previous version of the Draft Legislation, we added agriculture, drainage, and flooding language. He noted that he would be open if we needed to add more preferences, but that doing so begins to influence the prioritization list.

Ms. Porter agreed and does not think this is necessary

Senator Townsend emphasized that the Draft Legislation would enable the General Assembly to see that the Task Force was thorough, focused, and concerned. This impact is something we should all bear in mind during this drafting phase.

Mr. Morrill noted that the thought was to have the Clean Water Action Plan passed by the General Assembly in some fashion. He further noting that the priorities will be mentioned in there as well, which will help to address Mr. Riemann's point that it should be clear what the money will be used for and that there is a reasonable plan in place.

Group Discussion

Mr. Morrill referred to an email Mr. Riemann circulated to the members prior to the meeting, with specific points, questions and comments.

Please see Mr. Riemann's email the Task Force members received below:

Dear Task Force Members,

Michael Riemann has offered a series of comments/suggestions/ideas, some of which we have discussed before but on which we now must begin to act. This list is below. I look forward to discussing these at today's meeting.

Sincerely,
Bryan

1. Recommend NOT including written legislation out of this task force. It seems more appropriate for the task force to create a document that will live beyond this current legislative session and serve as a tool/resource. For example, The TTF report created in 2011 was pointed to for years as to why something needed to be done. It was a widely known & respected document. If we could get this report to be viewed similarly it would certainly help in the future to get legislation moving if it is not possible to adopt legislation during this session.
2. Recommend the final report address the need with breakdown by division. (i.e., swm, toxins, water, sewer, flooding etc.).
3. Recommend the report include the types of projects included to clarify intent and to avoid confusion. For example, water and sewer users on public systems pay monthly/quarterly rates and impact fees are paid to cover system expansion and upgrades for new users to a point. So this report should be clear about the types of capital projects/improvements which are included to defend the potential criticism that funding mechanisms already exist.
4. Recommend the final report address current funding sources and reasons for shortfalls? i.e. (changes to federal programs, reduction of gas prices, legacy

unknowns, etc.) Much like the TTF there are a number of legitimate reasons why funding levels are not the same. It would help to include these reasons.

5. Recommend the final report include opportunities to reallocate current resources to address aforementioned capital projects as a way of supplementing the trust fund. This is the elephant in the room but feel that it is important to cover all areas to increase funding for infrastructure projects. That includes evaluation of existing resources.
6. The report should include a cost benefit analysis. I.e. under current funding levels, fishable and swimmable waters would not be achieved for X years but with additional funding, can be reduced to Y. This answers the question of “what do users get for the money?”. As was demonstrated in the survey, users are ok “paying a little more” for clean water but it was not clarified when? I submit that the question would be answered differently depending on timeframe. Suggest timeframe be part of the equation.
7. Recommend administrative costs be excluded.
8. Is it possible for the fees (or portions of fees) to sunset or reduce over time? i.e., many capital projects will be “one time” expenses to address legacy issues. Should these be looked at differently? Should “one time/known legacy” issues be treated/calculated differently than ongoing capital projects?
9. Recommend any additional funding include lockbox legislation similar to transportation.
10. Recommend expansion of the brownfield program be a recommendation of the committee and included in the final report. The brownfield program is hugely successful and is a tool that already exists to promote public private partnerships. The report could include some data garnered from the Wilmington Riverfront to demonstrate its’ success.
11. Recommend additional funding sources to include incentive programs. I.e. link SWM offsets as a funding source. i.e. cover crop program.

Gina Jennings, Sussex County Administrator, began the discussion of administering the fee, in reference to line 244.

Mr. Haggerty had a question he wanted to ask before the group began discussing the administration of the fee. He questioned why AG gets a set-aside but one that isn’t of a specific amount, on line 216. He further noted that Hazardous Substances (line 222) get a set-aside but the Draft Legislation doesn’t state how much. However, Flooding and Drainage (line 228) receive a set-aside of \$2 million or 20% of the Clean Water Fee.

Mr. Killmer confirmed that the proposed legislation specifies it shall be the lesser of the two.

Mr. Haggerty then asked what does the \$2 million go to and what do AG and Hazardous Substance receive. He noted that more importantly there is nothing in this legislation that would guarantee AG receives more money than current levels.

Mr. Morrill responded no, there is no explicit guarantee.

