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1987

PUBLIC HEARING

before

SENATE TRANSPORTATION AND COMMUNICATIONS COMMITTEE

SENATE BILL 3081

(Requires NJ Transportation Trust Fund Authority and/or certain State Officials to Enter into Contract Negotiations with the Three Toll Road Authorities)

SENATE BILL 3082

(Adds the Commissioner of Transportation as Ex Officio Voting Member of the Three Toll Road Authorities)

SENATE BILL 3083

(Creates a Commission to Study the Role of the Three Toll Road Authorities in the State's Transportation System, Appropriates \$15,000)

June 11, 1987
Room 408
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

- Senator Walter Rand, Chairman
- Senator Thomas F. Cowan, Vice Chairman
- Senator Francic J. McManimon
- Senator S. Thomas Gagliano
- Senator James R. Hurley

ALSO PRESENT:

- Peter R. Manoogian
- Office of Legislative Services
- Aide, Senate Transportation and Communications Committee

Hearing Recorded and Transcribed by
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New Jersey State Legislature

**SENATE TRANSPORTATION
AND COMMUNICATIONS COMMITTEE**

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WALTER RAND

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Vice-Chairman

FRANCIS J. McMANIMON

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JAMES R. HURLEY

May 28, 1987

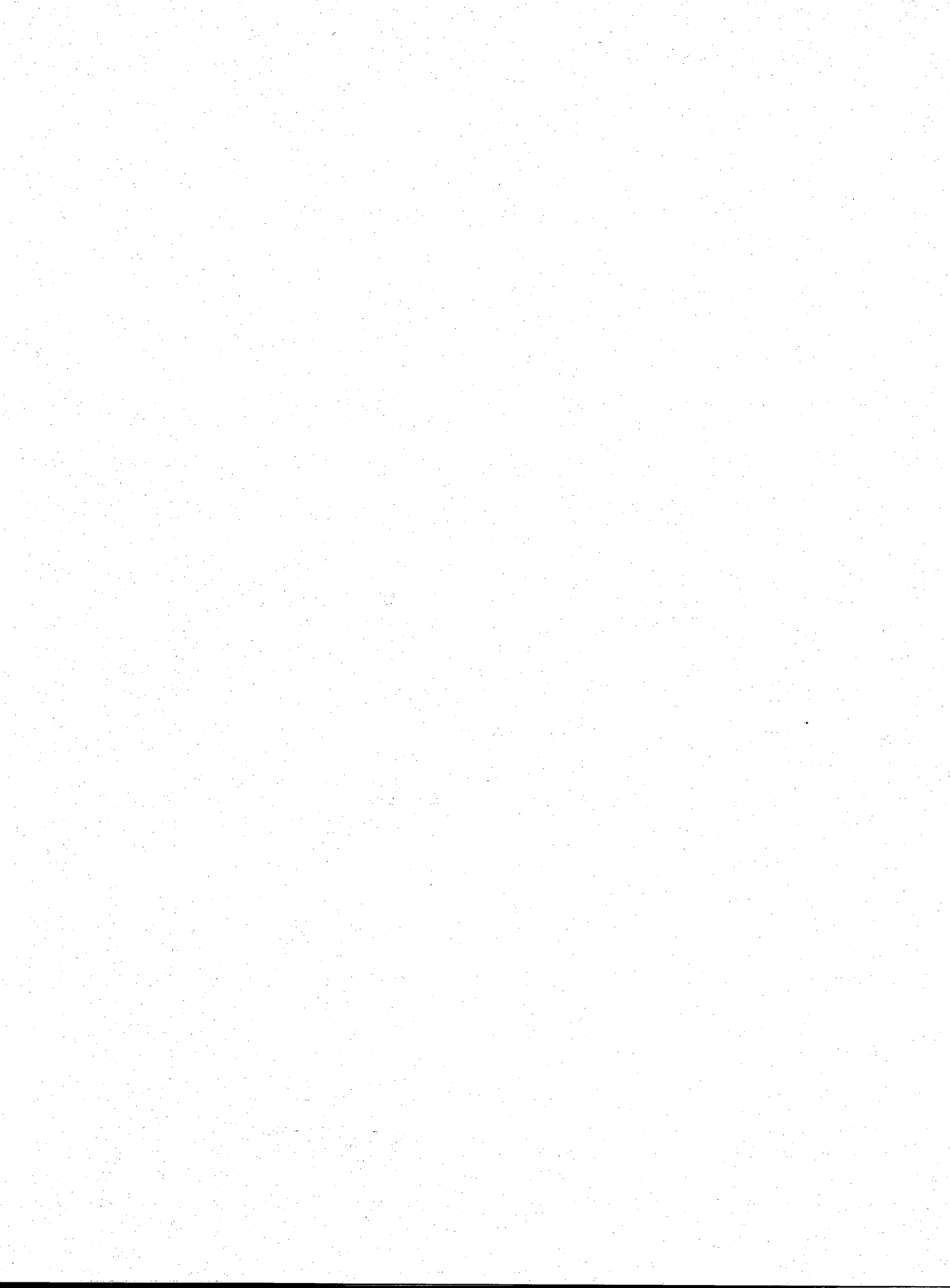
NOTICE OF PUBLIC HEARING

The Senate Transportation and Communications Committee will hold a public hearing on Thursday, June 11, 1987 at 2:00 p.m. in Room 408 of the State House Annex, Trenton, New Jersey.

The purpose of the hearing is to receive testimony concerning the following three bills sponsored by Senator Rand and dealing with the toll road authorities:

- S-3081 Requires New Jersey Transportation Trust Fund Authority and/or certain State officials to enter into contract negotiations with the three toll road authorities.
- S-3082 Adds Commissioner of Transportation as ex officio voting member of the toll road authorities.
- S-3083 Creates commission to study role of toll road authorities in State's transportation system, appropriates \$15,000.

Anyone wishing to testify should contact Peter R. Manoogian, Committee Aide, at (609) 984-7381.



STATE OF NEW JERSEY

INTRODUCED MARCH 9, 1987

By Senators RAND, WEISS, COWAN and McMANIMON

Referred to Committee on Transportation and Communications

AN ACT concerning certain contracts of the New Jersey Transportation Trust Fund Authority, and revising various portions of the statutory law.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. (New section) The State Treasurer, the Commissioner of the
2 Department of Transportation, or the New Jersey Transportation
3 Trust Fund Authority created pursuant to section 4 of P. L. 1984.
4 c. 73 (C. 27:1B-4), or any two or more of these as the case may be,
5 shall, not later than the 90th day after the effective date of this
6 act, enter into negotiations with each of the following toll road
7 authorities: the New Jersey Highway Authority, established pur-
8 suant to section 4 of P. L. 1952, c. 16 (C. 27:12B-4), the New Jersey
9 Expressway Authority, established pursuant to section 4 of P. L.
10 1962, c. 10 (C. 27:12C-4), and the New Jersey Turnpike Authority,
11 established pursuant to section 3 of P. L. 1948, c. 454 (C. 27:23-3).
12 These negotiations shall be for the purpose of modifying the
13 contracts which specify the terms and conditions under which
14 payments are to be made to the New Jersey Transportation
15 Trust Fund, or to another State fund for the purpose of transfer
16 or credit to that transportation trust fund, as the case may be, by
17 each of the toll road authorities, and to change the amount of the
18 annual payment due from each toll road authority, to the following
19 amounts: the New Jersey Highway Authority, from \$10,000,000.00
20 to \$20,000,000.00; the New Jersey Expressway Authority, from
21 \$2,500,000.00 to \$5,000,000.00; and the New Jersey Turnpike Au-

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

22 thorty, from \$12,000,000.00 to \$24,000,000.00. These negotiations
23 shall be entered into in good faith by all of the parties to the
24 contracts, for the purpose of working out a mutually satisfactory
25 means of changing the annual payments to the amounts specified
26 in this section, while protecting the interests of all of the parties
27 to the contracts, and the interests of the holders of bonds, notes
28 or other obligations of the New Jersey Transportation Trust Fund
29 Authority and the three toll road authorities.

1 2. Section 6 of P. L. 1984, c. 73 (C. 27:1B-6) is amended to read
2 as follows:

3 6. In addition to all other powers granted to the authority in the
4 act, the authority shall have power:

5 a. To sue and be sued;

6 b. To have an official seal and alter the same at its pleasure;

7 c. To make and alter bylaws for its organization and internal
8 management and rules and regulations for the conduct of its affairs
9 and business;

10 d. To maintain an office at a place or places within the State as
11 it may determine;

12 e. To acquire, hold, use and dispose of its income, revenues, funds
13 and moneys;

14 f. To acquire, own, lease as lessee or lessor, hold, use, sell, trans-
15 fer, and dispose of real or personal property for its purposes;

16 g. To borrow money and to issue its bonds, notes or other obli-
17 gations and to secure the same by its revenues or other funds and
18 otherwise to provide for and secure the payment thereof and to
19 provide for the rights of the holders thereof and to provide for
20 the refunding thereof, all as provided in the act;

21 h. To issue subordinated indebtedness and to enter into bank
22 loan agreements, lines of credit, letters of credit and other security
23 agreements as provided for in the act;

24 i. In its own name or in the name of the State, to apply for and
25 receive and accept appropriations or grants of property, money,
26 services or reimbursements for money previously spent and other
27 assistance offered or made available to it by or from any person,
28 government agency, public authority or any public and private
29 entity whatever for any lawful corporate purpose of the authority,
30 including, without limitation, grants, appropriations or reimburse-
31 ments from the State or federal government with respect to their
32 respective shares under federal aid highway laws of the costs of
33 planning, acquisition, engineering, construction, reconstruction,
34 repair, resurfacing and rehabilitation of public highways or the
35 costs of planning, acquisition, engineering, construction, recon-

36 struction, repair and rehabilitation of public transportation proj-
37 ects and other transportation projects in the State and the au-
38 thority's operating expenses and to apply and negotiate for the
39 same upon such terms and conditions as may be required by any
40 person, government agency, authority or entity or as the authority
41 may determine to be necessary, convenient or desirable:

42 j. Subject to any agreements with the holders of bonds, notes or
43 other obligations, to invest moneys of the authority not required
44 for immediate use, including proceeds from the sale of any bonds,
45 notes or other obligations, in obligations, securities and other in-
46 vestments as the authority shall deem prudent:

47 k. Subject to any agreements with holders of bonds, notes or
48 other obligations, to purchase bonds, notes or other obligations of
49 the authority out of any funds or moneys of the authority available
50 therefor, and to hold, cancel or resell the bonds, notes or other
51 obligations;

52 l. For its sole purpose as established in section 5 of this act, to
53 appoint and employ an executive director and such additional offi-
54 cers, who need not be members of the authority and such other
55 personnel and staff as it may require, at an annual expense not
56 to exceed \$100,000.00, all without regard to the provisions of Title
57 11, Civil Service, of the Revised Statutes;

58 m. To do and perform any acts and things authorized by the act
59 under, through, or by means of its officers, agents or employees or
60 by contract with any person, firm or corporation or any public
61 body;

62 n. To procure insurance against any losses in connection with its
63 property, operations, assets or obligations in amounts and from
64 insurers as it deems desirable;

65 o. To make and enter into, *modify or otherwise revise* any and
66 all contracts and agreements which the authority determines are
67 necessary, incidental, convenient or desirable to the performance
68 of its duties and the execution of its powers under the act; and

69 p. To do any and all things necessary, convenient or desirable
70 to carry out its purposes and exercise the powers given and granted
71 in the act.

1 3. Section 8 of P. L. 1984, c. 73 (C. 27:1B-8) is amended to read
2 as follows:

3 8. The authority shall have the power to enter into, *modify or*
4 *otherwise revise* contracts (or take an assignment of the rights and
5 interests in contracts entered into by the treasurer or commis-
6 sioner) with each toll road authority or other State agency to

7 provide for payments to it by each toll road authority or other
 8 State agency from available revenues of the amount or amounts
 9 that may be set forth in, or determined in accordance with, the
 10 contract; provided however, that no such contract shall contain
 11 specific provisions which direct such toll road authority or other
 12 State agency to increase tolls. Subject as aforesaid, each contract,
 13 or assignment, may contain conditions and covenants as shall be
 14 agreed to by the authority and by the affected toll road authority
 15 or other State agency, *including provisions permitting increases*
 16 *in the amount of State payment made by each toll road authority*
 17 *annually*, and, in the case of an assignment, as agreed to by the
 18 treasurer or commissioner, including but not limited to conditions
 19 and covenants necessary and desirable to facilitate the issuance
 20 and sale of bonds, notes and other obligations of the authority. The
 21 authority may receive and use (and contract for the use of) the
 22 amounts paid to it pursuant to the contracts for any one or more
 23 of its corporate purposes or powers.

1 4. Section 9 of P. L. 1984, c. 73 (C. 27:1B-9) is amended to read
 2 as follows:

3 9. a. The authority shall have the power and is hereby authorized
 4 after November 15, 1984 and from time to time thereafter to issue
 5 its bonds, notes or other obligations in principal amounts as in the
 6 opinion of the authority shall be necessary to provide for any of
 7 its corporate purposes, including the payment, funding or refund-
 8 ing of the principal of, or interest or redemption premiums on, any
 9 bonds, notes or other obligations issued by it, whether the bonds,
 10 notes, obligations or interest to be funded or refunded have or have
 11 not become due; and to provide for the security thereof and for
 12 the establishment or increase of reserves to secure or to pay the
 13 bonds, notes or other obligations or interest thereon and all other
 14 reserves and all costs or expenses of the authority incident to and
 15 necessary or convenient to carry out its corporate purposes and
 16 powers; and in addition to its bonds, notes and other obligations,
 17 the authority shall have the power to issue subordinated indebt-
 18 edness, which shall be subordinate in lien to the lien of any or all
 19 of its bonds or notes. No resolution or other action of the authority
 20 providing for the issuance of bonds, refunding bonds or other
 21 obligations shall be adopted or otherwise made effective by the
 22 authority without the prior approval in writing of the Governor and
 23 either the State Treasurer or the Comptroller of the Treasury.

24 b. Except as may be otherwise expressly provided in the act or
 25 by the authority, every issue of bonds or notes shall be general

26 obligations payable out of any revenues or funds of the authority,
 27 subject only to any agreements with the holders of particular bonds
 28 or notes pledging any particular revenues or funds. The authority
 29 may provide the security and payment provisions for its bonds or
 30 notes as it may determine, including (without limiting the gener-
 31 ality of the foregoing) bonds or notes as to which the principal
 32 and interest are payable from and secured by all or any portion
 33 of the revenues of and payments to the authority, and other moneys
 34 or funds as the authority shall determine. In addition, the au-
 35 thority may, in anticipation of the issuance of the bonds or the
 36 receipt of appropriations, grants, reimbursements or other funds,
 37 including without limitation grants from the federal government
 38 for federal aid highways or public transportation systems, issue
 39 notes, the principal of or interest on which, or both, shall be payable
 40 out of the proceeds of notes, bonds or other obligations of the
 41 authority or appropriations, grants, reimbursements or other funds
 42 or revenues of the authority. The authority may also enter into
 43 bank loan agreements, lines of credit and other security agreements
 44 and obtain for or on its behalf letters of credit in each case for the
 45 purpose of securing its bonds, notes or other obligations or to
 46 provide direct payment of any costs which the authority is au-
 47 thorized to pay by this act and to secure repayment of any bor-
 48 rowings under the loan agreement, line of credit, letter of credit
 49 or other security agreement by its bonds, notes or other obliga-
 50 tions or the proceeds thereof or by any or all of the revenues of
 51 and payments to the authority or by any appropriation, grant or
 52 reimbursement to be received by the authority and other moneys
 53 or funds as the authority shall determine.

54 c. Whether or not the bonds and notes are of the form and char-
 55 acter as to be negotiable instruments under the terms of Title 12A,
 56 Commercial Transactions, New Jersey Statutes, the bonds and
 57 notes are hereby made negotiable instruments within the meaning
 58 of and for all the purposes of said Title 12A.

59 d. Bonds or notes of the authority shall be authorized by a reso-
 60 lution or resolutions of the authority and may be issued in one or
 61 more series and shall bear the date, or dates, mature at the time
 62 or times, bear interest at the rate or rates of interest per annum,
 63 be in the denomination or denominations, be in the form, carry the
 64 conversion or registration privileges, have the rank or priority,
 65 be executed in the manner, be payable from the sources, in the
 66 medium of payment, at the place or places within or without the
 67 State, and be subject to the terms of redemption (with or without

68 premium) as the resolution or resolutions may provide. Bonds or
69 notes may be further secured by a trust indenture between the
70 authority and a corporate trustee within or without the State. All
71 other obligations of the authority shall be authorized by resolution
72 containing terms and conditions as the authority shall determine.

73 e. Bonds, notes or other obligations of the authority may be sold
74 at public or private sale at a price or prices and in a manner as the
75 authority shall determine. Every bond shall mature and be paid
76 not later than 17 years from the date thereof, except that no bond,
77 note or other obligation shall mature and be paid later than 17
78 years from the effective date of this act, nor shall any refunding
79 of such obligations mature or be paid later than that date.

80 Notes, the initial series of bonds and bonds issued for refunding
81 purposes of the authority may be sold at public or private sale at
82 a price or prices and in a manner as the authority shall determine.

83 Except as noted above, all bonds of the authority shall be sold
84 at such price or prices and in such manner as the authority shall
85 determine, after notice of sale, published at least three times in at
86 least three newspapers published in the State of New Jersey, and
87 at least once in a publication carrying municipal bond notices and
88 devoted primarily to financial news, published in New Jersey or
89 the City of New York, the first notice to be at least five days prior
90 to the day of bidding. The notice of sale may contain a provision
91 to the effect that any or all bids made in pursuance thereof may be
92 rejected. In the event of such rejection or of failure to receive any
93 acceptable bid, the authority, at any time within 60 days from the
94 date of such advertised sale, may sell such bonds at private sale
95 upon terms not less favorable to the State than the terms offered
96 by any rejected bid. The authority may sell all or part of the bonds
97 of any series as issued to any State fund or to the federal govern-
98 ment or any agency thereof, at private sale, without advertisement.

99 f. Bonds or notes may be issued and other obligations incurred
100 under the provisions of the act without obtaining the consent of
101 any department, division, commission, board, bureau or agency of
102 the State, other than the approval as required by subsection a. of
103 this section, and without any other proceedings or the happening
104 of any other conditions or other things than those proceedings,
105 conditions or things which are specifically required by the act.