Senator Townsend asked if that clarified Mr. Haggerty's questions and if we could move on to Ms. Jennings, or if we need a more in-depth conversation. He further noted his agreement with Mr. Morrill's answer that there is no explicit guarantee.

Mr. Haggerty clarified that he is still trying to understand the \$2 million. Is it specifically for flooding and drainage? In \$250,000 increments?

Mr. Killmer confirmed yes.

Mr. Haggerty questioned what the set-asides are for AG and Hazardous Substances.

Mr. Morrill stated that currently they each have their own revenue stream but that he does not know their numbers.

Mr. Haggerty noted that the proposed framework is just allowing them to petition the WIC for funds.

Senator Townsend turned the floor back to Ms. Jennings.

Mr. Killmer interjected that he had a question on this before moving to the topic of administering fees.

Senator Townsend noted that he needs to let Ms. Jennings step in as "Acting Chair" to make that decision. *Chuckles*

Mr. Killmer noted that from line 229, he assumes the whole thing is based on \$10 million in annual revenues. He asked for clarify on the \$2 million figure.

Mr. Cross stated that we are projecting \$15 million to \$18 million, which is why it is a minimum of \$2 million or the 20%.

Mr. Killmer noted that he is suggesting something long term, as flooding and drainage tend to be something that is immediate. Sussex County has excessive issues with flooding, so he suggests as an alternative it state "is greater" not "lesser."

Mr. Corrado stated we might break the bank.

Mr. Morrill noted that they are trying to balance a lot of different interests. We can definitely discuss this. There has been a successful legislative framework for our 21st Century Fund projects, which has been in place for a number of years.

Mr. Killmer asked Mr. Corrado about lines 224 to 232 and if they control, so that we will avoid breaking the bank.

Senator Townsend interjected and referenced lines 229, 232 and 233. He noted there is a technical drafting problem that needs to be fixed, and that line 233 would kick it back up when these kinds of projects make it to the prioritization scheme process.

Mr. Killmer confirmed yes.

Senator Townsend clarified that there is a guaranteed minimum, in \$250,000 increments or less, with a higher upside if the projects are that meritorious.

Mr. Killmer stated his only point is \$2 million should be the floor, noting that it could get lower than \$2 million with the 20 percent language.

Senator Townsend agreed that it could with the 20 percent and agreed to the greater than language.

Mr. Corrado reminded them about the importance of not forgetting that there is already a priority that is set and established within the funding mechanisms. He would not want to see one particular program have a tremendous upside and interfere with what has been established as priorities for other programs.

Mr. Killmer asked that Mr. Corrado clarify his statement. Is he saying not to make an example of this one, as you could create a problem for somebody else?

Mr. Corrado stated not only that, but there needs to be balance across the board. If you're going to raise a project from \$250,000 to \$500,000 he doesn't think anyone's going to have a problem. But you need to be careful that it's not open-ended.

Mr. Killmer responded that was fair and asked if we can move it up to \$500,000.

Senator Townsend stated that just gets to the individual projects that become available. The Senator then wanted to return to Mr. Corrado's statement about the upside. If it is 20 percent of the total annual revenues and we change it to "greater than," then it potentially could be a very high number. The Senator questioned Mr. Killmer to confirm that he simply wants to guarantee at least \$2 million. Senator Townsend asked about the possibility of using language that simply guarantees \$2 million.

Mr. Killmer agreed and suggested taking out the 20 percent figure.

Mr. Bross stated in retrospect he's also thinking we should just take the number out, noting that the Council routinely moves money around to address priorities.

Mr. Killmer supported taking the number out.

Mr. Morrill stated again that he doesn't think the number is magical but thinks that a number is important to have there, as it gives legislative certainty that those needs can be met.

Mr. Cross pointed out that the need can at least be addressed, not necessarily met.

Mr. Corrado mentioned knowing the work of the Council and the priority that it sets and now it has sewer water, wastewater and surface water with additional projects the Council has to deal with. He further noted there has to be a balance across the board with all of these programs, so Mr. Corrado would hate to see a program set in place that has no maximum ever, as it may affect the rest of these programs.

Mr. Killmer stated he understands that. He further explained that all he wanted to make sure was that there was a minimum amount of funding for this program, as he didn't want to see too little in this program.

Senator Townsend asked what would be a number that reliably could happen on the merits, in other words on its own? Is \$2 million the number that would reliably happen on the merits? \$1.5 million?

Mr. Cross explained that, assuming you're including revenue, \$2 million could reliably happen. As you know otherwise it's been hit or miss these last few years, with misses outnumbering hits.

Mr. Morrill stated it's been "0," no pun intended. Then in this last year they received \$3 million, which had to be split three ways.

Mr. Cross said that, speaking candidly, the Conservation District is going to go out of business if we don't have \$2-3 million here.

Senator Townsend asked if we think that the \$2 million should be a flat \$2 million limit with a \$250,000 threshold as an operating standard. Then, item numbers 5 and 3 mean that the Council could increase expenditures on this category of projects through its normal process.

Mr. Morrill agreed, noting that was a set-aside.

Mr. Killmer stated he could live with that.

Senator Townsend concluded that, with consensus around the room, we will be at \$2 million flat. He then turned the floor to Ms. Jennings.

Secretary Small interrupted and asked if he could pose one specific question *All Laighed* He noted that he is very interested in what Ms. Jennings has to say, as he feels he will be in the "same boat" in terms of collecting the fee.

He wanted to follow up on Ms. Porter's question from earlier to make sure there is a common understanding. The Council will approve projects, for example a brownfield project. There are private dollars being leveraged with State HSCA (Hazardous Substance Cleanup Act) dollars. Let's assume no additional funds are being used. Will WIC still approve it?

Mr. Morrill stated they would be added to the WIC's project list.

Secretary Small sought clarification that the answer is "yes."

Mr. Morrill confirmed yes.

Senator Townsend sought clarification for whether we talking about automatic approval or having the authority to approve.

Mr. Cross clarified that it would be automatic approval. The intention is not to get in the way of those types of programs.

Mr. Corrado spoke to the intent here, using the example of the City of Wilmington and the energy plant. We came back to them with the idea that if they increased their loan, they could fund some of the Southbridge project. So that is the intent here: to allow someone to bring to Council the possibility of generating creative funding to piggyback off another project, without upsetting the other party.

Senator Townsend noted we are talking about lines 223-224.

Secretary Small feels the Task Force needs to think about this section more. Sometimes these projects pop up and sometimes we know they are coming. We would like to think that there is always a heads up, but that is not practical. He further noted we could have this happen not just with brownfields but toxins and clean up. Just think about it.

Mr. Morrill is contemplating some sort of blanket approval. They were trying to be responsible in the transparency, but where do we draw the line?

Mr. Cross explained that one of the reasons to do this was to leverage the HSCA funds. If that is done, transparency is needed. He noted that he sees this more like an annual report, where it says this year we did this in the HSCA program, we did this in the Conservation program, etc.

Secretary Small stated this needs some work, especially if this is your intent.

Mr. Riemann stated the Secretary raised good points. He has clients that come to us when they are interested in a particular site, not knowing that it could be a brownfields redevelopment site. He noted that this touched one of the points in his email that was circulated. Maybe we allocate certain amounts of funds that go to that program and then

let that program work the way that it currently works. He questioned if it is better that we just leave the structure alone but supplement the funding.

Mr. Morrill believes that is the intent. He stated that the problem is the HSCA funding changes to our dismay. What once was a \$14-15 million program is now going to be a \$9 million program, due to the gross receipt issue. He noted that you can't put a number on a bill you can't sustain. So the intent would be they could come to the Council.

Mr. Riemann clarified that he is suggesting we take the prioritization piece out of it. Can we allocate a certain portion of funding that is generated from this fee to the Brownfields program.

Senator Townsend wondered how deep we all want to go in this direction and if we needed to start pulling numbers.

Mr. Riemann did not necessary want a hard number in legislation, as they are difficult to change later on, but maybe a percentage of the funds. He is just brainstorming. He noted that the concern is that these types of projects are typically unknown.

Mr. Bross re-noted his conversation he just had with the Secretary.

Senator Townsend stated his "heart is going out to Gina" now as she patiently waited. *Chuckles* Noting that Secretary Small is going to work on the points that need cleaning up to address his and Mr. Riemann's concerns, the Senator turned the floor over to Ms. Jennings.