106 g. Bonds, notes and other obligations of the authority issued
107 or incurred under the provisions of the act shall not be in any way
108 a debt or liability of the State or of any political subdivision thereof
109 other than the authority and shall not create or constitute any in-

110 indebtedness, liability or obligation of the State or of any political
111 subdivision or be or constitute a pledge of the faith and credit of
112 the State or of any political subdivision but all bonds, notes and
113 obligations, unless funded or refunded by bonds, notes or other
114 obligations of the authority, shall be payable solely from revenues
115 or funds pledged or available for their payment as authorized in
116 the act. Each bond, note or other obligation shall contain on its
117 face a statement to the effect that the authority is obligated to
118 pay the principal thereof or the interest thereon only from rev-
119 enues or funds of the authority and that neither the State nor any
120 political subdivisions thereof is obligated to pay the principal or
121 interest and that neither the faith and credit nor the taxing power
122 of the State or any political subdivisions thereof is pledged to the
123 payment of the principal of or the interest on the bonds, notes or
124 other obligations. For the purposes of this subsection, political
125 subdivision does not include the authority.

126 h. All expenses incurred in carrying out the provisions of the
127 act shall be payable solely from revenues or funds provided or to
128 be provided under or pursuant to the provisions of the act and
129 nothing in the act shall be construed to authorize the authority to
130 incur any indebtedness or liability on behalf of or payable by the
131 State or any political subdivision thereof.

132 i. The aggregate principal amount of bonds, notes or other ob-
133 ligations, including subordinated indebtedness of the authority,
134 may not exceed \$600,000,000.00. If in any fiscal year appropria-
135 tions by the Legislature to the authority, and amounts received in
136 accordance with contracts entered into with the toll road authori-
137 ties, if those amounts are not included in legislative appropriations,
138 shall be in excess of \$143,000,000.00, *plus, if applicable, any increase,*
139 *in total, in the amount of State payments made by the three toll*
140 *road authorities,* the aggregate principal amount of \$600,000,000.00
141 shall be reduced by an amount equal to the excess. In computing
142 the foregoing limitations there shall be excluded all the bonds,
143 notes or other obligations, including subordinated indebtedness of
144 the authority, which shall be issued for refunding purposes, pro-
145 vided that the refunding shall be determined by the authority to
146 result in a debt service savings.

147 The authority shall minimize debt incurrence by first relying on
148 appropriations and other revenues available to the authority before
149 incurring debt to meet its statutory purposes.

150 The authority shall not incur debt at any time in any fiscal year
151 in excess of the difference between the amount of appropriations

152 and other revenues to the authority theretofore made in that fiscal
153 year and the amount which the Department of Transportation is
154 permitted to commit for transportation projects under the act in
155 that fiscal year as indicated in the budget, plus reasonably neces-
156 sary expenses, required debt reserve funds, debt service and out-
157 standing financial obligations from prior fiscal years of the
158 authority.

159 Debt which would have been incurred pursuant to this section,
160 which is not incurred in any fiscal year, may be issued in sub-
161 sequent years.

1 5. Section 10 of P. L. 1984, c. 73 (C. 27:1B-10) is amended to
2 read as follows:

3 10. In any resolution of the authority authorizing or relating
4 to the issuance of any bonds, notes or other obligations or in any
5 indenture securing the bonds, notes or other obligations, the au-
6 thority, in order to secure the payment of the bonds, notes or other
7 obligations and in addition to its other powers, shall have the
8 power by provisions therein, which shall constitute covenants by
9 the authority and contracts with the holders of the bonds, notes or
10 other obligations:

11 a. To pledge all or any part of its revenues or receipts to which
12 its right then exists or may thereafter come into existence and
13 other moneys or funds as the authority shall determine and the
14 moneys derived therefrom, and the proceeds of any bonds, notes
15 or other obligations;

16 b. To pledge any agreement, including, without limitation, the
17 contract or contracts referred to in section 23 of the act, contracts
18 with the toll road authorities or other State agencies, and any
19 grant, contract, or agreement with the federal government or the
20 revenues or payments thereunder and the proceeds thereof;

21 c. To covenant against pledging all or any part of its revenues
22 or receipts or its agreements and the revenues derived thereunder
23 or the proceeds thereof and other moneys or funds as the authority
24 shall determine and the moneys derived therefrom or against per-
25 mitting or suffering any lien on any of the foregoing;

26 d. To covenant with respect to limitations on any right to sell,
27 lease or otherwise dispose of any property of any kind;

28 e. To covenant as to any bonds, notes and other obligations to
29 be issued and the limitations thereof and the terms and conditions
30 thereof and as to the custody, application, investment, and dispo-
31 sition of the proceeds thereof;

32 f. To covenant as to the issuance of additional bonds, or notes

33 or other obligations or as to limitations on the issuance of addi-
34 tional bonds, notes or other obligations and on the incurring of
35 other debts by it:

36 g. To covenant as to the payment of the principal of or interest
37 on the bonds, notes, or other obligations, as to the sources and
38 methods of payment, as to the rank or priority of any bonds, notes
39 or obligations with respect to any lien or security or as to the
40 acceleration of the maturity of any bonds, notes or obligations:

41 h. To provide for the replacement of lost, stolen, destroyed or
42 mutilated bonds, notes or other obligations:

43 i. To covenant against extending the time for the payment of
44 bonds, notes or other obligations or interest thereon:

45 j. To covenant as to the redemption of bonds, notes or other
46 obligations and privileges of exchange thereof for other bonds,
47 notes or other obligations of the authority:

48 k. Subject to the rights and security interest of the holders
49 from time to time of bonds, notes or other obligations heretofore
50 or hereafter issued by each of the toll road authorities or other
51 State agencies, to covenant, *or modify or otherwise revise any*
52 *covenant*, as to the enforcement of any term in any agreement
53 entered into pursuant to the act, to which the authority is a party
54 or an assignee, fixing amounts of funds of the toll road authorities
55 or other State agencies to be paid over to and received by the au-
56 thority in each year or other period of time, including any term
57 concerning the fixing of tolls and other charges by the toll road
58 authorities or other State agencies, at rates as shall be necessary
59 to provide the amounts of funds:

60 l. To covenant to create or authorize the creation of special funds
61 or moneys to be held in pledge or otherwise for payment or re-
62 demption of bonds, notes, or other obligations, reserves or other
63 purposes and as to the use, investment, and disposition of the
64 moneys held in the funds:

65 m. To establish, *modify or otherwise revise* the procedure, if any,
66 by which the terms of any contract or covenant with or for the
67 benefit of the holders of bonds, notes or other obligations may be
68 amended or abrogated, the amount of bonds, notes or other obliga-
69 tions the holders of which must consent thereto, and the manner in
70 which the consent may be given:

71 n. To provide for the release of property, agreements, or rev-
72 enues and receipts from any pledge and to reserve rights and
73 powers in, or the right to dispose of, property which is subject to
74 a pledge:

75 o. To provide for the rights and liabilities, powers and duties
76 arising upon the breach of any covenant, condition or obligation
77 and to prescribe the events of default and the terms and conditions
78 upon which any or all of the bonds, notes or other obligations of
79 the authority shall become or may be declared due and payable
80 before maturity and the terms and conditions upon which any
81 declaration and its consequences may be waived;

82 p. To vest in a trustee or trustees within or without the State
83 such property, rights, powers and duties in trust as the authority
84 may determine, and to limit the rights, duties and powers of such
85 trustee;

86 q. To execute all bills of sale, conveyances, deeds of trust and
87 other instruments necessary or convenient in the exercise of its
88 powers or in the performance of its covenants or duties;

89 r. To pay the costs or expenses incident to the enforcement of
90 the bonds, notes or other obligations or of the provisions of the
91 resolution or of any covenant or agreement of the authority with
92 the holders of its bonds, notes or other obligations;

93 s. To limit the rights of the holders of any bonds, notes or other
94 obligations to enforce any pledge or covenant securing the bonds,
95 notes or other obligations; and

96 t. To make covenants, in addition to the covenants herein ex-
97 pressly authorized, of like or different character, and to make
98 covenants to do or refrain from doing acts and things as may be
99 necessary, or convenient and desirable, in order to better secure
100 bonds, notes or other obligations or which in the absolute discretion
101 of the authority will tend to make bonds, notes or other obliga-
102 tions more marketable, notwithstanding that the covenants, acts
103 or things may not be enumerated herein.

1 6. Section 20 of P. L. 1984, c. 73 (C. 27:1B-20) is amended to
2 read as follows:

3 20. There is hereby established in the General Fund an account
4 entitled "Transportation Trust Fund Account." During the fiscal
5 year beginning July 1, 1984 and during each succeeding fiscal year
6 in which the authority has bonds, notes or other obligations out-
7 standing, the treasurer shall credit to this account, commencing
8 with the last business day of August 1984 and on the last business
9 day of each succeeding calendar month, an amount not less than
10 \$7,333,333.00, provided that if the effective date of the act shall be
11 later than July 1984, the initial credit shall be an amount equal to
12 that which would have been credited to the account had the act
13 become effective on July 1, 1984, and further provided that the

14 amount credited during any fiscal year shall not be less than
15 \$88,000,000.00; and an amount equivalent to moneys received by the
16 State in accordance with *any* contracts [entered into] with toll road
17 authorities or other State agencies. The treasurer shall also credit
18 to this account, in accordance with a contract between the treasurer
19 and the authority, an amount equivalent to the sum of the revenues
20 due from the increase of fees for motor vehicle registrations
21 collected pursuant to the amendment to R. S. 39:3-20 made by this
22 act and from the increase of fees for motor fuels user identification
23 markers collected pursuant to the amendment to section 10 of P. L.
24 1963, c. 44 (C. 54:39A-10) made by this act and from the increase
25 in the tax on diesel fuels imposed pursuant to the amendment to
26 R. S. 54:39-27 made by this act, provided that the total amount
27 credited during the fiscal year beginning July 1, 1984 shall not be
28 less than \$20,000,000.00 and that the total amount credited during
29 the fiscal year beginning July 1, 1985 and during every fiscal year
30 thereafter shall not be less than \$30,000,000.00. No later than the
31 fifth business day of the month following the month in which a
32 credit has been made, the treasurer shall pay to the authority, for
33 its purposes as provided herein, the amounts then credited to the
34 Transportation Trust Fund Account, provided that the payments
35 to the authority shall be subject to and dependent upon appropria-
36 tions being made from time to time by the Legislature of the
37 amounts thereof for the purposes of the act.

1 7. Section 23 of P. L. 1984, c. 73 (C. 27:1B-23) is amended to
2 read as follows:

3 23. In order to implement the arrangement provided for in the
4 act, the treasurer, the commissioner and the authority are hereby
5 authorized to enter into, *modify or otherwise revise*, one or more
6 contracts. The contracts shall commence with the fiscal year
7 beginning July 1, 1984, and provide for the credit to the Transporta-
8 tion Trust Fund Account in the amounts provided for in section 20
9 of the act and for the payment to the authority of the amounts
10 credited to the Transportation Trust Fund Account in accordance
11 with the provisions of section 20 of the act. The contracts shall also
12 provide for the payment by the authority of the amounts provided
13 for in section 21 of the act and for expenditures from the Special
14 Transportation Fund, as provided in section 21 of the act. The
15 contract or contracts shall be on terms and conditions as determined
16 by the parties and may contain terms and conditions necessary and
17 desirable to secure the bonds, notes and other obligations of the
18 authority, provided, however, that the incurrence of any obligation

19 by the State under the contract or contracts, including any pay-
20 ments to be made thereunder from the Transportation Trust Fund
21 Account or the Special Transportation Fund, shall be subject to
22 and dependent upon appropriations being made from time to time
23 by the Legislature for the purposes of the act.

1 8. Section 5 of P. L. 1952, c. 16 (C. 27:12B-5) is amended to
2 read as follows:

3 5. The authority shall be a body corporate and politic and shall
4 have perpetual succession and shall have the following powers:

5 (a) To adopt bylaws for the regulation of its affairs and the
6 conduct of its business;

7 (b) To adopt an official seal and alter the same at pleasure;

8 (c) To maintain an office at such place or places within or with-
9 out the State as it may designate:

10 (d) To sue and be sued in its own name;

11 (e) To acquire, construct, maintain, repair and operate projects;

12 (f) To acquire, lease, build, improve, maintain and operate one
13 or more ferryboats and other craft between a point in Cape May
14 county, New Jersey, and a point in Lewes, Delaware, and to trans-
15 port passengers and freight between said points by means of such
16 boats;

17 (g) To acquire in cooperation with the Department of Environ-
18 mental Protection limited roadside areas adjoining said projects
19 and transfer any or all of such areas to the Department of Environ-
20 mental Protection, so that said department may maintain such
21 areas as roadside parks:

22 (h) To issue bonds or notes of the authority and to provide for
23 the rights of the holders thereof, as provided in this act;

24 (i) In the exercise of any of its powers, to fix and revise
25 from time to time and charge and collect tolls or other charges for
26 transit over or use of any project acquired or constructed by it;

27 (j) To establish and enforce rules and regulations for the use
28 of any project;

29 (k) To acquire, hold and dispose of real and personal property
30 in the exercise of its powers and the performance of its duties
31 under this act;

32 (l) To acquire in the name of the authority by purchase or other-
33 wise, on such terms and conditions and in such manner as it may
34 deem proper, or by the exercise of the power of eminent domain,
35 any land and other property, including land under water and ri-
36 parian rights, within or without the State of New Jersey, which
37 it may determine is reasonably necessary for any project or for

38 the relocation or reconstruction of any public highway by the au-
39 thority under the provisions of this act or for the construction of
40 any feeder road, which the authority is or may be authorized to
41 construct and any and all rights, title and interest in such land
42 and other property, including public lands, parks, playgrounds,
43 reservations, highways or parkways, owned by or in which any
44 county, city, borough, town, township, village, or other political
45 subdivision of the State of New Jersey has any right, title or in-
46 terest, or parts thereof or rights therein and any fee simple ab-
47 solute or any lesser interest in private property, and any fee simple
48 absolute in, easements upon, or the benefit of restrictions upon
49 abutting property to preserve and protect projects:

50 (m) To locate and designate, and to establish, limit and control
51 such points of ingress to and egress from each project as may be
52 necessary or desirable in the judgment of the authority to insure
53 the proper operation and maintenance of such project, and to pro-
54 hibit entrance to such project from any point or points not so
55 designated:

56 (n) To take title or any lesser interest to any land or other prop-
57 erty in the State of Delaware in any manner permitted by the laws
58 of Delaware. Whenever such property located in the State of
59 Delaware cannot be acquired by the authority in its name or in
60 that of its nominee or trustee by agreement, and the Highway
61 Department of the State of Delaware is willing to condemn such
62 property for the use of the project, if reimbursed by the authority
63 for the condemnation money or damages awarded in such condem-
64 nation and the expenses thereof, the authority is authorized and
65 empowered to enter into an agreement of reimbursement with the
66 Highway Department of the State of Delaware for such condemna-
67 tion money or damages and expenses and to secure the same by
68 a deposit of cash or otherwise and to reimburse the Highway De-
69 partment of the State of Delaware or other proper department or
70 agency of the State of Delaware for all condemnation money or
71 damages and costs legally awarded or incurred in such condem-
72 nation:

73 (o) To make and enter into all contracts and agreements neces-
74 sary to incidental to the performance of its duties and the execu-
75 tion of its powers under this act:

76 (p) To construct, maintain, repair and operate any feeder road
77 or any public highway connecting parts of a project or two or more
78 projects, which in the opinion of the authority will increase the use
79 of a project or projects, to take over for maintenance, repair and

80 operation any existing public highway as a feeder road, and to
81 realign any such existing public highway and build additional sec-
82 tions of road over new alignment in connection with such existing
83 public highway;

84 (q) To appoint such additional officers (who need not be members
85 of the authority) and employ such consulting engineers, attorneys,
86 accountants, construction and financial experts, superintendents,
87 managers and other employees and agents as the authority deems
88 advisable and as may be necessary in its judgment: to fix their
89 compensation: and to promote and discharge such officers, em-
90 ployees and agents, all without regard to the provisions of Title 11
91 of the Revised Statutes;

92 (r) To receive and accept from any federal agency, subject to
93 the approval of the Governor, grants for or in aid of the acquisition
94 or construction of any project, and to receive and accept aid or
95 contributions, except appropriations by the Legislature, from any
96 source, of either money, property, labor or other things of value,
97 to be held, used and applied only for the purposes for which such
98 grants and contributions may be made:

99 (s) Subject to the rights and security interests of the holders
100 from time to time of bonds or notes heretofore or hereafter issued
101 by the New Jersey Highway Authority, to enter into, *modify or*
102 *otherwise revise* contracts with the State or the New Jersey Trans-
103 portation Trust Fund Authority established by section 4 of the
104 "New Jersey Transportation Trust Fund Authority Act of 1984,"
105 P. L. 1984, c. 73 (C. 27:1B-4), providing for the payment from the
106 revenues of the Highway Authority to the State or to the New
107 Jersey Transportation Trust Fund Authority of the amount or
108 amounts of revenues that may be set forth in or determined in
109 accordance with the contracts. Any contracts authorized pursuant
110 to this section may include conditions and covenants necessary and
111 desirable to facilitate the issuance and sale of bonds, notes and
112 other obligations of the New Jersey Transportation Trust Fund
113 Authority. Any agreements entered into between the State and the
114 Highway Authority pursuant to this subsection shall terminate
115 upon the effective date of any agreement entered into between the
116 New Jersey Transportation Trust Fund Authority and the High-
117 way Authority providing for the payment of revenues of the High-
118 way Authority directly from the Highway Authority to the New
119 Jersey Transportation Trust Fund Authority:

120 (t) To do all acts and things necessary or convenient to carry
121 out the powers and duties expressly provided in this act; and

122 (u) To exercise all of the foregoing powers in the State of
123 Delaware insofar as permitted by the laws of that state, and to
124 apply to the authorities in the State of Delaware for all franchises,
125 permits and licenses necessary to exercise such powers.

126 Nothing contained in this act shall be construed to authorize or
127 empower the authority to acquire State property by the exercise
128 of the power of eminent domain.