Ms. Jennings thanked the Senator. She said without this fee we can't undertake any of the expenses, so she wanted to discuss her concerns with this fee and how it would be administered. Ms. Jennings noted the point of charging different amounts for small and large businesses. She stated that the County would know a fee-payer is a business but the County would not have the information needed to determine more than that, such as the number of employees. In regards to a business with multiple locations, it was discussed that one fee would go out. How would we know where that fee should go? Farms are referenced to only be charged one Clean Water Fee. Maybe farms should be identified by a definition, because sometimes farms hold vacant unoccupied parcels. Also, who would be responsible for billing these vacant lands or farms? She noted that the \$15 million we were working with (and then today heard it possibly would be \$18 million) to her was a more accurate number. In regards to entities being discounted with storm water utilities, the County would have no records of this, which would be a problem as the billing agency. She further noted that the County bills quarterly and the Draft Legislation keeps referencing an annual fee. So would we bill it one time or be dividing it quarterly?

Mr. Corrado asked Ms. Jennings to distribute her list so that they could try and identify the issues she brought before the Task Force.

Ms. Jennings responded absolutely.

Mr. Morrill followed up, stating that he could address Ms. Jennings' last point. The assumption was to keep it like your normal billing practices, to not generate extra work.

Mr. Haggerty mentioned those were good points brought up and that collecting money is a tough job sometimes. He noted that Kent County had just administered a yearly \$20 utility fee for folks, and he further mentioned the \$50 offset. He questioned how do we get to adequately charge those individuals who are benefiting from all of it. He also noted that all of the ideas discussed around the table have been good ideas. But, how are we going to divide up the pie, when right now it's still in the oven? Even in the Draft Legislation it talks about the responsibility, and Mr. Haggerty feels the responsibility is DNREC, so why not just give them the clean water money?

Secretary Small said "I'm in favor." *All Laughed*

Mr. Haggerty continued by saying that if it's that important, there should be another way to leverage the money. He noted that to cook the whole pie he feels that everyone in the State should have to contribute. DNREC has been doing a good. He emphasized the importance of giving it to the group needed for clean water. "Shame on us for not doing something right." Mr. Haggerty stated that New Castle County has a problem with the concept, but we do not have a problem to help find a way to adequately staff DNREC. He noted that DNREC has the position and charge to do this work, and that's where they believe the money should go.

Mr. Morrill sought clarification of Mr. Haggerty's position.

Mr. Haggerty succinctly said: clean water is everybody's problem.

Mr. Morrill stated that he is trying to understand New Castle County's position on this. He reminded everyone that NCC opposed the original idea for a property tax. Is NCC now advocating for an income tax?

Mr. Haggerty asked if this isn't the property tax.

Mr. Morrill stated no.

Mr. Haggerty stated it's still a house tax. He noted sewer bills go out to individuals who own property. He added that it's the same for septic systems, it's still a property tax.

Mr. Morrill added he just wants to understand where Mr. Haggerty is coming from since he is also advocating for funds to go to DNREC. So do you want a certain percentage for an income tax? Are you talking about a dedicated funding stream?

Mr. Haggerty responded yes, he is talking about a dedicated funding stream.

Senator Townsend noted that Mr. Haggerty is talking about the money going into a general fund.

Mr. Morrill noted he now understood.

Senator Townsend asked Ms. Jennings if she thought it would be doable after clarifications.

Ms. Jennings responded she is not sure, noting there are so many entities trying to do the same thing. Ms. Jennings stated that the first draft of legislation in regards to finances and billing was doable. Now, she feels there are too many entities involved.

Senator Townsend asked the Task Force if they could talk about options now or if the next meeting was needed for brainstorming additional needs, as this is a critical piece.

Mr. Esposito noted this goes back to “picking your poison.” He reminded the group of the list Ms. Adkins and Ms. Cannon provided at a prior meeting, where it seemed the group preferred not a property tax but a user fee. There was no consensus, but he felt the user fee had less objection and that wastewater got a better reaction. Admittedly collections are difficult, which is why they tried to keep it simple with only a few tiers. So yes, to Ms. Jennings point, you will have multiple agencies collecting (around 100). He further noted that we haven’t even started the conversation on those septic systems that don’t have permits. Mr. Esposito stated if the philosophy is to make it more equitable, then it is going to change the way in which you collect the fees, as opposed to making it administratively simple.

Mr. Morrill stated he needs to understand better how the collection end works. He asked how many sewer bills might an entity in Sussex County receive. Fifty?

Ms. Jennings answered possibly, which is where she was going with the farms. She noted that 1 farm could have 100 tax bills, if they have multiple parcels on that 1 farm.