1 9. Section 11 of P. L. 1962, c. 10 (C. 27:12C-11) is amended
2 to read as follows:

3 11. The authority shall be a public body corporate and politic
4 and shall have perpetual succession and shall have the following
5 powers:

6 (a) To adopt bylaws for the regulation of its affairs and the
7 conduct of its business:

8 (b) To adopt and have an official common seal and alter the same
9 at pleasure:

10 (c) To maintain an office at such place or places within the State
11 as it may designate;

12 (d) To sue and be sued;

13 (e) To acquire, construct, maintain, improve, repair and operate
14 projects;

15 (f) To construct, maintain, improve, repair and operate feeder
16 roads:

17 (g) To issue bonds or notes of the authority and to provide for
18 the rights of the holders thereof, as provided in this act:

19 (h) In the exercise of any of its powers, to fix and revise from
20 time to time and charge and collect tolls or other charges for
21 transit over or use of any project acquired or constructed by it:

22 (i) To establish rules and regulations for the use of any project:

23 (j) To acquire, lease as lessee, hold and dispose of real and
24 personal property or any interest therein, in the exercise of its
25 powers and the performance of its duties under this act:

26 (k) To acquire in the name of the authority by purchase or other-
27 wise, on such terms and conditions and in such manner as it may
28 deem proper, or by the exercise of the power of eminent domain,
29 any land and other property which it may determine is reasonably
30 necessary for any project or for the relocation or reconstruction
31 of any public highway by the authority under the provisions of
32 this act or for the construction of any feeder road, which the au-
33 thority is or may be authorized to construct and any and all rights,
34 title and interest in such land and other property, including public
35 lands, parks, playgrounds, reservations, highways or pathways.

36 owned by or in which any county, municipality or other govern-
37 mental subdivision of the State has any right, title or interest, or
38 parts thereof or rights therein, and any fee simple absolute or any
39 lesser interest in private property, and any fee simple absolute in,
40 easements upon, or the benefit of restrictions upon abutting prop-
41 erty to preserve and protect projects:

42 (l) To locate and designate, and to establish, limit and control
43 such points of ingress to and egress from each project as may be
44 necessary or desirable in the judgment of the authority to insure
45 the proper operation and maintenance of such project, and to pro-
46 hibit entrance to such project from any point or points not so
47 designated:

48 (m) Subject to the limitations of this act, to acquire, construct,
49 maintain, improve, repair or operate any public highway connect-
50 ing with any one or more projects, which in the opinion of the
51 authority will increase the use of a project or projects, to take over
52 for maintenance, improvement, repair or operation any existing
53 public highway as a feeder road, and to realign any such existing
54 public highway and build additional sections of road over new
55 alignment in connection with such existing public highway:

56 (n) To receive and accept from any federal agency, subject to
57 the approval of the Governor, grants for or in aid of the acquisition
58 or construction of any project, and to receive and accept aid or
59 contributions from any other source, of either money, property,
60 labor or other things of value, to be held, used and applied only
61 for the purposes for which such grants and contributions may be
62 made:

63 (o) Subject to the limitations of this act, to determine the loca-
64 tion, type and character of any project and all other matters in
65 connection with such project:

66 (p) Subject to the rights and security interests of the holders
67 from time to time of bonds or notes heretofore or hereafter issued
68 by the New Jersey Expressway Authority, to enter into, *modify*
69 *or otherwise revise* contracts with the State or the Department of
70 Transportation or the New Jersey Transportation Trust Fund
71 Authority established by section 4 of the "New Jersey Transporta-
72 tion Trust Fund Authority Act of 1984," P. L. 1984, c. 73 (C.
73 27:1B-4), providing for the payment from the revenues of the
74 New Jersey Expressway Authority to the State or to the New
75 Jersey Transportation Trust Fund Authority of the amount or
76 amounts of revenues that may be set forth in or determined in
77 accordance with the contracts, provided that the payments shall

78 be used solely for financing highway and transportation projects
79 in the counties of Ocean, Burlington, Camden, Gloucester, Atlantic,
80 Salem, Cumberland and Cape May, including the payment of prin-
81 cipal and interest on any bonds, notes or other obligations issued
82 or entered into by the New Jersey Transportation Trust Fund
83 Authority, the proceeds of which shall be allocated by the New
84 Jersey Transportation Trust Fund Authority to highway and
85 transportation projects within the counties aforesaid; any con-
86 tracts authorized pursuant to this section may include conditions
87 and covenants necessary and desirable to facilitate the issuance
88 and sale of bonds, notes and other obligations of the New Jersey
89 Transportation Trust Fund Authority. Any agreements entered
90 into between the Department of Transportation and the Express-
91 way Authority pursuant to this subsection shall terminate upon the
92 effective date of any agreement entered into between the Express-
93 way Authority and the New Jersey Transportation Trust Fund
94 Authority providing for payment of revenues of the Expressway
95 Authority directly from the Expressway Authority to the New
96 Jersey Transportation Trust Fund Authority;

97 (q) To enter into any and all agreements or contracts, execute
98 any and all instruments, and do and perform any and all acts
99 or things necessary, convenient or desirable for the purposes of
100 the authority or to carry out any power expressly given in this
101 act.

1 10. Section 1 of P. L. 1966, c. 8 (C. 27:23-5.8) is amended to
2 read as follows:

3 1. The New Jersey Turnpike Authority shall have, in addition
4 to the powers heretofore granted to it, power:

5 a. To pay or make any advance or contribution to the United
6 States Government or the State of New Jersey or any agency
7 thereof for the purpose of paying the State's share or any portion
8 thereof under the federal aid highway laws of the cost of construc-
9 tion of any highway improvement determined by the authority to
10 be a major improvement necessary to restore or prevent physical
11 damage to the turnpike project, for the safe or efficient operation
12 of such project, or to prevent loss of revenues therefrom.

13 b. Subject to the rights and security interests of the holders from
14 time to time of bonds or notes heretofore or hereafter issued by the
15 New Jersey Turnpike Authority, to enter into, *modify or other-*
16 *wise revise* contracts with the State or the New Jersey Transporta-
17 tion Trust Fund Authority established by section 4 of the "New
18 Jersey Transportation Trust Fund Authority Act of 1984," P. L.

19 1984, c. 73 (C. 27:1B-4), providing for the payment from the reve-
20 nues of the New Jersey Turnpike Authority to the State or to the
21 New Jersey Transportation Trust Fund Authority of the amount
22 or amounts of revenues that may be set forth in or determined in
23 accordance with the contracts. Any contracts authorized pursu-
24 ant to this section may include conditions and covenants necessary
25 and desirable to facilitate the issuance and sale of bonds, notes
26 and other obligations of the New Jersey Transportation Trust
27 Fund Authority. Any agreements entered into between the State
28 and the Turnpike Authority pursuant to this subsection shall
29 terminate upon the effective date of any agreement entered into
30 between the Turnpike Authority and the New Jersey Transporta-
31 tion Trust Fund Authority providing for the payment of revenues
32 of the Turnpike Authority directly from the Turnpike Authority
33 to the New Jersey Transportation Trust Fund Authority.

1 11. Section 9 of P. L. 1948, c. 454 (C. 27:23-9) is amended to
2 read as follows:

3 9. Revenues.

4 (A) The authority is hereby authorized to fix, revise, charge and
5 collect tolls for the use of each turnpike project and the different
6 parts or sections thereof, and to contract with any person, partner-
7 ship, association or corporation desiring the use of any part thereof,
8 including the right-of-way adjoining the paved portion, for placing
9 thereon telephone, telegraph, electric light or power lines, gas
10 stations, garages, stores, hotels, and resturants, or for any other
11 purpose, except for tracks for railroad or railway use, and to fix
12 the terms, conditions, rents and rates of charges for such use;
13 provided that a sufficient number of gas stations may be authorized
14 to be established in each service area along any such highway to
15 permit reasonable competition by private business in the public
16 interest; and provided further that no contract shall be required,
17 and no rent, fee or other charge of any kind shall be imposed for
18 the use and occupation of any turnpike project for the installation,
19 construction, use, operation, maintenance, repair, renewal, reloca-
20 tion or removal of tracks, pipes, mains, conduits, cables, wires,
21 towers, poles or other equipment or appliances in, on, along, over
22 or under any such turnpike project by any public utility as defined
23 in R. S. 27:7-1, which is subject to taxation, pursuant to either
24 chapter 4 of the laws of 1940, as amended (R. S. 54:31-15.14
25 et seq.), or chapter 5 of the laws of 1940, as amended (R. S.
26 54:31-45 et seq.), or pursuant to any other law imposing a tax
27 for the privilege of using the public streets, highways, roads or

28 other public places in this State. Such tolls shall be so fixed and
29 adjusted as to carry out and perform the terms and provisions of
30 any contract with or for the benefit of bondholders. Such tolls shall
31 not be subject to supervision or regulation by any other commission,
32 board, bureau or agency of the State. The use and disposition of
33 tolls and revenues shall be subject to the provisions of the resolu-
34 tion authorizing the issuance of such bonds or of the trust agree-
35 ment securing the same.

36 (B) At any time that tolls are not required for the purpose of
37 carrying out and performing the terms and provisions of any con-
38 tract with or for the benefit of bondholders, the authority shall cause
39 tolls for the use of the turnpike projects to be charged and collected
40 at the same rates as were last charged and collected by the au-
41 thority under the provisions of subsection (A) hereof and no change
42 or revision shall be made in such rates, except as shall be specifi-
43 cally authorized by law.

44 (C) All revenues and other funds of the authority not pledged
45 or otherwise required to pay or secure the payment of principal
46 and interest on any indebtedness of the authority existing from
47 time to time under, and not otherwise required for the purpose of,
48 this act shall be deposited to the credit of the State in such deposi-
49 tories and shall be reported to the State Treasurer and to the
50 Director of the Division of Budget and Accounting at such times
51 and in such manner as shall be designated and prescribed by the
52 State Treasurer and said director. The requirement of this para-
53 graph shall be deemed to be satisfied during any period the New
54 Jersey Turnpike Authority shall have a contract providing for pay-
55 ment of funds to the State or New Jersey Transportation Trust
56 Fund Authority created pursuant to P. L. 1984, c. 73 (C. 27:1B-1
57 et seq.), and no payment in addition to that required by the contract,
58 or any *modification, amendment or other revision* thereto, shall be
59 payable pursuant to this paragraph.

1 12. This act shall take effect immediately.

STATEMENT

This bill would require certain State officials, or the New Jersey Transportation Trust Fund Authority, or two or more of these as the case may be, to enter into negotiations with the New Jersey Highway Authority, the New Jersey Expressway Authority and the New Jersey Turnpike Authority, for the purpose of modifying the present contracts concerning the annual payments by the toll

road authorities to the New Jersey Transportation Trust Fund, or other State fund for transfer or credit to that trust fund. Currently, the toll road authorities make payments to the State amounting to \$24,500,000.00, annually. Because the toll road authorities' revenues have increased over the years since the original payment contracts were entered into, and because the toll road authorities may refinance their debt to take advantage of certain tax laws, it is an opportune time to reexamine the payments made by the toll road authorities, and to ensure that the interests of the holders of the bonds, notes or other obligations of the three toll road authorities and the transportation trust fund authority are properly secure.

TRANSPORTATION—HIGHWAYS AND ROADS

Requires the New Jersey Transportation Trust Fund Authority, or certain other State officials, or a combination thereof, to enter into contract negotiations with the three toll road authorities.

STATE OF NEW JERSEY

INTRODUCED MARCH 9, 1987

By Senators RAND, WEISS, McMANIMON and COWAN

Referred to Committee on Transportation and Communications

AN ACT concerning membership on certain authorities and amend-
ing P. L. 1952, c. 16, P. L. 1962, c. 10 and P. L. 1948, c. 454.

1 *BE IT ENACTED by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 3 of P. L. 1952, c. 16 (C. 27:12B-3) is amended to
2 read as follows:

3 3. As used in this act the following words and terms shall have
4 the following meanings, unless the context shall indicate another
5 or different meaning or intent:

6 (a) "Authority" means the New Jersey Highway Authority,
7 created by section 4 of this act, or, if said authority shall be
8 abolished, the board, body or commission succeeding to the principal
9 functions thereof or to whom the powers given by this act to the
10 authority shall be given by law.

11 (b) "Commissioner" means the **State Highway** Commissioner
12 of Transportation.

13 (c) "Department" means the **State Highway** Department of
14 Transportation.

15 (d) "Project" or "highway project" means any express high-
16 way, superhighway or motorway at such locations and between
17 such termini as herein established or as may hereafter be estab-
18 lished by law, and acquired or to be acquired or constructed or to
19 be constructed under the provisions of this act by the authority,
20 over which abutters have no easement or rights of light, air or
21 direct access by reason of the fact that their properties abut thereon,
22 together with such adjoining park or recreational areas and facili-

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

Matter printed in italics thus is new matter.

23 ties directly related to the use of the express highway, superhighway
24 or motorway as the authority, with the concurrence of the Depart-
25 ment of [Conservation and Economic Development] *Environmental*
26 *Protection*, shall find to be necessary and desirable for the conve-
27 nience and comfort of users of the highway project and feasible for
28 development pursuant to this act, and shall include but not be lim-
29 ited to all bridges, tunnels, overpasses, underpasses, interchanges,
30 traffic circles, grade separations, entrance plazas, approaches, toll
31 houses, service areas, service stations, service facilities, communica-
32 tions facilities, and administration, storage and other buildings
33 which the authority may deem necessary for the operation of such
34 project, together with all property, rights, easements and interests
35 which may be acquired by the authority for the construction or the
36 operation of such project.

37 "Project" or "ferry project" also means a ferry service for the
38 transportation of passengers and freight between such termini as
39 are herein established or as may hereafter be established by law,
40 and shall include but shall not be limited to ferries and other craft,
41 bulkheads, docks, piers, wharves, warehouses, ferry terminals and
42 stations, parking areas, service stations, service facilities, com-
43 munication facilities and administration and other buildings which
44 the authority may deem necessary for the operation of such project,
45 together with all property, rights, easements and interests, includ-
46 ing land under water and riparian rights, which may be acquired
47 by the authority for the construction or operation of such project.

48 (e) "Bonds" or "revenue bonds" means bonds of the authority
49 authorized under the provisions of this act or any amendment
50 thereof or supplement thereto.

51 (f) "Public highway" means and shall include any public high-
52 way, road or street in the State, whether maintained by the State
53 or by any county, city, borough, town, township, village, or other
54 political subdivision.

55 (g) "Feeder road" means any road which in the opinion of the
56 authority is necessary to create or facilitate access to a project.

57 (h) "Owner" means and shall include all individuals, copartner-
58 ships, associations, private or municipal corporations and all
59 political subdivisions of the State having any title or interest in
60 any property, rights, easements and interests authorized to be
61 acquired by this act.

1 2. Section 4 of P. L. 1952, c. 16 (C. 27:12B-4) is amended to read
2 as follows:

3 4. There is hereby established in the State Department of Trans-
4 portation a body corporate and politic, with corporate succession,

5 to be known as the "New Jersey Highway Authority." The au-
6 thority is hereby constituted an instrumentality exercising public
7 and essential governmental functions, and the exercise by the
8 authority of the powers conferred by this act in the construction,
9 operation and maintenance of projects shall be deemed and held to
10 be an essential governmental function of the State.

11 The New Jersey Highway Authority shall consist of **[seven]**
12 *eight* members, as follows: the Commissioner of Transportation,
13 *ex officio*, or his designee; and seven members, each of whom, *except*
14 *the Commissioner of Transportation*, shall be a resident of the
15 State**[, who]** and shall have a qualified elector therein for a period
16 of at least one year next preceding his appointment. Each member
17 of the authority, *except the Commissioner of Transportation*, shall
18 be appointed by the Governor, with the advice and consent of the
19 Senate, for a term of five years and shall serve until his successor
20 is appointed and has qualified. Of the two members first appointed
21 pursuant to this amendatory act, one shall be for a term of four
22 years and one for a term of five years. Each member of the au-
23 thority, *except the Commissioner of Transportation*, may be re-
24 moved from office by the Governor, for cause, after a public hearing.
25 Each member of the authority before entering upon his duties shall
26 take and subscribe an oath to perform the duties of his office faith-
27 fully, impartially and justly to the best of his ability. A record of
28 such oaths shall be filed in the office of the Secretary of State.

29 Any vacancies in the membership of the authority occurring
30 other than by expiration of term shall be filled in the same manner
31 as the original appointment, but for the unexpired term only.

32 The Governor shall designate one of the members of the au-
33 thority as chairman thereof and another member as vice-chairman
34 thereof. The chairman and vice-chairman of the authority so
35 designated shall serve as such at the pleasure of the Governor
36 and until their respective successors have been designated. The
37 authority shall elect a secretary and a treasurer who need not be
38 members. At the option of the authority the same person may be
39 elected to serve both as secretary and treasurer. **[Four]** *Five* mem-
40 bers of the authority shall constitute a quorum and the vote of
41 **[four]** *five* members shall be necessary for any action taken by the
42 authority. No vacancy in the membership of the authority shall im-
43 pair the right of a quorum to exercise all the rights and perform
44 all the duties of the authority.

45 Before the issuance of any bonds or notes under the provisions
46 of this act, each member of the authority shall execute a surety
47 bond in the penal sum of \$25,000.00, and the treasurer shall execute

48 a surety bond in the penal sum of \$50,000.00, each such surety bond
49 to be conditioned upon the faithful performance of the duties of
50 the office of such member or treasurer, as the case may be, to be
51 executed by a surety company authorized to transact business in
52 the State of New Jersey as surety and to be approved by the
53 Attorney General and filed in the office of the Secretary of State.

54 No resolution or other action of the authority providing for the
55 issuance of bonds, refunding bonds or other obligations or for the
56 fixing, revising or adjusting of tolls for the use of any highway
57 projects or parts or sections thereof shall be adopted or otherwise
58 made effective by the authority without the prior approval in writ-
59 ing of the Governor and at least one of the following: the State
60 Treasurer and the Comptroller of the Treasury. The powers con-
61 ferred in this section upon the Governor, the State Treasurer and
62 the Comptroller of the Treasury shall be exercised with due regard
63 for the rights of the holders of bonds of the authority at any time
64 outstanding, and nothing in, or done pursuant to, this section shall
65 in any way limit, restrict or alter the obligation or powers of the
66 authority or any representative or officer of the authority to carry
67 out and perform in every detail each and every covenant, agreement
68 on contract at any time made or entered into by or on behalf of the
69 authority with respect to its bonds or for the benefit, protection or
70 security of the holders thereof.

71 A true copy of the minutes of every meeting of the authority shall
72 be forthwith delivered by and under the certification of the secre-
73 tary thereof, to the Governor. No action taken at such meeting by
74 the authority shall have force or effect until 10 days (Saturdays,
75 Sundays and holidays excepted) after such copy of the minutes
76 shall have been delivered or the approval thereof by the Governor
77 prior thereto. If, in said 10-day period, the Governor returns such
78 copy of the minutes with veto of any action, except action to nego-
79 tiate or execute a collective negotiation agreement with a certified
80 public employee organization representing employees of the au-
81 thority, taken by the authority or any member thereof at such
82 meeting, such action shall be null and of no effect.

83 The members of the authority shall not receive compensation
84 for their services as members of the authority. Each member shall
85 be reimbursed by the authority for his actual expenses necessarily
86 incurred in the performance of his duties. *Notwithstanding the*
87 *provisions of any other law, no member shall be deemed to have*
88 *forfeited, nor shall the member forfeit, the member's office or em-*
89 *ployment or any benefits or emoluments thereof by reason of the*
90 *member's acceptance of the office of ex officio member of the au-*
91 *thority or the member's services therein.*

92 *The ex officio member of the authority may designate an employee*
93 *of his department to represent him at meetings of the authority.*
94 *A designee may lawfully vote and otherwise act on behalf of the*
95 *member for whom he is the designee. The designation shall be in*
96 *writing and delivered to the authority and shall be effective until*
97 *revoked or amended by a writing delivered to the authority.*

1 3. Section 3 of P. L. 1962, chapter 10 (C. 27:12C-3) is amended
2 to read as follows:

3 3. As used in this act, unless a different meaning clearly appears
4 from the context:

5 (a) "Authority" means the New Jersey Expressway Authority
6 created by this act;

7 (b) "Bond" means any bond, and "note" means any note, of the
8 authority authorized pursuant to the provisions of this act;

9 (c) "Commissioner" means the **[State Highway]** Commissioner
10 of Transportation;

11 (d) "County" means any county of the State;

12 (e) "Department" means the **[State Highway]** Department of
13 Transportation;

14 (f) "Feeder road" means any road which in the opinion of the
15 authority is necessary to create or facilitate access to a project and
16 is not more than three miles in length from the point of its connec-
17 tion with the project;

18 (g) "Governing body" means, in the case of a county, the board
19 of chosen freeholders, or, in the case of a school district, the board
20 of education, or, in the case of a municipality or any other govern-
21 mental subdivision, the commission, council, board or body, by
22 whatever name it may be known, having charge of its finances;

23 (h) "Municipality" means any city, borough, village, town or
24 township of the State but not a county or a school district;

25 (i) "Owner" means and includes any individuals, copartner-
26 ships, associations, private or municipal corporations, and counties,
27 municipalities or other governmental subdivisions of the State
28 having any title or interest in any property, rights, easements and
29 interests authorized to be acquired pursuant to this act;

30 (j) "Project" or "expressway project" means any express
31 highway, superhighway or motorway at such locations and between
32 such termini as herein established or as may hereafter be estab-
33 lished by law, and acquired or to be acquired or constructed or to be
34 constructed under the provisions of this act by the authority, over
35 which abutters have no easements or rights of light, air or direct
36 access by reason of the fact that their properties abut thereon, and
37 shall include but not be limited to all bridges, tunnels, overpasses.

38 underpasses, interchanges, traffic circles, grade separations,
 39 entrance plazas, approaches, toll houses, service areas, stations and
 40 facilities, communications, facilities, administration, storage and
 41 other buildings, and other structures, directly related to the use of
 42 the express highway, superhighway or motorway, intersecting high-
 43 ways and bridges and feeder roads which the authority may deem
 44 necessary for the operation of such project, together with all prop-
 45 erty, rights, easements and interests which may be acquired by the
 46 authority for the construction or the operation of such project;

47 (k) "Public highway" means and shall include any public high-
 48 way, road or street in the State, whether maintained by the State
 49 or by any county, municipality or other governmental subdivision;
 50 and

51 (l) "Real property" means lands within the State, above or
 52 below water, and improvements thereof or thereon, or any riparian
 53 or other rights or interests therein.

1 4. Section 5 of P. L. 1962, c. 10 (C. 27:12C-5) is amended to
 2 read as follows:

3 5. The authority shall consist of the [members thereof who shall
 4 be appointed by the Governor, with the advice and consent of the
 5 Senate, in the manner, and for terms and in the number herein-
 6 after provided for, as follows:] *following members: the Commis-*
 7 *sioner of Transportation, ex officio, or his designee; and five mem-*
 8 *bers appointed by the Governor, with the advice and consent of the*
 9 *Senate, as follows: one resident each from the counties of Camden,*
 10 *Cape May and Gloucester, and two residents from the county of*
 11 *Atlantic. No more than three of the [said members] county repre-*
 12 *sentatives shall be members of the same political party. Each*
 13 *[such] appointed member shall have been a qualified voter of the*
 14 *State for at least one year preceding the appointment.*

15 Each member of the authority, *except the Commissioner of*
 16 *Transportation*, shall serve for a term expiring on April 30 of the
 17 year ensuing after his appointment which corresponds in number to
 18 the number of the members of the authority then authorized; pro-
 19 vided, that the terms of the members first appointed shall be so
 20 arranged that one of such terms shall expire on April 30 in each
 21 successive year ensuing after such appointments. Each member,
 22 *except the Commissioner of Transportation*, shall hold office for
 23 the term of his appointment and until his successor shall have been
 24 appointed and qualified. Any vacancy among the members shall be
 25 filled by appointment only for the unexpired term but such appoint-
 26 ment shall not be made sooner than 15 days after the occurrence of
 27 such vacancy.

1 5. Section 7 of P. L. 1962, c. 10 (C. 27:12C-7) is amended to
2 read as follows:

3 7. The powers of the authority shall be vested in the members
4 thereof in office from time to time [and a majority of the total
5 authorized membership of the authority shall constitute a quorum
6 at any meeting thereof. Action may be taken and motions and
7 resolutions adopted by the authority at any meeting thereof by the
8 affirmative vote of a majority of the members present, unless in any
9 case the bylaws of the authority shall require a larger number].
10 *Four members of the authority shall constitute a quorum and the*
11 *vote of four members shall be necessary for any action taken by*
12 *the authority. No vacancy in the membership of the authority shall*
13 *impair the right of a quorum to exercise all the rights and perform*
14 *all the duties of the authority.*

15 *The ex officio member of the authority may designate an em-*
16 *ployee of his department to represent him at meetings of the au-*
17 *thority. A designee may lawfully vote and otherwise act on behalf*
18 *of the member for whom he constitutes the designee. The designa-*
19 *tion shall be in writing and delivered to the authority and shall be*
20 *effective until revoked or amended by a writing delivered to the*
21 *authority.*

1 6. Section 8 of P. L. 1962, c. 10 (C. 27:12C-8) is amended to
2 read as follows:

3 8. The members of the authority shall serve without compensa-
4 tion, but the authority may reimburse its members for necessary
5 expenses incurred in the discharge of their duties. *Notwithstanding*
6 *the provisions of any other law, no member shall be deemed to have*
7 *forfeited nor shall the member forfeit the member's office or em-*
8 *ployment or any benefit or emoluments thereof by reason of the*
9 *member's acceptance of the office of ex officio member of the au-*
10 *thority or the member's services therein.*

1 7. Section 10 of P. L. 1962, c. 10 (C. 27:12C-10) is amended to
2 read as follows:

3 10. Any member of the authority, *except the Commissioner of*
4 *Transportation*, may be removed by the Governor for incapacity,
5 inefficiency, neglect of duty, misconduct in office or other disqualify-
6 ing cause but only after he shall have been given a copy of the
7 charges against him and, not sooner than 10 days thereafter, been
8 afforded opportunity for a hearing, in person or by counsel, with
9 respect to such charges.

1 8. Section 3 of P. L. 1948, c. 454 (C. 27:23-3) is amended to
2 read as follows:

3 3. New Jersey Turnpike Authority. (A) There is hereby estab-
4 lished in the State Department of Transportation a body
5 corporate and politic, with corporate succession, to be known
6 as the "New Jersey Turnpike Authority." The authority is hereby
7 constituted an instrumentality exercising public and essential
8 governmental functions, and the exercise by the authority of the
9 powers conferred by this act in the construction, operation and
10 maintenance of turnpike projects shall be deemed and held to be
11 an essential governmental function of the State.

12 (B) The New Jersey Turnpike Authority shall consist of [five]
13 six members, [each of whom shall be a resident of the State who
14 shall have been a qualified elector therein for a period of at least
15 one year next preceding his appointment. Each member of the au-
16 thority shall be] *as follows: the Commissioner of Transportation,*
17 *ex officio, or his designee; and five members appointed by the Gov-*
18 *ernor, with the advice and consent of the Senate, each of whom*
19 *shall be a resident of the State and shall have been a qualified*
20 *elector therein for a period of at least one year next preceding his*
21 *appointment. Each appointed member of the authority shall serve*
22 *for a term of five years and [shall serve] until his successor is*
23 *appointed and has qualified; except that of the first appointments*
24 *hereunder, one shall be for a term of two years and one for a term*
25 *of three years, and they shall serve until their respective successors*
26 *are appointed and have qualified. The term of each of the first*
27 *appointees hereunder shall be designated by the Governor. Each*
28 *member of the authority may be removed from office by the Gov-*
29 *ernor, for cause, after a public hearing. Each member of the au-*
30 *thority before entering upon his duties shall take and subscribe*
31 *an oath to perform the duties of his office faithfully, impartially*
32 *and justly to the best of his ability. A record of such oaths shall*
33 *be filed in the office of the Secretary of State. Any vacancies in*
34 *the membership of the authority occurring other than by expiration*
35 *of term shall be filled in the same manner as the original appoint-*
36 *ment, but for the unexpired term only.*

37 (C) The Governor shall designate one of the members of the
38 authority as chairman thereof and another member as vice chair-
39 man thereof. The chairman and vice chairman of the authority
40 so designated shall serve as such at the pleasure of the Governor
41 and until their respective successors have been designated. The
42 authority shall elect a secretary and a treasurer who need not be
43 members. At the option of the authority the same person may be
44 elected to serve both as secretary and treasurer. [Three] Four
45 members of the authority shall constitute a quorum and the vote of

46 **[three]** *four* members shall be necessary for any action taken by
47 the authority. No vacancy in the membership of the authority shall
48 impair the right of a quorum to exercise all the rights and perform
49 all the duties of the authority.

50 (D) Each member of the authority shall execute a surety bond
51 in the penal sum of \$25,000.00 and the treasurer shall execute a
52 surety bond in the penal sum of \$50,000.00 each such surety bond
53 to be conditioned upon the faithful performance of the
54 duties of the office of such member or treasurer, as the case
55 may be, to be executed by a surety company authorized to transact
56 business in the State of New Jersey as surety and to be approved
57 by the Attorney General and filed in the office of the Secretary of
58 State.

59 (E) The members of the authority shall not receive compensa-
60 tion for their services as members of the authority. Each member
61 shall be reimbursed by the authority for his actual expenses neces-
62 sarily incurred in the performance of his duties. *Notwithstanding*
63 *the provisions of any other law, no member shall be deemed to have*
64 *forfeited, nor shall the member forfeit, the member's office or em-*
65 *ployment or any benefits or emoluments thereof by reason of the*
66 *member's acceptance of the office of ex officio member of the au-*
67 *thority or the member's services therein.*

68 (F) No resolution or other action of the authority providing for
69 the issuance of bonds, refunding bonds or other obligations or for
70 the fixing, revising or adjusting of tolls for the use of any turnpike
71 project or parts or sections thereof shall be adopted or otherwise
72 made effective by the authority without the prior approval in
73 writing of the Governor and at least one of the following: the State
74 Treasurer and the Comptroller of the Treasury. A true copy of
75 the minutes of every meeting of the authority shall be forthwith
76 delivered by and under the certification of the secretary thereof,
77 to the Governor. No action taken at such meeting by the authority
78 shall have force or effect until 10 days, exclusive of Saturdays,
79 Sundays and public holidays, after such copy of the minutes shall
80 have been so delivered. If, in said 10-day period, the Governor
81 returns such copy of the minutes with veto of any action taken by
82 the authority or any member thereof at such meeting, such action
83 shall be null and of no effect. The Governor may approve all or
84 part of the action taken at such meeting prior to said 10-day period.
85 The powers conferred in this paragraph (F) upon the Governor,
86 the State Treasurer and the Comptroller of the Treasury shall be
87 exercised with due regard for the rights of the holders of bonds
88 of the authority at any time outstanding, and nothing in, or done

80 pursuant to this paragraph (F) shall in any way limit, restrict
90 or alter the obligation or powers of the authority or any representa-
91 tive or officer of the authority to carry out and perform in every
92 detail each and every covenant, agreement or contract at any time
93 made or entered into by or on behalf of the authority with respect
94 to its bonds or for the benefit, protection or security of the holders
95 thereof.

96 (G) *The ex officio member of the authority may designate an*
97 *employee of his department to represent him at meetings of the*
98 *authority. A designee may lawfully vote and otherwise act on be-*
99 *half of the member for whom he constitutes the designee. The des-*
100 *ignation shall be in writing and delivered to the authority and shall*
101 *be effective until revoked or amended by a writing delivered to the*
102 *authority.*

1 9. This act shall take effect immediately.

STATEMENT

This bill provides that the Commissioner of Transportation shall be an ex officio member with voting powers of the New Jersey Highway Authority, Expressway Authority and Turnpike Authority. The membership of each of the authorities shall thus be increased by one, as shall the quorum required to conduct business. In addition, the Commissioner of Transportation may designate an employee of his department to represent him at any particular meeting of the authority. A designee may lawfully vote and otherwise act on behalf of the commissioner.

AUTHORITIES AND REGIONAL COMMISSIONS

Adds Commissioner of Transportation as ex officio voting member of the toll road authorities.

SENATE, No. 3083

STATE OF NEW JERSEY

INTRODUCED MARCH 9, 1987

By Senators RAND, WEISS, McMANIMON and COWAN

Referred to Committee on Transportation and Communications

AN ACT creating a commission to study and make recommendations concerning the role of the toll road authorities in the State's transportation system; and making an appropriation.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The Legislature finds and declares that:

2 a. The toll road authorities were created primarily for the
3 purpose of constructing various toll road projects under their
4 jurisdiction, a function which has since been accomplished;

5 b. Because the toll road authorities have continued to issue new
6 or refunding debt, their organizational structure and operations
7 have continued intact, absent any abolishment, reorganization or
8 dissolution by the Legislature;

9 c. Because of increased congestion and the greater complexity
10 of modern society, it is necessary to secure greater coordination
11 of the State's transportation system including State, county and
12 municipal roads and highways, public transportation, and the toll
13 roads;

14 d. Therefore, it is in the public interest to create a "Toll Road
15 Authorities Study Commission" to study and make recommenda-
16 tions concerning the role of the toll road authorities in the State's
17 transportation system.

1 2. As used in this act:

2 a. "Commissioner" means the Commissioner of Transportation
3 of the State of New Jersey.

4 b. "Toll road authorities" or "authorities" means the New Jersey
5 Highway Authority, the New Jersey Expressway Authority and
6 the New Jersey Turnpike Authority.

7 c. "Treasurer" means the State Treasurer of New Jersey.

1 3. There is created a "Toll Road Authorities Study Commission"
2 to consist of 17 members as follows: a. five shall be members of
3 the Senate appointed by the President thereof, of whom no more
4 than three are to be of the same political party; b. five shall be
5 members of the General Assembly appointed by the Speaker
6 thereof, of whom no more than three are to be of the same political
7 party; and c. seven members, one of whom shall be the commis-
8 sioner ex officio, one of whom shall be the treasurer ex officio, and
9 the remaining five of whom shall be public members appointed by
10 the Governor as follows: one shall represent the users of public
11 transportation in the State, one shall be knowledgeable or versed
12 in transportation or highway planning, one shall have extensive
13 knowledge or experience in the administrative organization of
14 State government and the remaining two shall be citizens of the
15 State. When appointing the public members, due consideration
16 shall be given by the Governor to the nonpartisan subject matter
17 under consideration by the commission.

18 The initial members shall be appointed within 30 days of the
19 effective date of this act. All members of the commission shall
20 serve without compensation except that public members shall be
21 reimbursed for their expenses actually incurred in the performance
22 of their duties. Vacancies in the membership of the commission
23 shall be filled in the same manner as the original appointments
24 were made.

25 Each ex officio member may designate an employee of the
26 member's department or agency to represent the member at meet-
27 ings or hearings of the commission. All designees may lawfully
28 vote and otherwise act on behalf of the members for whom they
29 constitute the designee.

1 4. It shall be the duty of the commission to study and make
2 recommendations concerning the role of the toll road authorities
3 in the State's transportation system. The commission shall con-
4 sider but not be limited to the following subjects:

5 a. A review of the present role and functioning of the toll road
6 authorities in the State's transportation system;

7 b. A consideration of the appropriate future role and functioning
8 of the authorities in the State's transportation system, with partic-
9 ular emphasis on achieving a more coordinated and integrated
10 system;

11 c. An examination of the past and present proposals to change
 12 the role and function of the toll road authorities, including but not
 13 limited to, proposals to abolish the authorities, consolidate the
 14 three authorities into one authority, appoint the commissioner in
 15 place of the current boards of the authorities, and to merge the
 16 authorities within the Department of Transportation, as well as
 17 similar proposals made or adopted in other states; and

18 d. A consideration of the financial implications of any change
 19 in the role of the authorities, including a consideration of the
 20 financial relationship between the authorities and the State and
 21 the possible allocation of toll road revenues.

22 The commission shall report its findings and recommendations
 23 to the Governor and the Legislature with any proposed legislation
 24 it may desire to recommend for adoption by the Legislature no
 25 later than one year from the organization of the commission.

1 5. The commission shall organize as soon after the appointment
 2 of its members as is practicable. The commission shall elect a
 3 chairman from among its members and the chairman shall appoint
 4 a secretary who need not be a member of the commission.

1 6. The commission shall be entitled to call to its assistance and
 2 avail itself of the services of such employees of any State, county
 3 or municipal department, board, bureau, commission or agency as
 4 it may require and as may be available to it for its purposes, and
 5 to employ such stenographic and clerical assistance and incur
 6 traveling and other miscellaneous expenses as it may deem neces-
 7 sary in order to perform its duties, within the limits of funds
 8 appropriated or otherwise made available to it for its purposes.

1 7. The commission shall have all the powers provided by the
 2 provisions of chapter 13 of Title 52 of the Revised Statutes.

1 8. The commission may meet and hold hearings at a place or
 2 places it designates during the sessions or recesses of the Legis-
 3 lature.