Pamela Bakerian, on behalf of Thomas Unruh – Delaware Farm Bureau, noted that it’s accounted for by septic, though not all parcels have waste, so it can be determined by the house in most cases.

Mr. Esposito pointed out to Ms. Jennings that once a farm was determined to be a small business or a large business it would be given one fee.

Senator Townsend noted there are two different things being discussed here. First is the entity and the legal status. Then, second is the issue of overlapping jurisdictions.

Ms. Jennings stated there could be an entity that covers multiple jurisdictions. So it could be one LLC with multiple agencies. Who is going to do their billing? Tidewater or the County?

Senator Townend pointed out we have this plus Ms. Bakerian's point.

Ms. Bakerian said that some farms might have a couple septic systems, but most farms just have one septic system for the residents.

Mr. Esposito stated in regards to most farm cases we thought they would already be set up with either County, private, or a septic. So most likely they would be \$45, or if operating as a business fall under the \$150. They would be receiving one fee, not multiple fees.

Ms. Bakerian noted people don't put bathrooms all over their farms *All Laughed*

Senator Townsend discussed the issue of what happens if we stay with one bill per business, and there is an LLC with multiple locations.

Mr. Morrill interjected this is why we need to be mindful of Ms. Jennings's point where we could have a branch in Tidewater's jurisdiction and one in Sussex County's jurisdiction. We are going to have to figure out a way to weed through that.

Mr. Killmer asked why do we need to say "farm"? Why can't we categories it as a small business or a large business, noting that a farm is just a type of business.

Senator Townsend mentioned it had to do with how the fee would be collected.

Mr. Esposito stated the original intent was due to irrigation wells and farms having the possibility of incurring an additional fee.

Senator Richardson asked whether, if we finally all come to an agreement on a fair fee, would Council be able to change the fee.

Senator Townsend clarified that the Council could not change the fee, as the fee would be set in the statute.

Mr. Morrill brought up the lock box idea that was discussed offline.

Senator Townsend noted that this would need to be a separate bill, to amend what is to start next year.

Mr. Killmer asked if the Senator was referring to SB 166.

Senator Townsend confirmed yes, stating this would need informed action, good action but definitely action. He noted that we're not going to have full agreement, and that it is what it is.

Mr. Haggerty noted that NCC was happy to have been given the opportunity to participate. He then brought up about a business having multiple entities.

Senator Townsend stated that if a business wanted to be treated as two different entities for legal purposes (such as multiple LLCs), it should not be using the fee or tax as an argument to now be treated as one.

Mr. Riemann brought up the idea of someone having one office in Dover and one office in Newark.

Senator Townsend noted that is why Ms. Jennings brought this point up and he now feels he needs to defer this topic to an offline discussion to develop language needed to address this important point.

Mr. Morrill pointed out that there is language in the Draft Legislation that says it is up to the Department to make these kinds of decisions.

Mr. Bross noted that accompanying the Draft Legislation is going to be a Report.

Senator Townsend stated before moving onto the discussion around the Report he wanted to note that the legislation makes mention of 3P (Private/Public Partnerships).

Mr. Morrill brought up banks within 3P's discussing the topic of purchase or transfer of credits, on which we have asked DNREC for input.

Secretary Small noted that this was looked at with banks trying to meet Quality Air objectives in the past and could be used with water quality objectives. If it's well deserved, it's possible to include.

Senator Townsend stated that this is a different approach to some of these issues that have not been discussed by this Task Force. It possibly is complementary to address 3P, but he does not feel this is something the Task Force should be required to address at this time.

Mr. Morrill feels it is pretty fundamental if an MS4 project is done for the City of Newark, then Newark could pay back their investors. Now with litigation banks, practices are taking places to satisfy this. He noted it would allow flexibility of the Council.

Senator Townsend agreed in making it known that we are not prohibiting this type of action from a bank, as it will achieve good outcomes. He noted there are multiple ways to make something achievable. We do not need to focus on that key aspect as long as we are not prohibiting those projects that WIC could fund.

Secretary Small feels the Senator is mostly right. However, if we are going to fund for example credits to meet our Chesapeake Bay goals, they are going to need to be verifiable. DNREC's experience has been best when we establish a regulation that does that.

Senator Townsend asked for confirmation that the Secretary was asking about the regulatory apparatus.

Secretary Small stated correct.

Mr. Morrill said we can put a line in, it's an easy fix.