1 9. There is appropriated \$15,000.00 to the commission from the
 2 General Fund to effectuate the purposes of this act.

1 10. This act shall take effect immediately and shall expire on
 2 the 30th day after the submission by the commission of its report
 3 and recommendations to the Governor and the Legislature.

STATEMENT

The time is now propitious to study the role and function of
 the toll road authorities in the State's transportation system, in
 view of the increased necessity to secure greater coordination of

the parts of that system. To this end this bill provides for the establishment of a "Toll Road Authorities Study Commission" to study and make recommendations concerning the role of the toll road authorities in the State's transportation system. The commission is to consist of 17 members as follows: five are to be members of the Senate appointed by the President thereof; five are to be members of the General Assembly appointed by the Speaker thereof; five are to be public members; and the remaining two members are the Commissioner of Transportation and the State Treasurer ex officio. The commission is given one year to complete its work and to report its findings and recommendations to the Legislature and Governor. The sum of \$15,000.00 is appropriated to the commission.

AUTHORITIES AND REGIONAL COMMISSIONS

Creates commission to study the role of the toll road authorities in the State's transportation system, appropriates \$15,000.00.

TABLE OF CONTENTS

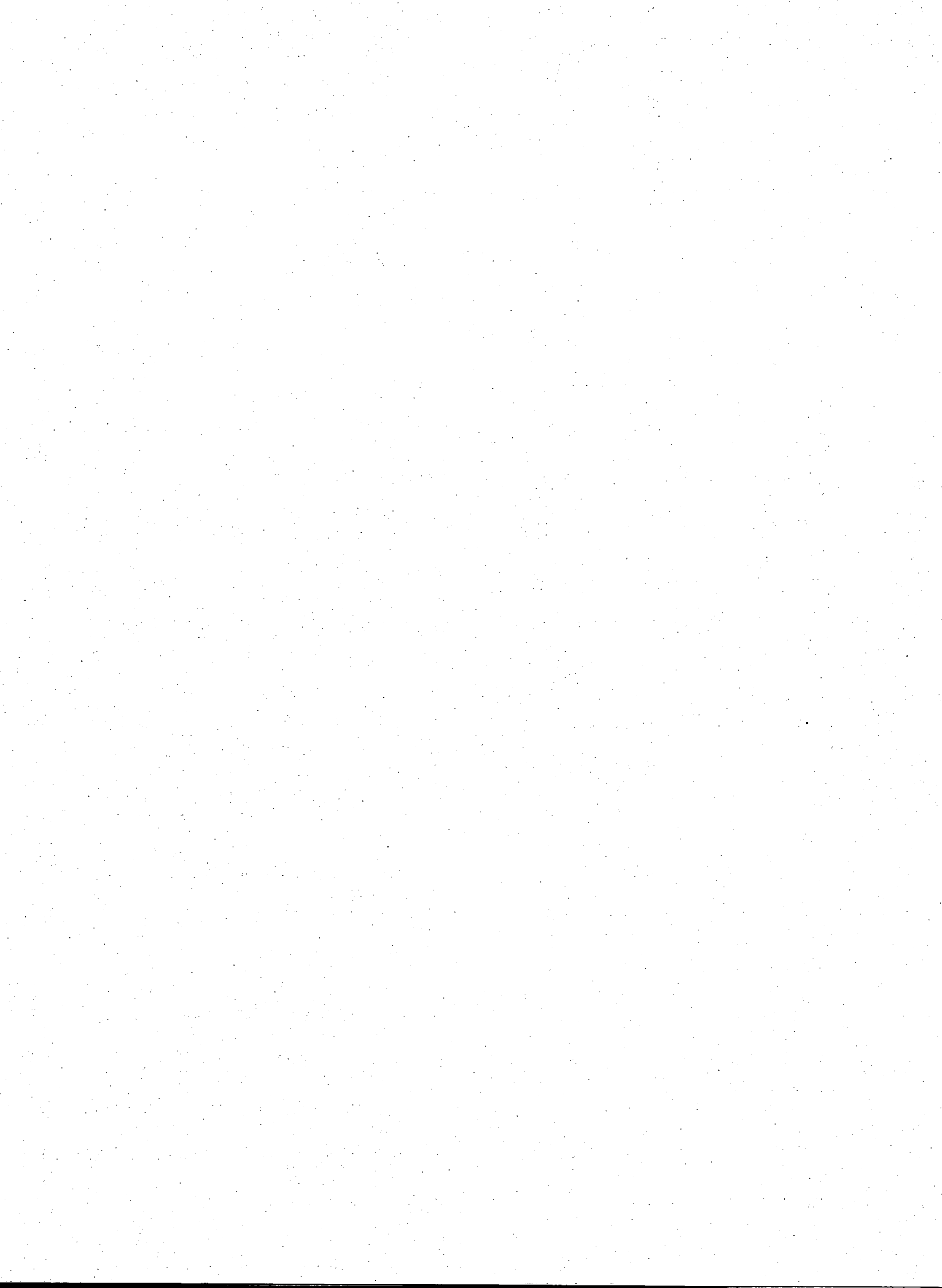
Page

Joseph A. "Bo" Sullivan Chairman New Jersey Turnpike Authority	3
Hazel Frank Gluck Commissioner New Jersey Department of Transportation	15
D. Bennett Mazur New Jersey Assemblyman District 37	31
Jack Sadow Representative Central New Jersey Transportation Board	47
Lois E. Braithwaite Chairwoman New Jersey Expressway Authority	51
Donald B. Vass Executive Director New Jersey Expressway Authority	59
George P. Zilocchi Executive Director New Jersey Highway Authority	63

APPENDIX

Statement and Letter Submitted by George P. Zilocchi Executive Director New Jersey Highway Authority	1x
Executive Order No. 172	10x

* * * * *



SENATOR WALTER RAND (Chairman): Good afternoon. My name is Walter Rand and I'm Chairman of the Senate Transportation and Communications Committee. I would like to welcome you here today to this public hearing. At this time let me introduce to you those persons who are present here at the Committee table. On my right is Senator Gagliano and on my left is Senator McManimon. If you wish to give testimony today and have not notified the Committee, please give your name to Peter Manoogian, our Committee Aide who is sitting right next to me, and also Madelyn Rumowitz, who is the staff assistant to the Majority, and John Strachan who is the assistant to the Minority.

I call this public hearing to order for the purpose of receiving testimony concerning three bills dealing with the toll road authorities, namely S-3081, S-3082, and S-3083. S-3081 requires the renegotiation of the contracts with the three toll road authorities to increase the amount of the annual State payment from the aggregate amount of \$24.5 million to \$49 million -- a doubling of the amount of the payment in the case of each authority. It should be noted that the toll road authorities' revenues have increased since the original payment contracts were entered into.

S-3082 provides that the Commissioner of Transportation shall be an ex officio voting member of the three toll road authorities. The membership of each of the authorities shall thus be increased by one, as shall the quorum required to conduct business.

S-3082 creates a Toll Road Authorities Study Commission to study and make recommendations concerning the role of the toll road authorities in the State's transportation system. The Commission is to consist of 17 members: Five Senators, five members of the Assembly, five public members, and two ex officio members -- the Commissioner of Transportation and the State Treasurer. The Commission is to

look into the present and future role and functioning of the toll road authorities in the State's transportation system, proposals for change, and finally a consideration of the financial implications of any change in the role of the authorities.

These bills thus address the relation of the toll road authorities to the State's transportation system in regard to the Department of Transportation, the financial contributions of the authorities, and their future role. Thank you for your attention to my remarks. We look forward to the testimony to be presented here today.

Before we start and call those people who are going to testify before us, Senator Gagliano, I'm sure, has some things to say. And Senator McManimon, I will call on you afterwards.

SENATOR GAGLIANO: Thank you very much, Mr. Chairman. I don't have any prepared remarks. I think, though, that the concept of these hearings is very timely because the toll road authorities in New Jersey have-- They've basically done a good job. They have expanded over the past several years. Their revenues have expanded, and I think that it is a good idea for us to look at the entire situation so that we can help out in terms of bringing what we do through the Department of Transportation and what the toll road authorities do through their individual commissioners, to bring them together better. So, I'm happy that you've introduced this legislation and I'm very interested in what the testimonies will bring us.

SENATOR RAND: Thank you very much, Senator Gagliano. Senator McManimon?

SENATOR McMANIMON: I have no real comments to make at this time, Mr. Chairman. I'm going to be a listener today.

SENATOR RAND: Thank you very much, Senator. The next speaker that we will hear is Mr. Joseph Sullivan, the Chairman of the New Jersey Turnpike Authority. Good afternoon sir. It's a pleasure to have you with us.

J O S E P H A. "B O" S U L L I V A N: Thank you. Good afternoon. As Chairman of the New Jersey Turnpike Authority, I appreciate this opportunity to offer comments to you upon Senate Bills 3801, 3082, and 3083. Although throughout my remarks, I will refer frequently to the Turnpike specifically, I believe that most of my comments and points apply equally to the New Jersey Highway Authority, which is the Garden State Parkway, and the Atlantic City Expressway. I'll attempt to keep my statement brief so as to allow ample time for questions by the Chair and other members of the Committee.

Senior members of the New Jersey Highway Department and Atlantic Expressway are present and I'm informed that they'll be happy also to answer questions. Chairperson Lois Braithwaite, of the Atlantic City Expressway is here and will give a statement. Executive Director George Zilocchi of the New Jersey Highway Authority has submitted a statement and is also on hand to answer any questions that may appertain to their individual authorities.

My comments will be rather general in nature, even though many of the issues raised by these three bills under discussion are of a technical legal nature. Therefore, with the permission of the Chair and the Committee, we would like the opportunity to submit after the today's testimony a written statement prepared by senior attorneys, general counselors, and bond counselors, rather than take up your time with that type of technical testimony.

SENATOR RAND: Mr. Sullivan, that would be fine. And along with your statement, we would like to have, before you start -- and I'm sure this Committee will and I know that Senator Gagliano would like to see that -- we'd like to have a statement as far as your revenues are concerned for the last five years, and your expenditures. We think that you probably have that in your annual report, but I don't know if we have all the five annual reports. If you can get us that information we'd be most happy.

MR. SULLIVAN: We'd be happy to furnish that.

SENATOR RAND: Thank you very much.

MR. SULLIVAN: With respect to Senate Bill 3081 which is designed to provide for negotiated modification of Turnpike payments to the State, and as the Chair recognized earlier, to double those payments from the Turnpike from \$12 million a year to \$24 million a year and also provide, if necessary, for any refinancing which might be necessary to do that.

I'd like to just take a brief moment to explain that the way the Turnpike operates is that the operation of the roadway, the day-to-day operations and the maintenance service, are provided for from toll revenues. In addition, toll revenues are used to retire existing debt. When the Turnpike was started and as it continues, major capital expenditures are made available through borrowings in the private sector. In order to borrow money -- Turnpike revenue bonds -- we have to promise, as a borrower, certain things to those who are willing to loan us the money. Those promises are generally referred to as bond covenants. They are contractual obligations of the Turnpike and of any authority so borrowing. And they are what the lenders rely upon based upon the rating agency's analysis of those covenants and of the amount of financial coverage that is projected that the tolls will cover.

I'd like, if I could just for a second, to read just some small portions as it relates to the contract that we signed with the State of New Jersey on April 17, 1984 in order to make those contributions. Title 27, section 23-7 provides in part, that: "The State will not limit or restrict the rights hereby vested in the Authority to fulfill the terms in any agreements made with the holders in the bonds, or in any way impair the rights or remedies of the holders of such bonds until the bonds, together with interest thereon, are fully paid and discharged." And further reference to that agreement is provided in Sections (sic) 27, section 23-9 under "Revenues"

which traces the flow of funds and how the Turnpike must allocate those revenues as they come in. And as amended on July 10, 1984, that section provides that: "The requirement of this paragraph will be deemed to be satisfied during any period. The New Jersey Turnpike Authority shall have a contract providing for payments of funds to the State of New Jersey Transportation Trust Fund Authority created pursuant to Public Law 1984," etc. "And no payment, in addition to that paragraph required, under the contract or in the amendment thereto, shall be payable pursuant to this paragraph."

SENATOR RAND: That's a 20-year contract?

MR. SULLIVAN: Yes, Mr. Chairman.

SENATOR GAGLIANO: What section is that? I'm sorry.

MR. SULLIVAN: Twenty-seven, 23 - 9. I think that to that extent there may be a slight difference, Mr. Chairman, between the Turnpike agreement with the State and the agreements that the State has with the other toll road authorities. But I'm--

SENATOR RAND: They are 20 years, except the Atlantic City Express is in perpetuity.

MR. SULLIVAN: Correct.

SENATOR GAGLIANO: How much was the borrowing under that, Bo? The total borrowing?

MR. SULLIVAN: Two billion dollars.

SENATOR GAGLIANO: That was \$2 billion?

MR. SULLIVAN: Yes sir. Going into January 1984, the Turnpike had outstanding bonds in the amount of approximately three quarters of a billion dollars. We did a refinancing in '84 to allow us, within the new covenants, to allow us to give the State the \$12 million.

SENATOR RAND: When was that refinancing done?

MR. SULLIVAN: That refinancing was done in August of '84.

SENATOR RAND: And that was for how much money for the entire debt?

MR. SULLIVAN: That was just a refinancing of the entire \$750 million--

SENATOR RAND: Of the entire debt?

MR. SULLIVAN: --and what we did was by doing a load of high refinancing, we were able to reduce the amount of the debt outstanding from three quarters of a billion down to a half a billion. Prior to that refinancing there was no provision that would have permitted the Authority to make the contribution to the State in accordance with the contract which we were entering into with the State.

Having done that, we then went out in anticipation of the widening and improvement program in November of 1985 and raised \$2 billion for that widening. Those covenants are similar and those are the covenants that I've just referred to in this testimony.

SENATOR RAND: And then you refinance-- You didn't refinance that \$2 billion?

MR. SULLIVAN: What happened on that Senator, is that we provided it, because in late 1985, when we went out with this bond issue, interest rates, the tax-exempt sector, were around 10%. We provided that the bonds would exist in a short-term variable rate mode until such time as the rate reached 7.25 or lower. We hit that down spike in the earlier part of this year. And in February, in fact, we did convert the same bonds, not new bonds, but converted those bonds from the short-term variable rate mode to a long-term fixed rate mode at 7.2%.

SENATOR RAND: And that's where you save -- about \$348 million.

MR. SULLIVAN: That's correct, Mr. Chairman. Rates are back up substantially at the present time.

SENATOR RAND: We don't want you to refinance it.

MR. SULLIVAN: I'd like to take credit for being smart, but I think I'm lucky.

SENATOR RAND: It's to your credit that you did it at that particular time. You grab a hold of whatever advantage that you can get a hold of, Mr. Sullivan.

MR. SULLIVAN: Thank you. If we were to have to refinance and to rewrite the covenants again to change the payments again, I think it would be at great cost to the Authority and eventually to the toll payers because of the rate slippage in the meantime, as provided for in that bill.

SENATOR RAND: Forgetting the covenant and forgetting your bond structured payments, you don't have any reserves? You have surplus accounts, you have no reserve accounts?

MR. SULLIVAN: All the reserves which we keep, Senator, are allocated again in the section which I first referred to the revenue flow of funds where the monies go into separate pots for security for the bondholders. Anything over and above that is used for operations and--

SENATOR RAND: Could you give this Committee a copy of all of the reserve funds that you have and earmark them for what purpose?

MR. SULLIVAN: Absolutely, Mr. Chairman.

SENATOR RAND: I tell you that so that you know, because there is a question as to the amount of reserve funds and as to what categories they are stipulated for, and as to whether you need those type of reserve funds in the various categories for that total picture.

MR. SULLIVAN: What we do in setting up the reserve funds, is really to try to follow to the greatest possible extent the formats and reserves that are required by the rating agencies: Standard and Poor's, and Moodys. There's a way of cutting your nose to spite your face, if you will. If you have insufficient reserve funds, you get a poorer rating, pay higher interest rates, and over the long run, pay more money.

SENATOR RAND: I am not attempting in any way to put you in a corner -- at least this Committee member is not, and I don't think my other Committee members are -- to put you in any precarious position where you don't fulfill the obligations of your bond covenants. What we want to do, very frankly, is to see if there are some -- I don't what to use the word "hidden," because that's really not hidden -- but I know there are pots allocated and I know enough about finance to know that there are various pots and sometimes they can be consolidated. If that be the case, we're not trying to force you with a gun, very frankly, Mr. Sullivan, to give us \$12 million dollars more. That's not the purpose of this. We'll develop a rationale of why we're doing this a little bit later on after you've testified. But we think we're entitled to look at those respective budgets, where that surplus is allocated and for what reason.

MR. SULLIVAN: We will provide you, Senator -- Mr. Chairman -- with the flow chart of funds and match that flow chart up with the revenue allocations in accordance with the bond covenants and hopefully it will be cleared up so that I can understand it.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: Mr. Sullivan, I guess what I would like to know is whether or not the Turnpike has had any experience with respect to Moodys, Standard and Poor's, when and if you suggested to them that, "Well, the State of New Jersey needs a little bit more money." In a situation where we have \$2.5 billion worth of indebtedness, we have an income stream of whatever it is, and we have certain requirement of reconstruction and maintenance and repairs, is there any point in which there would be an amount of money that you could pay over to the State of New Jersey for services rendered or something which would be insignificant in terms of your overall income? By that, I hate to say the \$12 million is

insignificant, it's certainly not to me, but I just wondered if there was any way that that would be sort of a diminished payment that you could say, "Well, we can do that." And I think I'm saying it from another direction than what the Chairman is talking about. He's saying that these things can be consolidated. I guess I'm saying that there may be some services that the State could render or has rendered, or will render or some cooperative effort which would justify that much of a contribution. Because after all, we are all the same island. You're not a separate island. We're all together in this and we may need more money.

MR. SULLIVAN: I understand the question, Senator. We do in fact assist the State in other ways which I will mention later. We partially funded the Route 3 Corridor Study from Hudson, Passaic, and Essex Counties. We partially have funded the Meadowlands Transportation Brokerage System, and do things like that. Again, I don't know the exact answer as to where you get beyond a diminishing number and get into some sort of a problem with the rating agencies. And that's the question.

SENATOR GAGLIANO: You haven't consulted with them at this point?

MR. SULLIVAN: No, we haven't. And the other question is that I don't know where you trigger legal action, if you will, on the part of the bondholders for violation of a covenant and a contract. Again, with the permission of the Chair and the Committee, the attorneys and the bond counsels will see to it that they address those issues in their legal briefs.

SENATOR GAGLIANO: Thank you.

SENATOR RAND: Senator McManimon? (negative response)
Senator Cowan? (negative response)

SENATOR RAND: Mr. Sullivan, when you structure your bond payments, they are based on a source of revenue. The structure of your 1985 bond offering-- How does that compare

with your revenues that you projected then, the revenues that you projected in '86 and '87, and how do they compare with the actual revenues? Are they the same, are they lower, or are they higher?

MR. SULLIVAN: In the interest of financial prudence, we follow the rule when we do the structure and do the projections of using conservative estimates as to what our revenue growth will be. We estimated when we did this \$2 billion issue originally in 1985, we projected an annual revenue growth based upon traffic numbers of approximately 4% per annum. In fact, it running about 7.5% per annum.

SENATOR RAND: Let me interject, and it's not that I want to stop you -- the fiscal advisors that I have tell me-- Is that in excitement of the statement that Sullivan made? (comment to a man in the audience who dropped his camera -- laughter) The fiscal advisors that I have asked for some information tell me if there is a variation of the projection of revenue anticipated for the stream of your payments, and there is a differential -- let's take here, 3% -- then you have the ability in that 3% to not disregard the covenant, but to do those things that the board of directors or the commission wants to do. Is that true or not?

MR. SULLIVAN: I really don't know, Senator. I think that's a question for--

SENATOR RAND: Senator Gagliano, do you have the--

SENATOR GAGLIANO: That is the minimum amount that I was talking about.

MR. SULLIVAN: That's the question that I think will have to be addressed by bond counsel.

SENATOR RAND: Because, well very frankly, the thrust of, I think, this Committee's idea is to certainly not in any way tamper with your mechanism of financing, but certainly if your revenues are increasing and we think that the State of New Jersey offers roads which certainly embellish the getting on of

our system -- and when I say your system, I don't mean your system, I mean our system -- and we just think that in the eyes of reality and prudence, that it's not too much to ask provided it causes no harm or it causes no impact on your financial status, on your rebuilding of your road, or on any of the services. And that's, I guess, the thrust -- and I'm glad that you brought it out with the help of Senator Gagliano. That's the thrust of what I'm trying-- If I thought that the \$12 million additional that we were asking-- And by the way, I don't think that this bill is the total answer.

I believe that somehow that through the Treasurer and the Department and your people, that it ought to be a growth figure in the future as I think all the toll authorities-- As the revenues, as the amount over the anticipated cost of your financing and your services, if it goes up 5%, I think that the State is entitled to a little piece of it. I don't think that we should be asking for it in the sense of charity, but I don't think we should hit you over the head. I think that there ought to be a negotiated process.

Maybe this bill is not the way to do it. I'm not going to argue that point. Maybe the bill is just a triggering mechanism to allow the Department to sit down -- and I don't mean to hit you over the head -- or stick a gun -- every six months or every year, but we just finished a \$2.7 billion -- which you helped. There's no question about it. We are not looking forward at a \$4 billion proposal. Of course, I won't get on that. I don't think that a four-year program in the future is the answer to our problems. I think rather, a longer program-- And I want to face that so that this Committee and this Legislature at least has the ability of getting all the resources that are necessary for that endeavor.

MR. SULLIVAN: I appreciate that Mr. Chairman. And if you don't disagree, I would like to add that first of all, our widening program, as you've mentioned, is designed to be a

20-year build. We agree that short-term projects in transportation these days -- the time seems to go so fast and the State changes so rapidly, that it's difficult to do short-term projects that accomplish where you want to be at the appropriate time.

Secondly, the one other factor I think we have to consider in studying this issue with you is the bottom line that wherever the money goes to, it eventually must come from the toll payer. Based upon our original estimates of those conservative estimates of conservative growth, and high interest, we had originally planned and projected in the bond covenants that we would be raising tolls -- this was in November of '85, we were forecasting a toll increase for July of '86. Well, here we are now -- mid-June of '87 -- and thanks to the fact that we've been able to have the traffic growth and the consequent revenue growth accompanied with savings in interest rates, we have been able to successfully to postpone that toll increase. So, I think that's a consideration that as we all work together that I just wanted to add that one piece to the equation.

SENATOR RAND: Absolutely. Senator Gagliano?

SENATOR GAGLIANO: Bo, if you can remember, what were the gross revenues of 1986?

MR. SULLIVAN: About \$186 million. We average about a half of million vehicles a day and the average toll is around 99 cents and the average trip is around 26 miles.

SENATOR GAGLIANO: One hundred eighty six million for '86 and you think you are up around 7.5%.

MR. SULLIVAN: This year we are up around six.

SENATOR GAGLIANO: Six percent?

MR. SULLIVAN: Yeah.

SENATOR GAGLIANO: So, it would be about 190 or 198 by the end of this year. Close to 200 million.

MR. SULLIVAN: It starts to run into money.

SENATOR RAND: Yes it does. We have to simply say that we just want you to help us out.

MR. SULLIVAN: The toll revenues was \$173 million and concession revenue was \$8 (sic) and then we had income from the investment and miscellaneous income. So the total revenues were \$193 million, up from 181 in '85. So it's--

SENATOR GAGLIANO: One ninety--?

MR. SULLIVAN: One ninety three point three.

SENATOR GAGLIANO: One ninety three overall, that included interest income on whatever you could invest.

MR. SULLIVAN: Yes sir. In '85 it was 181.

SENATOR RAND: Gee, there's our 12 million. (laughter) You will find us not very hard to deal with.

MR. SULLIVAN: I never have, Mr. Chairman.

SENATOR RAND: Senator Hurley.

SENATOR HURLEY: Nothing, Mr. Chairman.

SENATOR RAND: Do you want to continue? You may continue -- absolutely.

MR. SULLIVAN: As I said, Mr. Chairman, with your permission, we will provide additional documentation, legal briefs, etc., on that subject. With your permission, I'd like to move on to Senate Bill 3082 and 83.

3082 provides for making the Commissioner of the Department of Transportation the ex officio member of the authorities with voting power and the power to designate a voting representative. Presumably, this bill intends to provide the Commissioner of Transportation with a modicum of control over the authorities and enhance communications and cooperation. And Bill 3083 is designed also to secure greater coordination of the State's transportation system. Specifically, with reference to Bill 3082, the amount of time required to be a voting commissioner should be taken into account, I believe. I've known and worked with Commissioners of Transportation from Lou Gambaccini, Ann Canby, John

Sheridan, and Roger Bodman. Now I have the pleasure of working with Commissioner Gluck.

SENATOR RAND: This was Commissioner Gambaccini's original bill, if you remember.

MR. SULLIVAN: Yeah, a long time ago.

SENATOR RAND: I want you to know that the Honorable Commissioner Gluck did not press me to put this bill in. In no way did she influence me.

SENATOR McMANIMON: Well, she's got a lot of time.
(laughter)

MR. SULLIVAN: The point is that I have never met a Commissioner that felt that they were under worked and over staffed. They are extremely busy and have very broad responsibilities. I'd like to point out that the meetings alone for the authorities, I think you have to, conservatively, at least allocate, at a very, very minimum, a day and a half per month -- days in preparation in reading the materials that are required to participate thoughtfully in the meetings, and another half a day at least to participate in the meetings themselves. And ongoing throughout any given month there is a lot of data that comes through from the staff that has to be reviewed. So that again, as a minimum, I think what you are talking about for the Commissioner of Transportation is adding, with three authorities, at least five full days of additional work to his or her schedule. The idea--

SENATOR RAND: That's why we have assistant commissioners. And they are good. We have a good professional staff.

MR. SULLIVAN: Oh sure, I work with them all the time. The use of proxies or designees have never previously been permitted at the independent authorities. I think to delegate that type of power to paid staff would probably send a signal of reduced independence of the authorities and prestige to the Wall Street--

SENATOR RAND: It was never our intention to have a lesser person rather than -- no less than an assistant commissioner. We feel very strongly about that. You're absolutely right. Of course, we'll hear from the Commissioner -- maybe she's got some other ideas.

MR. SULLIVAN: It should also be noted, I think--

SENATOR GAGLIANO: She'd have the meetings on Saturdays of Sundays so she could make them herself.

COMMISSIONER HAZEL FRANK GLUCK:
(speaks from audience) Of course. That's what they are objected to.

MR. SULLIVAN: It should be noted that the Department of Transportation has also its own set of priorities, especially regarding appropriations and allocations of resources. These priority pressures, it would seem, would automatically prima facie create inherent conflicts of interest with broad legal and constitutional questions. Then again, the lawyers will submit their ideas on that particular subject. I think by complete change of character and independence of the New Jersey independent toll road authorities, certainly to the detrimental image of the reputation of the authorities, with the rating agencies and bondholders. With regard to the issues of control and coordination as is often the case, and as we all well know in government, there's is sometimes a vast gap between the reality and the perception. Even the Bill 3083 cites that the toll roads authorities were created primarily for the purpose of constructing various toll roads projects and line five because the toll roads authorities had continued to issue new debt. The organization structure and operations have continued which seems to be an inferential -- at least by inference -- an idea that perpetuates the myth that we were there to perpetuate ourselves or at least at the staff level. I would just like to know in our enabling legislation-- Title 27 section 23-1 -- the primary duty of the Turnpike is to

construct, yes, but also maintain, repair, and operate Turnpike projects which are later defined, embodying every known safety device, so that our legislative charge is broader than just to construct the road to begin with. The perception which we've all seen and which is often quoted in the media is that the toll roads are responsible to no one -- they go their own merry way, arrogantly ignoring the interest of others and the common good in an effort to succeed in only self-perpetuation. Nothing, I think, could be farther from the truth than that perception.

We would be happy also to share with the Chairman, the Committee, and staff the volumes of documents of correspondence, memoranda, and minutes of meetings to show the amount of continuous and extraordinary interaction that goes on between the various agencies involved in transportation within the State. As to the issue of government control, several points should be made.

First of all, the Governor has absolute veto power over any action that the Authority takes. Second, at every Turnpike meeting, whether it be public or exempt, there are present representatives of the Governor's Independent Authorities Unit, the Office of the Treasurer of this State, and the Department of Transportation. After every meeting, seven sets of minutes are sent to the Department of Transportation for review in coordination, and five sets are sent to the Office of the Governor and the Governor's Office of Policy and Planning.

In addition we routinely coordinate with the Office of the Governor and the Governor's Counsel, and work with, on a continuing basis, the Department of Environmental Protection, the Department of Commerce, the Department of Community Affairs, the Federal Highway Administration, the Regional Planning Association, North Jersey Transportation Coordinating Council, the Department of Transportation, New Jersey Transit, Garden State Parkway, the Atlantic City Expressway, the New

York/New Jersey Port Authority, the Hackensack Meadowlands Development Commission, the Sports Authority, and every county and municipality that is touched by the Turnpike. We also work with the State Planning Commission, and as you know, with the legislators and their staffs. I personally, in addition, serve on the Assembly Task Force on the 21st Century for Future Planning.

We are a member of the Port Authority Regional Communication Center whereby New Jersey roads and transportation systems are tied in with those in New York State under the Port Authority heading of TRANSCOM and are contributing to that. We participate financially and by membership in the Meadowlands Transportation Brokerage Ride Sharing Program, and we participate with the Department of Transportation and help fund and work in the Route 3 Corridor Study. We routinely interact with the Chambers of Commerce -- State, regional, and local -- with the Rotaries, first aid squads, fire departments, the Jersey Motor Truck Association, and with the various labor unions that we are involved with.

With specific reference to our widening project, we have an engineering staff person liaison with every municipality that's affected by the improvement and construction. We're working with the major utilities. We're involved with all the soil conservation districts and numerous independent environmental groups. We're also involved with, on a day-to-day basis the Army Corp. of Engineers, the U.S. Coast Guard, the Federal Environmental Protection Agency, the offices of Air and Water Quality, Fish and Wildlife, and the President of the United States Office on Environmental Quality, and also with our U.S. Congressmen and Senators.

This type of cooperation, I'd like to add, lead to the construction of Interchange 13A seven years ago, whereby the Turnpike did not have the funds to do it alone and the 13A was built at the Elizabeth end of Newark Airport on a tried

part-time basis with the Port Authority and the Department of Transportation. It really alleviated the need for DOT to build the Route 81 by-pass through Elizabeth. And I might add that 13A is today very, very rapidly growing and widely used. I think for anyone who lives south of Newark Airport it has provided much better access to that airport.

Also last year, a memorandum of agreement was signed between the Turnpike and the Department of Transportation outlining joint programs to be cooperatively worked on as part of our widening and mass transit system and the Hudson County Waterfront Development. We're extremely proud of this factual record of cooperation, interaction, and coordination with other groups and agencies. We're proud that the International Bridge, Tunnel, and Toll Road Association considers the three independent toll roads of New Jersey to be the best in the world and frequently calls upon all of our authorities for advice and technical expertise.

Finally, I'd like to point out that the Governor's Task Force on Transportation in 1983 did study our roads extensively and part of that report is what lead to the creation of the Transportation Trust Fund. And I refer your staff to that report also.

That concludes my remarks, Mr. Chairman. I'd be happy to answer any further questions at this time.

SENATOR RAND: Senator Cowan, do you have anything? (negative response) Senator Gagliano?

SENATOR GAGLIANO: Mr. Sullivan, I think we're very familiar with the operation of the Turnpike. I think it's very well managed and I really appreciate your comments because it does remind us of how involved you have to be because you go through so many counties and so many municipalities. But, what I see here is the need for us to address the transportation problems of the State, and this is going to take revenue from many sources. I would like to be able to see support from the

Turnpike Commissioners somehow for the monies as outlined in the bill. Your gross revenues will probably hit \$200 million this year and I don't have any idea of what your bond payments are, what your maintenance charges and what your construction costs will be. And maybe \$12 million is more than you can afford--

SENATOR RAND: We can be talked to, Senator.

SENATOR GAGLIANO: Yeah, but I think there are certain amount of contacts, I don't know how to put it, but I remember the contacts, for example, between places where you have your interchanges and DOT has either our mass transit or highway systems which touch, so to speak, where lots of work has to be done. I guess that's what I'm looking at, where we could, on some cooperative basis -- even if we look at those and study those and say, "Well, here we are," as you did for 13A, and say, "We need another entrance to Newark Airport." It was going to be stifling because of-- Was it 14?

MR. SULLIVAN: Yes, Interchange 14.

SENATOR GAGLIANO: It is always so tough. You needed 13A very badly. We came up with it and it's helped tremendously. Again, that was a cooperative effort and I think that the-- What was the Turnpike share?

MR. SULLIVAN: Thirty.

SENATOR GAGLIANO: Was it 30 or 40 million? Wasn't it about a \$80 million job?

MR. SULLIVAN: Yeah. I paid a third.

SENATOR GAGLIANO: Yeah. That's \$27 million anyhow. So, I guess that's what I'm looking at. If there's any way that we could come to an agreement to increase the support that we get and yet, we don't want to trigger a toll increase. It's not a matter of saying, "We'll take it even if you have to collect more money." I don't think we want to do that.

SENATOR RAND: No, but in the same sense, we don't want them to blame us if they have to have a toll increase. I want to be very, very clear on that.

SENATOR GAGLIANO: That is why it was a part of my speech. I want that in the record that we don't want to trigger -- in anything we do or suggest -- a request. We don't want to be the ones that trigger a toll increase. What we want to do is to work together and see if we can have some more money available to us.

MR. SULLIVAN: Mr. Chairman, Senator Gagliano, I agree. Basically, we're all on the same team here, trying to work for the betterment of the State and the transportation system. And specifically with respect to some of the questions that Senator Gagliano raises, the agreement that we do have with the State Department of Transportation addresses several or many of those exact issues. We're currently working with the DOT to design and build a park & ride at Interchange 9 which is at the northern end of our southerly expanding of the Jamesburg/Cranbury area which, if you study the demographics and travel patterns in that area, is certainly needed and will assist in the mass transit system and help get those people to work in a more convenient way.

At Interchange 10, on the site of the old Raritan Arsenal, we again are working with the Department of Transportation and New Jersey Transit to put into place a park & ride at that very critical area in Middlesex County for the same reasons. At Interchange 11, where the Garden State Parkway comes together with Route 1 and 9 and the Turnpike, just above, just north of Interchange 11 is a rail facility which we understand in working with New Jersey Transit, they are going to try to tie in for commutation. If they are successful in doing that, we have pledged to build a shot from our toll plaza so that, for example, if you're driving, Senator, from your area of Monmouth County, you could drive up the Parkway, get off of at Interchange 11, and hit a parking lot on a straight shot, and get on a New Jersey Transit facility which again we hope will facilitate mass

transportation use in that area for the convenience of the commuters, especially from Monmouth and Ocean Counties and from the easterly part of Middlesex County.

Furthermore, above that, at Interchange 13A, specifically, we're working with the Department of Transportation, New Jersey Transit, and the Port Authority. And I'm sure you are all aware, Mr. Chairman and members of the Committee, that there's been a lot of talk about the Port Authority implementing people mover systems and other transit systems within Newark Airport. And we are looking also to build and operate, in conjunction with the Port Authority/New Jersey, a park & ride facility and service for the Airport at the area of Interchange 13A.

Further, on our Newark extension, where we connect with the Holland Tunnel, as we all know, I think Route 495 which is the loop into the Lincoln Tunnel, is extremely congested. In an attempt to alleviate that, we're working again with the Department of Transportation and the Port Authority whereby if the Port Authority continues with its study, they will run a mass transit system, probably a bus, up Hudson County from approximately the entrance of the Holland Tunnel up to the Lincoln Tunnel and we will provide the necessary ingress and egress ramps for that and are working with them in that planning stage.

We're working also with the Department of Transportation with respect to the Trans-Hudson crossing problems at the Lincoln Tunnel and they are studying the possible relocation of Interchange 17 to see if we can free up, somehow, that bottleneck that exists right now with tremendous traffic that's there. The exclusive bus lane is now operating in 50% in excess of capacity. I'm pleased to say that we work closely with New Jersey Transit and DOT on that.

Hopefully, also with respect to mass transit, if we are able to widen the westerly extension, we felt that there's

a great unused park & ride facility already in existence in the parking lot of the Sports Complex. If we can bring traffic down or up the westerly extension and have people park at the Sports Complex then in conjunction with the DOT and New Jersey Transit, bring them into the Lincoln Tunnel on exclusive bus lanes or the like, that that will help the situation.