Senator Townsend expressed the same thought. He then had one more thought for Secretary Small and Mr. Esposito regarding legislation that might be separate from the Draft Legislation being worked at the moment: Allowing utility companies to capture the Distribution System Improvement Charge (DSIC)?

Mr. Esposito confirmed the Senator is talking about DSIC, which we are allowed to file for every six months. Certain projects are eligible if they improve the infrastructure. It has worked very well and Delaware is one of the first in region to do this.

Senator Townsend explained that if you are praising it, then this is not what he was referring to. *Chuckles*

Mr. Esposito noted that Senator Townsend is referring to Pennsylvania, and how they blend water and wastewater when rates are large and customers need help paying. If Delaware wanted to do this, it would need legislation.

Senator Townsend wanted to note that it was possible to include this topic in the Final Report with the consensus of possible legislation. He further noted that it would be separate legislation than the Draft Legislation the Task Force has been working on. The Senator asked if there was any disagreement to this. No one disagreed, so this will be added to the Final Report.

Senator Townsend mentioned the possibility of changing the meeting schedule in March to accommodate the extension as well as the time needed for drafting. He further mentioned Ms. Zdeb will send out the new dates as soon as they are confirmed. The Senator then moved the conversation to Mr. Riemann's point and, as Mr. Corrado stated, going through the list. (Note: inserted above on pages 24 and 25)

Mr. Riemann noted that his intent was getting an outline together of his thoughts per the heavy discussions that have been had by the Task Force, in hopes that Legislation passes this Session so that their work is not lost. He did note that the Final Report will live long to show the work these members have done. Item 2 was just revisiting the need, for which we have a lot of data. Item 3 was regarding clarity about the types of projects that are involved and discussions of how old funding mechanism will interplay with the new funds we are trying to generate. Item 4 relates to changes that have happened over a number of years to get us where we are now, such as levels of federal funding.

Item 5 is whether there are existing resources within DNREC to help us cover some of these funding needs, pointing out it's the elephant in the room. There might not be, but the conversation still needs to happen.

Senator Townsend asked if Mr. Riemann was suggesting this as a first solution to or a supplement of a Clean Water Fee.

Mr. Riemann responded that it could be a supplement of, at a minimum. He continued by saying that he doesn't think it can happen with just DNREC, as the overall need is \$100 million annually.

Mr. Cross stated that we can at least provide justification that it can't.

Mr. Esposito agreed.

Senator Townsend asked Secretary Small what the annual budget for DNREC was.

Secretary Small replied about \$200 million.

Mr. Riemann continued on with Item 6. What do we get for our money? We brought up a topic at our first meeting about swimmable and fishable waters. He referenced Ms. Goggin's survey results for clean water, stating that yes, people are willing to pay, but are they willing to pay \$45? And for how long? 1 year? 5 years? How long?

Ms. Goggin asked for clarification on what Mr. Riemann meant by "how long."

Senator Townsend explained that he had meant how long will it take to clean our waterways.

Mr. Riemann noted that, just as an example, perhaps under our current programs it will take 25 years to get to clean water, but with a Clean Water Fee we can get clean water in 10 years.

Senator Townsend noted that from prior meetings it was determined that this is not possible to confirm due to legacy, changes, and other impacts.

Ms. Goggin noted on the flip side that we have certain projects that would be cleaned up only in several decades, assuming a 60% reduction.

Senator Townsend stated that figuring a way to describe this in the report is something we are going to have to do.

Mr. Corrado said another way to look at this is, if you can tell him you're going to stop issuing new regulations in 10, 20, 40 years, he can tell you how long it will take to clean up our waterways. He pointed out that new regulations are being handed down month to month and year to year, which is one of the things that Council has to deal with. "Look at the new storm water regulations. You know as well as I that your clients are going to be paying through the nose for additional storm water management expenses." As long as there are new regulations we will never get to the point where everything is done.

Mr. Esposito concurred.

Senator Townsend remarked "Well that just took a turn." *All Laighed*

Mr. Riemann agreed it was kind of depressing.

Senator Townsend stated Mr. Corrado was 100% correct, so we need to determine how in the Report, to the public and to the Legislature, to frame what is driving this.

Mr. Riemann noted that maybe it's a bad metric. What is the public going to get for their money? Item number 7 is political, bringing up the increased cost to the public.