We also have on the drawing board, New Jersey Transit reactivating the Weehawken Tunnel for light rail, bus, mass transit facility to service Hudson County in that tremendous growth that's going on there. In that respect, we have pledged to build a park & ride facility in the vicinity of that. Currently we have under way the engineering steps to expand the Vince Lombardi park & ride facility.

So, those are some of the things we're doing Senator and Mr. Chairman. We do view ourselves as part of a team and we're proud to be on that team. New Jersey, I think, is going in the right direction and we're just very pleased to be part of winning the game.

SENATOR GAGLIANO: Excuse me. Bo, are those, the things that you listed in respect to the park & rides and various other facilities-- Have they actually been authorized to be planned for by your engineers and consultants?

MR. SULLIVAN: Well, we're doing them one at a time, Senator.

SENATOR GAGLIANO: Do you have assigned engineering consulting contracts on each of these?

MR. SULLIVAN: On the Vince Lombardi we do. On the others we're at the planning stage and we do not move forward unless we have the cooperation of the Department of Transportation and the Commissioner's staff and our staff.

COMMISSIONER GLUCK: We'll do it tomorrow.

SENATOR GAGLIANO: Well, those items that you listed -- like all the members of this Committee -- I'm very much in favor of park & ride facilities. We really need them before

we run out of space to put them in. With respect to those items, have you provided the funding for them in the overall \$2 billion bond issue?

MR. SULLIVAN: For some of them, yes; for some of them, no. The ones that are not provided in the funding will come out of our regular capital expenditures revenue. We do not consider construction of park & rides -- which basically is rather inexpensive in the overall scheme of things; you don't have to put down eight inches of gravel and sand and all of that stuff -- we don't consider those to be extraordinary capital expenditures. And we do not see a need for an additional bond issue to do those projects.

SENATOR GAGLIANO: Thank you.

SENATOR HURLEY: Could I follow up on that, Bo? These projects that you are talking about, we know about DOT's dream list, wish list, whatever it is-- How far in advance do you make these projects public? For example, could make them-- How much could you tell this Committee? You told us today, but could you show us on paper about those things that you just mentioned or others? Can you provide us with a list of those things that you plan?

MR. SULLIVAN: We can show you the location on maps. We don't have any specific engineering specs which is, you know, a 100 scale or a 30 scale.

SENATOR HURLEY: You must have a wish--

SENATOR COWAN: What is it, in the pre-planning now? Is that the--

MR. SULLIVAN: Each individual one depends on the case. I know that they are very close to designing Interchange 8A.

COMMISSIONER GLUCK: (speaks from audience) May I just respond to you. We have an agreement with the Turnpike Authority as a result of going over the original Turnpike widening project that allow for these five park & rides that

Mr. Sullivan has been talking about. (Inaudible) came out of that agreement to scale that original Turnpike widening and to add facilities for mass transportation. I will be happy to supply you with copies of that agreement. That is public information, obviously.

MR. SULLIVAN: But there are no detailed drawings.

SENATOR HURLEY: Through you, Mr. Chairman, what I was driving at is, is that part of a master plan that you now have and is therefore for us or other people to see, or is it something that's just evolving and continues to be evolving?

MR. SULLIVAN: No, no. It's a plan and the locations are sited in the maps. And the experts at the staff level can take you--

SENATOR COWAN: How long ago did you consummate this agreement?

MR. SULLIVAN: That agreement was signed last summer.

SENATOR COWAN: Last summer. So it's in existence--

COMMISSIONER GLUCK: After I took my hand off the Bible, I went to a press conference with Bo.

SENATOR COWAN: Last May, so it's all formalized now. That's the main thing. And you can, even as the Commissioner, supply us with the agreement which indicates all of these thing.

MR. SULLIVAN: Yes.

SENATOR HURLEY: Excuse me. One more. You mean that everything that you've mentioned there is part of that agreement?

MR. SULLIVAN: Yes.

SENATOR HURLEY: I may shift gears one other-- Through the years we've heard rumors prior to your tenureship there. I don't think I've heard it since you've been there, but we heard some rumors about the traffic on the southern end of the Turnpike vis-a-vis the traffic on 295 and at least a potential desire for the Turnpike to do away with some toll facilities on the southern end -- let's say three or four. Are

those plans anywhere around? Have you ever contemplated that? Not even in the archives?

MR. SULLIVAN: I think that may be in the archives, Senator, because I think in certain sections in the southern part of the State, 295 and the Turnpike are directly parallel and are very close to one another, and I think one of the reasons there might have been some political acrimony that existed between the then head of the Highway Authority of the State and the Turnpike Authority--

SENATOR HURLEY: It was actually a part of the testimony before the Assembly Transportation Committee several ago.

MR. SULLIVAN: That's right.

SENATOR HURLEY: And I think in light of our inquiry here today, we ought to know what your plans are.

MR. SULLIVAN: We don't have any plans to eliminate any tolls in the southern part of the State and I have, in fact, included those revenues in our bond projections. Someone mentioned--

SENATOR GAGLIANO: We would hate to see you delete any. That's (inaudible) contemplated revenue.

MR. SULLIVAN: You talk about a wish list. Rather than a wish list, I have a personal expectation that if the growth that's occurring in the southern part of the State continues the way it is, the next Chairman of the New Jersey Turnpike Authority is going to have to grapple with the issues of widening the Turnpike in the southern section. And something else which as soon as we can get our head above water so to speak which I think needs to be studied, is a connection between the New Jersey Turnpike Authority and the Atlantic City Expressway. Because so many people come from the south across the Delaware Memorial Bridge, get on the Turnpike, and find it difficult to find their way over to the most prestigious resort in the world, Atlantic City.

SENATOR RAND: Build a road from Exit 2 over to the Atlantic City Expressway. It's easy, it's about 16 miles. (laughs)

MR. SULLIVAN: Hazel was going to do that.

COMMISSIONER GLUCK: As soon as I get a new (inaudible -- speaks from audience).

SENATOR HURLEY: Mr. Chairman, one other comment. The very extension that you're talking about is part of what is being studied now in that South Jersey Transportation Study. So, we should know at least at this date and time how people feel or how consultants feel about what should happen there as a connection to the Expressway or any other. Thank you.

MR. SULLIVAN: Thank you, Senator.

SENATOR RAND: Senator McManimon?

SENATOR McMANIMON: I thought Senator Hurley would jump on the little issue in your presentation that projected projects-- It seems rather ironic that you started everything north of New Brunswick and we didn't hear any other project going from New Brunswick south.

MR. SULLIVAN: Jamesburg north.

SENATOR McMANIMON: I think basically here we are in the most heavily traveled area right now with major corridor right here on Route 1. We know the problems we've got and the spin-off effects there. It's rather ironic. I would like to see what your projections would be for future changes or adjustments from New Brunswick right on down through the Delaware Memorial Bridge. Just so we get an indication, because you know, things are moving southward.

MR. SULLIVAN: Interestingly enough, Senator, when we did the original survey in '82 and '83 as to origins, destinations, and projections, we had originally thought that we would be widening the roadway which was our estimated guess, off the top of our heads, from Interchange 9 in New Brunswick north.

SENATOR McMANIMON: Nine to Cranbury.

MR. SULLIVAN: Yeah. And when the numbers came back, they taught us that from Interchange 9 to Interchange 11 there is existing sufficient capacity where we are dual-dual 12 lane road. But that where we needed widening was from 9 south to 8A.

SENATOR McMANIMON: Nine to Cranbury.

MR. SULLIVAN: My guess is knowing what is going on south of 8A -- that it won't be too long where 8A south -- at least Interchange 4 is going to have to be changed.

SENATOR McMANIMON: One other question. In respect of these being a proposed piece of legislation, you made one other statement of the fact that there were little constitutional questions. I think basically, it would be-- We'd be a remissive Committee if we were not made cognative of the specific areas where you feel the ramifications-- So, at least we have to know what avenue we have to pursue.

MR. SULLIVAN: Those items, Senator, will be covered by legal memoranda and/or briefs which would be supplied to the Committee and to the staff by the senior attorneys, general counsels, and bond counsels for the various authorities.

SENATOR McMANIMON: One other question in projection. The east/west concept of the Turnpike and the Parkway-- Have they given any more additional thought of that in respect to Central Jersey or South Jersey?

MR. SULLIVAN: We restudied it. If I have my year right, I believe in 1972 the Turnpike had a plan and was going out to bid and had acquired the right of way to build what was called the Toms River Expressway or on a partisan basis, the Driscoll Expressway which would connect just south of East Brunswick to Toms River. That became a political debate in 1973. Those that were opposed to the building of that expressway won the election and canceled and threatened to veto any further minutes of the Turnpike, should they proceed. We are just in the process now, these 14 years later, of selling all the properties.

SENATOR McMANIMON: It's unfortunate. It's a major problem we had with the central corridors as our only (inaudible) on 92. But I'm thinking about the tie-in from the Turnpike to the Parkway.

MR. SULLIVAN: We restudied it in 1982 and the traffic data and escalation of cost of construction that had occurred in those intervening nine years indicated that for us to have built it, even owning the right of way, would have necessitated a 100% increase in tolls on the entire Turnpike. Based upon that data, it was the consensus of the Commissioners of the Turnpike with the advice and consent of the Governor that the project be left to die, if you will.

SENATOR RAND: Anything else. Senator Cowan?

SENATOR COWAN: That's enough.

SENATOR GAGLIANO: Mr. Chairman.

SENATOR RAND: Yes.

SENATOR GAGLIANO: I have one other question. Bo, maybe the counsel could answer it if you can't. I think you probably can. For example, if the Turnpike Authority Commissioners decided that they should, in addition to what you've already planned and you got \$2 billion, so to speak, set aside for what you have already planned -- if for example, someone convinced the Commissioners and the Governor that it would be a good idea to have a eastern spur/western spur and let's say it would cost -- for a connection -- it would cost \$30 or \$40 million, under those circumstances, how would you go about acquiring that financing? Would you have to do another financing on top of this one or would you amend this one? How would you do it?

MR. SULLIVAN: We would do an additional financing.

SENATOR GAGLIANO: Based upon the projections of the these revenues.

MR. SULLIVAN: Correct, Senator.

SENATOR GAGLIANO: That's what I'm saying. You end up having one or two exits--

MR. SULLIVAN: What happens frequently in the norm is up until the enactment of the so-called tax simplification in Washington, this entire project probably would not have been funded in this way. One of the reasons we went out for the entire \$2 billion earlier was to have that money in the bank and be able to take advantage of the right to have reinvested proceeds which today we have not spent much of this money at all. This money is invested and earning interest at taxable rates while we're paying tax exemplaries. Therefore, that money is accumulating for the project. And we were able to get grandfathered in under the old tax law. I think it was wiser, because it just proves that we just proved that we saved a lot of money by doing that.

Absent that tax reform legislation in Washington, this project would probably have consisted of ten \$200 million bond issues each. And as frequently is the case, it's very difficult on a five-year project to exactly judge how much money you are going to need. Completion bonds are frequently issued as a new issue or as an additional issue. To do another major project, Senator, I think in addition to this, rather it be a spur or a connection, there would be another bond issue. But you would have to be careful to make sure that it would be subordinating bond issue and that those bondholders would be a subordinated to the primary first right bondholders under these covenants.

SENATOR GAGLIANO: Thank you.

SENATOR HURLEY: Mr. Chairman.

SENATOR RAND: I'll get right to you in a second. You couldn't do that under the tax laws today, could you?

MR. SULLIVAN: With the reinvested proceeds? No sir.

SENATOR RAND: And number two, I wanted to answer Senator Gagliano that there are some people who think even the \$2 billion project is entirely too high for one toll road. So, I don't know about them going out to do anything additional right at this particular moment. Senator.

SENATOR GAGLIANO: I was referring to Senator McManimon and his request to the things which he made, in a way.

SENATOR RAND: Senator Hurley.

SENATOR HURLEY: I realize that we could talk to each one of these authorities for days, but I want to just hypothesize a minute. Everybody keeps talking about a spur at the southern end going over to the Atlantic Expressway. Can't the Atlantic Expressway handle more traffic? I mean, why should we be talking about-- They're building a third lane now. Why should we talk about putting more traffic on that same road?

SENATOR RAND: They are building a third lane.

SENATOR HURLEY: I know. They are doing it now. But I said why should we--

MR. SULLIVAN: I wasn't referring to a situation Senator where we would be adding traffic. What I'm thinking was I was trying to ease the transportation for the current people who are using it already. It's difficult. If you drive up, for example from Washington, a lot of people from the Baltimore/Washington area drive up and avail themselves of the wonderful advantages offered by New Jersey in Atlantic City. They come across the bridge and get on the Turnpike and it's not really clear nor convenient to get on the Expressway.

SENATOR HURLEY: Thank you Mr. Chairman.

SENATOR RAND: Thank you very much. Mr. Sullivan, I'm going to ask you to do us a favor. I hope you are not going to leave. I'm going to call on Assemblyman Mazur. You are speaking for all of the authorities. Am I correct?

MR. SULLIVAN: Chairperson Braithwaite of the Atlantic City Expressway, I believe, has a statement.

SENATOR RAND: Okay. We'll get to you in a few minutes. Assemblyman Mazur would you-- I don't want to hold you up. I know you have other committee meetings. I know you have a statement to make. And Commissioner when did you want to speak? After Assemblyman Mazur.

A S S E M B L Y M A N D . B E N N E T T M A Z U R: Thank you for your invitation.

SENATOR RAND: Good afternoon, Assemblyman Mazur. Glad to have you with us. I know you enjoy appearing before this house.

ASSEMBLYMAN MAZUR: Always before you. Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you today to discuss what I consider to be a scandalous situation which exists in our State transportation system. While this scandal is not on a level with Irangate or Watergate, the situation regarding our independent highway authorities which could be called "tollgate" (laughter) is nonetheless a serious one which requires immediate attention by the Legislature.

The three initiatives sponsored by Chairman Rand under consideration today are important steps towards checking the runaway powers that these public authorities are exercising. I believe participation by the Commissioner of Transportation and the Treasurer on the boards of these authorities will result in a better coordinated transportation system and in greater accountability to the public. I would suggest to you that you consider adding the State Public Advocate to the boards as well thereby insuring that at least one member of each authority will be representing the interest of the motoring public.

I also congratulate you on your proposal to seek a greater contribution from the toll road authorities to the Transportation Trust Fund, our major funding mechanism for transportation capital projects. The breakthrough agreement with the authorities which led to their participation in the current Trust Fund put an end to the myth perpetuated for years by the authorities themselves that their bond covenants would prohibit such involvement. In shaping the original Trust Fund concept in 1984, you proved, along with Assemblyman Bryant as

Chairman of the Assembly side, that the toll road authorities could no longer justify shielding their hundreds of millions of dollars for profits which they call reserves from benefiting the public at large.

I therefore support S-3081 and S-3082 and urge their prompt enactment. But with all respect, Mr. Chairman, I do not think that your third bill, S-3083 goes far enough.

It has been over eighteen months since the New Jersey Turnpike Authority took one of the most audacious actions ever taken by a public agency in our history. Without any prior consultation or approval of the Legislature, the DOT, or of any of its sister transportation agencies or authorities -- I understand the Port Authority was notified three days before the announcement -- the Turnpike announced a massive expansion of its roadway, and promptly issued \$2 billion in bond debt to finance it. To pay the debt, the Turnpike proposed to increase its tolls by as much as 140% over current rates.

This means that the person traveling from Middlesex County, for example, to New York who paid \$5.00 in tolls for their trip in January of this year would be paying \$10.20 in tolls for the same trip. This factors in the 50% toll increase recently imposed by the Port Authority on their crossing. It is clear to me, as I believe it is to the taxpayers of the State, that these independent highway authorities have outlived their usefulness and we in the Legislature are to blame.

We created these monsters in the late 1940s and early 50s because our newly adopted State Constitution prohibited any dedicated taxes. Therefore, the Legislature created the highway authorities to expeditiously construct these roads which have become so vital to the economic life of New Jersey. The authorities would sell bonds to finance construction, then collect tolls until the bond debt was paid. Then they were to go out of business, leaving the highways to serve the public as free roads. The statute establishing the Turnpike Authority

goes so far as to require that the Authority cease to exist as soon as its debts are settled.

But we have permitted these bureaucratic anachronisms to continue, perpetuating their own existence by periodically issuing new bonds or refinancing their existing debt. They live and operate in virtual isolation adopting whatever plans or projects they wish without regard to or consultation with any other agency or institution, and with the public be damned attitude concerning the cost of their extravagances because they can raise tolls at will and we pay the bill. The authority members themselves are not accountable to the public and cannot be recalled or voted out of office.

Employment with one of these toll roads is so political, that these agencies enjoy widespread reputations as patronage havens, where only the connected need apply. It's time for a change. I have introduced two bills along with Assemblymen Karcher and Bryant which would bring cohesion and control of New Jersey's transportation system.

The bills would permit a broader application of the tremendous revenues and capitalization abilities created by the three toll roads to other important needs such as mass transit, park & ride, and State and local roads such as Routes 1, 4, 9, 17, 18, 21, 29, 35, 42, 55, 70, and all the others we all know about that are choking our State with cars that can't move from here to there. But perhaps most importantly, by abolishing the three toll road authorities and bringing the responsibility for these highways into the State DOT, large capital expenditures and their resulting huge toll increases would be more accountable to the public.

Something is wrong, Mr. Chairman, when the Turnpike Authority can appear before this Committee as they did on October 6, 1986 and brag that they are making \$60 million a year by reinvesting the revenues from their 1985 bond sale of \$2 billion. And 18 months later, a shovel has yet to go into

the ground on this project, and the public cannot access any of these funds. If we had just half of the money that the toll roads authorities are sitting on, we could fund Transportation Trust Fund II and III without increasing gasoline or any other taxes.

I realize that this is a somewhat radical proposal and that your approach through S-3083 is more traditional. However, our bills were not put in for show, or to merely call attention to this situation. I believe that the time has arrived for the Legislature to move decisively on the matter of the toll road authorities and that move should be to end their independence and thus unify our fragmented transportation network.

I am confident that this would be the finding of the Study Commission proposed under your bill. And since my bills are not likely to receive consideration under the current Assembly leadership, I hope S-3083 is enacted quickly so that it will arrive at its only logical conclusion; the independent toll road authorities must go.

SENATOR RAND: Thank you very much, Assemblyman Mazur.

ASSEMBLYMAN MAZUR: I have copies of the statement, if you would like it.