Mr. Morrill noticed a glitch on line 311 where it talks about 2% for allowable collections. On line 296 the figure is 5%.

Senator Townsend explained that due to the late time in this meeting, that topic will be brought up at the next meeting.

Mr. Killmer agreed, noting that it is important to stay consistent.

Mr. Riemann noted item 8 is difficult. Does it make sense to have one-time capital known projects and then we also have ongoing capital projects with expansion? Do we separate them? Item 9 relates to the lock box. Item 10 is regarding brownfields and his earlier comments. He loves the program, and thinks they are doing a great job and that we need to give them more money to expand.

Senator Townsend said he is looking forward to collaborative homework that many members are going to be doing.

Mr. Riemann finished by pointing out item 11 and incentive programs.

Senator Townsend thanked Ms. Zdeb and Caitlyn Gordon, Legislative Aide, for all their hard work. He noted Ms. Gordon's absence and the hope she will be returning in the coming month. The Senator pointed out Ms. Zdeb's exhausting work she does on the administrative side and the "Gold Standard" individuals have noted in regards to our meeting minutes. He then stated his intent to get a Draft Report started using all of the Power Points and detailed minutes. He noted that he feels this is the most effective way of doing this and asked if anyone had any concerns.

Many members shouted out they felt it was viable.

Ms. Bakerian noted it could be problematic in regards to timing and taking the Report back to her Board.

Senator Townsend responded we will try to find a way to make it clear if a group does not feel they can sign on to the Report. He explained that this is the third Task Force he has chaired, and that the other two task forces were effective not only in terms of a Final Report but also in passing legislation. The Senator suggested to Ms. Bakerian and others to hold tight and see what the draft language for the Report looks like. He noted that this is the biggest and most diverse group he's worked with. He also suggested if members can get approval on the Draft Legislation then this might also help with the timetable.

Mr. Corrado asked if the Final Report would include the Draft Legislation

Senator Townsend confirmed yes, it will be one bundled package. He noted that the cost-benefit piece is not going to be as strong as he hoped for but will still be included in the Report, but that it could be presented at a Committee Hearing so that it is incorporated how we all initially had hoped.

Gerald Kauffman, University of Delaware's Water Resources Agency, explained that benefits are easier to measure, and that cost is more difficult but can be measured. He then suggested that a signature page for members might be useful.

Senator Townsend felt the challenge would be that someone might not sign on but only because he or she did not agree to one piece of the Report. This idea will need to be revisited, as some might want to write a dissenting opinion. We will see how the process plays out.

Ms. Zdeb pointed out that in past reports we have pointed out in the reports themselves where we haven't had full consensus.

Mr. Miller reminded that at a prior meeting in December we were informed that \$100 million in additional annual funding was needed. He would like to know out of the target \$15-16 million how much is actually leverageable. That amount would be great to know at the next meeting.

Meeting Minutes prepared by Michelle Zdeb, Legislative Assistant and Task Force Staffer

Senator Townsend noted that was a great question for next meeting.

Secretary Small agreed as well, noting that it's anybody's guess.

Senator Townsend questioned what about a ratio.

Secretary Small noted we are leveraging private dollars, federal dollars and State dollars or going to the bond markets.

Senator Townsend stated without ability to calculate he is asking the Secretary's staff to calculate some level or hypothetical example to discuss at the next meeting how this might work.

Public Comment

Senator Townsend turned the floor over to members of the public who wished to speak or not. *All Laughed*

Hanz Medlarz, member of the public with the office of Sussex County, wanted to address something from a WIAC perspective. One-time leveraging is like a surge, where you dedicate those funds to pay the bond back. WIAC always starts every three years with swimmable and fishable divided up on point pollution and non-point pollution. Non-point pollution is very difficult to address. On the issue of affordability, he noted that he's been on the Council for a long time, and \$45 per household is moderate at 0.15%. He also noted there's loan money available.

Senator Townsend noted that Ms. Zdeb would circulate two more meetings ASAP for March, with hopes not to extend the Task Force due date again.

Senator Richardson mentioned small businesses include up to the \$10 million mark. Yet some might not generate anywhere near that much income. He used the example of someone with a truck who works alone and make \$50,000. Senator Richardson would like to see another tier made for them, so that they would not have to pay the whole \$150.

Senator Townsend asked if there were any more questions from Task Force members. As there were none, the Task Force meeting was adjourned at 4:16 p.m.