SENATOR RAND: I would appreciate that. I do want to tell you that under no circumstances do I relegate your bill to a secondary position. That is not the purpose of 3083, nor was it meant in any way as an answer to your bills. I just didn't feel competent enough, very frankly and I didn't think we had the expertise at this particular moment to move in the direction of any particular manner. And I thought that a Commission comprised of responsible people and people that had some expertise would give us a study of the three alternatives of whether as Maryland where it is under the direction of the DOT, or whether they want to stay the same, or they ought to be "umbrellaed" of some nature. I, very frankly, will admit to

you that I lean towards certain possibilities but preclude none. So I thought that this was probably, if you write it in the conventional method of moving it in a direction-- I thought it is a bill that has an opportunity of getting through both sides of the Legislature. I do want to tell you one thing that you will probably disagree with me. We have removed the Treasurer from the bill. The only person that we are putting on under these bills is the Commissioner; and of course, the reply to Mr. Sullivan is that when he gave me the litany of all the people that they are connected with, what's one more in the stew, so to speak? So it really doesn't really make that much difference, but it makes us feel better if the Commissioner is on there.

ASSEMBLYMAN MAZUR: I understood that you originally had proposed to have the Treasurer on it and it was amended out.

SENATOR RAND: Yes. Gentlemen are there any questions? Senator Hurley?

SENATOR HURLEY: No questions.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: Assemblyman Mazur, when you use the word scandalous, do you think it goes that far, really? I mean I guess we have responsible people attempting to run these organizations and I think they are fairly well run. Maybe we tend to agree with you that a \$2 billion bond issue is quite heavy, but I think they are fairly well run. I had quite a bit of experience of just using the Connecticut Turnpike over the past several years, having gone to school in New England at about the time it was built and having several of my children go to school in New England. That is an abomination. The tolls from that road went directly, as I recall it, to the state coffers and to the point where there was almost a revolution in Connecticut to take away the toll booths. People were willing for the state budget to assume the operation of that road because it was not being cared for. That's part of

it also. So it qualifies for Federal funds for reconstruction. But there were years when it was totally neglected.

ASSEMBLYMAN MAZUR: It's toll free now.

SENATOR GAGLIANO: It's toll free now. I haven't seen that neglect on our toll roads. I pay a lot of tolls, I'm sure like everybody else, and I haven't seen that neglect that I did see in Connecticut and there wasn't anything to be proud of in Connecticut. So, I know what you want to do eventually and that is to turn it all over, back to the State government. I just don't know if we'd be wise to do that. I think I'd certainly want to know what happened in Connecticut? I think they were using those tolls to balance the state budget and not putting it back into that road. And that was a very heavily traveled road; not, I don't think, as heavily traveled as the New Jersey, but certainly it had lots of traffic.

ASSEMBLYMAN MAZUR: Well, my use of the word scandalous was in reference to the patronage. I take a certain amount of poetic license to indicate newspaper editorials on that particular subject to probe the patronage, etc., etc.

SENATOR RAND: Senator McManimon?

SENATOR McMANIMON: Well I appreciated his presentation, but I have some serious reservations about some of his statements. I think we have, without a questionable doubt, outstanding authorities in the entire country. And the mere fact that they have built a reserve, maybe in that specific area -- you may be on target -- the fact that we should have accessibility to some of those reserves-- But I think I like the present operation the way it is. I think it has been most successful, and this State has truly benefited by it. But I think there are some good points in your presentation. You can rest assured that we will take it into consideration. I will.

ASSEMBLYMAN MAZUR: Those of us who studied public administration and those of us who have dealt with bureaucratic entities as you have, will, I'm sure, recognize that these agencies, particularly, the authorities -- not just New Jersey's, but nationwide -- tend to develop a very narrow, provincial--

SENATOR RAND: An autocratic realm. Is that what you're trying to say?

ASSEMBLYMAN MAZUR: To perpetuate themselves, yes. A remarkable instinct to perpetuate themselves.

SENATOR McMANIMON: You'll notice that the Governor made a statement recently too with respect to the red tape that the government bureaucracy sometimes is our biggest downfall too -- such as DEP and a few others.

SENATOR RAND: You do bring out something that is challenging and since it's going to be in the record, I think we owe an obligation certainly to the charge that you made, and I'm going to make it very clear that we will be asking the authorities to submit to us, and of course they have a basis as the number of employees in the past five -- as 1984, '85, '86, '87-- And I would imagine as commensurate with an increase in traffic, certainly it might show an increase. But I think that this Committee is entitled to see what -- to answer what you, if that be the case-- We will ask the respected authorities to give us a schedule of the employment for the past five years and compare, commensurate with its growth in revenues and everything else. I think that this Committee is entitled to that and I think that you make a very serious comment that I think deserves an answer.

ASSEMBLYMAN MAZUR: The particular case in point which brought these editorial comments were related to the Atlantic City Expressway.

SENATOR RAND: I don't want to go into any individuals, but I think we will ask each authority to submit that to us. I think that is a fair proposition. Assemblyman Mazur, I thank you very much.

ASSEMBLYMAN MAZUR: Thank you gentlemen.

SENATOR RAND: And now you will hear from our side. (laughter) If we don't finish today, we will continue on Monday at 10:00. So this is an important hearing. I'm sorry about that, but it's quite important that we handle this. Commissioner, it's all yours now, whether you agree or you disagree with us.

COMMISSIONER GLUCK: Thank you Senator. Gentlemen, I am here to testify on behalf on S-3082 on behalf of the Department of Transportation and the Governor of the State of New Jersey. Let me begin my remarks by saying that I have recently had the opportunity to motor through several states, and there's no question in my mind that the State of New Jersey has some of the best roads, even though we are constantly critical of ourselves -- and that's the way it should be -- that I've had sometimes the misfortune to drive over in other states. Having said that, I also will agree with you, Senator, that I think that the authorities do a good job in the State of New Jersey. The authorities were created by the Legislature and they are responsible, obviously, to their bondholders and they are also responsible to the people of the State of New Jersey.

The State has a \$45 billion investment in transportation infrastructure in this State. We need to be able to coordinate all phases of transportation networks. By law, the Commissioner of Transportation is charged with the responsibility to develop a master plan for all modes of transportation. I submit to you that if there has been one thing that I think has been lacking over the years is the ability to coordinate and to make that plan, simply because of human nature -- human feelings, whatever you want to call it, communications, we don't always know what's happening throughout the State of New Jersey vis-a-vis transportation. You know that I Chair the board of New Jersey Transit, so

obviously, there is certainly an amount of wisdom on the Legislature's part to put the Commissioner of DOT on the Transit Board as the Chair. There's a tremendous connection there.

I also chair the Trust Fund Authority which, obviously, is important to our projects here in the State. The three toll roads serve as an integral component of the State's transportation network, and I think we all agree to that. And they are not an island, and they understand that as well. Therefore, all three of them have a very important relationship to the Department of Transportation and to the State.

Despite the statutory mandate that the Commissioner oversee the operation of the transportation system, sometimes we're at a disadvantage. The Department has no direct input and no direct authority to monitor the toll road authorities' operations. I'm not saying that we should have any direct authority over the toll roads or over the authorities' operations, but there is someone from my Department who goes to the authority meetings but is never allowed in the closed sessions.

Now, there is a lot of business that goes on in the closed sessions under the Sunshine Law, as we all know. It is true that the Authorities Unit of the Governor's office has a representative who goes into those closed sessions. However, that person is a competent individual -- there's no question about that -- But there are many more things that are happening in the whole broad State picture. And I really think that the Department should be privy to being able to help pull some of that information together in their advice to the Governor. Sometimes it makes it difficult because of the lack of information to advise the Governor on certain activities. And the Governor, as you well know, any Governor, does not just simply veto minutes. I mean, that's always done with a great deal of consideration and care; and it should be.

The effectiveness and the efficiency of the toll road authorities in relation to the total transportation system is sometimes hindered in my opinion, because of the informal relationship. The authorities don't see it that way. My friends on the authorities don't see it that way, but after sitting here and listening to the conversation of the testimony and some of the questioning today, I would submit to you that your bill is on point, and I would submit to the authorities that they also need an advocate -- that link between the State government and the Legislature and their own particular authority. That could stand them just as much good as they might think it would stand them ill.

We urge the Legislature to adopt the bill. We think the State will benefit by it. We think that it allows for greater input and greater access to the activities -- the planning which is absolutely paramount to what we're trying to do, and better coordination, obviously. It would provide better efficiency by coordinating the activities of all the major transportation agencies and their activities in areas such as traffic control and alleviation, access to and from State highways -- which I think was the point that Senator Gagliano was making -- local roads, and toll facilities. This bill does not obviously place the authorities under DOT's control. I think you know that I've made the statement that that was not something that I was interested in. The Commissioner would only have one vote, and of course, obviously, the Governor would have the veto power.

Now if you would indulge me for a few moments, I would just like to address some of the things that were brought up. There has been, in the Atlantic City Expressway Authority's statement -- I think Mr. Sullivan mentioned it, and I'm sure that the Garden State Parkway would also agree with it -- and that is this charge of a conflict of interest if the Commissioner of the Department of Transportation sits in any

one of these authorities or has a designee. I submit to you that there are many Commissioners -- Feather O'Connor being one of them -- that sit on many authorities. Len Coleman on the HMDC. In Feather's case, as was pointed out to me, she sits on authorities that compete with the State vis-a-vis debt. That is not a conflict of interest. And I submit to you that I don't think that there is any precedent for calling the appointment of the Commissioner of the Department of Transportation to the toll authorities as a conflict of interest. I don't understand that and I don't think that that is really true.

With regard to the day-to-day operations, I didn't -- I guess I wasn't aware that the day-to-day operations of running any one of these authorities was done at the authority meetings. I seriously doubt that any Commissioner on any of these authorities are involved in the day-to-day operations of the authorities. I would submit that the executive director probably is the one who is responsible for the day-to-day operations of the authorities. And I would also say that I think that for the Commissioner to be able to send a representative, as the Treasurer does, to these authorities' meetings is a question of sending people who are of high professional competence to these meetings, and I don't see it as a detriment.

SENATOR RAND: Such as who would you send, Commissioner? Let me just ask you that.

COMMISSIONER GLUCK: Jack Freidenrich, Jim Crawford, Roger Nutt--

SENATOR McMANIMON: They're concerned about the Commissioner, not these people, Walter.

COMMISSIONER GLUCK: That's right. They don't want me there. But I show up from time to time. I have to take exception to the fact that Wall Street -- with bondholders -- would think that it might be a detriment to the reputation of

any authority to have representation from the State Department of Transportation on it. Forgive me, but I really think that that's a specious argument.

SENATOR GAGLIANO: Don't get upset.

COMMISSIONER GLUCK: No. It's okay. And to have someone to sit on there from the Department of Transportation -- to have the Commissioner on there -- is not, I mean, it's not even a modicum of control. What it is, which is what I think the phrase was that my good friend Mr. Sullivan used -- it's not a question of control. There are many other votes on these authorities. It's a question of explaining overall administration and/or legislative policy at certain times when certain things come up for discussion. I frankly submit to you that I think there's nothing wrong with that. I think the authorities could benefit with that with regard to the park & rides that Mr. Sullivan talked about. It is true that we made that part of an agreement in the scaling back of the Turnpike widening project, which I have to say.

In all fairness, the Department -- and this was before I got there -- did not see, or knew about it after the fact. If we had been on that particular authority, I think we would have known about it before the fact. I don't question the need for the widening. I don't question the agreement that we came to with regard to the park & rides so that we have places for people to park and so we can get into a mass transit kind of mind-set wherever we can. But I think that this is something that we should have before the fact and not after the fact.

With regard to State Planning Commission -- a Commission that I sit on -- we did invite into the Department all of the authorities to explain to them what the moving target was that we have now in the way of a draft -- preliminary State Plan so that we could brief them on it and I think they appreciated that. And I don't want to leave you with the thought that we don't have cooperation. I would say

that since, a lot of things have happened in the last year that have made the lines of communications a lot more open than they were in the past. But the need to be able to coordinate all of this is terribly, terribly, important, whether it's a people mover at the Newark Airport site, or from downtown Newark to the Airport, or Elizabeth to the Airport; whether it's how the Turnpike would feed into that or the Garden State Parkway, or whether it's the problems in South Jersey, we obviously have a lot in common. Those things must be taken into consideration if we're going to plan properly in this State and if we're going to have a vision, eventually, of what this State is going to be by the year of 2010 or 2020.

SENATOR RAND: Commissioner, I want to say that Mr. Sullivan appeared before us and we were satisfied with his explanation. If we had some criticism, we would have directed it personally at him. But I feel very strongly that if you were sitting on that authority, that Governor Kean would have not issued Executive Order No. 172 which provided for public notice, because had you failed to tell this Committee of a major situation like that, we would have chewed you out pretty good. I don't think you would have left that to appear before it has to go in the paper without us knowing about it.

I think that what upsets me more than anything -- and I sit on the Independent Authorities -- when I read in the papers what they are going to do rather than at least getting notified at even 24-hours before. I pick up The Star-Ledger, very frankly, or one of the major newspapers, and that's where I read the information. I don't think that's the right way to do business. And evidently, the Governor doesn't think that's the right way to do business, and the Independent Authorities -- we just posted the bill in the Senate -- that we don't think that's the right way to do business.

One of the Governor's counsels sits on there. Very fine people. But we really have no control over the Governor's

Counsel. In other words, we really can't ask him to come before us as we can ask you to come before us to give us some explanations. So, I feel very comfortable that that's where you belong -- not you, but the position of the Commissioner of Transportation belongs. I just think it's drawing everything together. Whether it be planning or whether-- This is a small State and one hand ought to know what the other hand is doing. It is not in any way-- We're not here to demean any authority, quite to the contrary. We are not here to criticize them on their operations. If anybody wants to testify to do that, that's their business and we'll hear them. But I don't think this Committee is here for the purpose of taking shots. That's not what our purpose is.

COMMISSIONER GLUCK: Senator, I think, there's no question that the level of maintenance, the level of care, the way these roads are cared for are very different from what we do at the State level--

SENATOR RAND: Four to one, if I remember, isn't that correct? Or three to one?

COMMISSIONER GLUCK: We would not have been in favor of turning back the State-owned section that are in the various parts of the Parkway, if in fact that wasn't so. I mean they deserve to have them. They'll handle them better. There are things that we do well and there are things that they do well and what they have done with the toll roads in this State, I think, is very commendable. It's not a question of that at all. Not at all. It's a question of being able to bring in perspective, maybe that as a member of the administration as someone, as you said, who has to appear before the Legislature, which is something that I do, appointed by the administration-- It brings a perspective to the authorities. Even if it's people that I appoint, they understand that process very well. They're here with me usually all the time. And I agree with you. I think, interestingly enough, it would be very beneficial to the authorities.

SENATOR RAND: You spoke on S-3082 and I understand that. You have no comment yet on S-3083. Would you serve on it if you were asked to serve on that, though as you do under this bill, which is the study of the authorities?

COMMISSIONER GLUCK: Yes, I would serve. I have a predisposition as you do and I want you to know that. My predisposition is that if there's a piece of something that comes out and that you think might be broken, it doesn't mean that you have to fix the whole thing.

SENATOR RAND: No, I understand.

COMMISSIONER GLUCK: My predisposition is much like Senator McManimon, and that is that I think the authorities have done their job and I am not predisposed to bringing them under the Department of Transportation.

SENATOR RAND: I understand -- however your position is. I have a position. I think everybody has a position.

COMMISSIONER GLUCK: I would not close-- I mean, I would be happy to serve. I will not close my mind to anything that came out, but that's my feeling right now.

SENATOR RAND: Senator Cowan?

SENATOR COWAN: No. You're doing fine.

SENATOR RAND: Senator McManimon?

SENATOR McMANIMON: No.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: First of all, Commissioner, I would agree with you that there's absolutely no conflict of interest. I could not even imagine that there'd be a conflict of interest, that the Commissioner of this State could not serve on the authorities of this State. Absolutely none, whatsoever. I agree with you and if the New York bond counsel has said that, they are nuts. (laughter)

SENATOR RAND: That's a positive statement.

SENATOR GAGLIANO: That's a positive statement. The second one is that if we do get to this, I personally would

like to see a situation where there would be either the Commissioner or one designee until that person is replaced. I think that it would be a step backward if, for example, the Commissioner didn't go, but one month it was Mr. A and the next month was Ms. C.

COMMISSIONER GLUCK: Oh no. I agree with you.

SENATOR GAGLIANO: That could be a real problem because then that person would not be able to know what's going on and would not really command the respect of the Commissioners who do a good job and are very interested. I have seen that in certain designees. You go there and who's representing him or her today? And the other people tend to be turned off by rapid changes.

And third thing is-- I think Walter and I have been on the Committee too long. My third comment is that this is a small State. We really have to act as one unit, which is actually what the Chairman said. We can't have these individual islands. I can remember when one of the toll road authorities got to a certain point with their snowplows and turned around practically in the middle of the road because that was as far as they were going to go. And that is wrong. You know.

COMMISSIONER GLUCK: We had that with DOT too, by the way. I'm sorry to say, but that's happened with us.

SENATOR GAGLIANO: I know. It's wrong. And then after a while, they worked it out. They went to the intersection and made a turn or whatever. But there was a time when they would stop, back up the truck, K-turn, and go the other way, because that was the extent of their jurisdiction. Well, we've gotten past that, I hope. But I think that this could be good. I really think in overall planning for the good of the people of the State, it would make a lot of sense. Thank you.

SENATOR RAND: Senator Hurley?

SENATOR HURLEY: I have nothing further. Certainly I'm in concurrence with Senator Gagliano's remarks.

SENATOR RAND: Thank you Senator Hurley. You know, Commissioner, these three bills have taken me some seven to eight years. I say that they were not put in as an answer to anybody and they were not put in just to be put in, because I happen to believe that especially this S-3082 is the predecessor of a lot of things that could happen in a lot of other authorities. We can't macadamize this whole State. We have to have a certain amount of planning. We have to have a certain amount of balance. And I just think that it's good for everybody in the State if some responsible individual who can sort of bring it all together sits on there. Any other comment that you would like to make?

COMMISSIONER GLUCK: No, thank you. I appreciate the opportunity. The Governor appreciates it, too.

SENATOR RAND: Thank you very much. We feel that we could call upon you again if we need to on any of this. Thank you very much. I am going to allow Mr. Sadow five minutes sir, because I'm taking you out of turn and I know you can't get here Monday. But your Senator asked me to give you that courtesy and I'm delighted to do it. It is now nine minutes after four.

JACK SADOW: Senator Rand, members of the Committee, I do thank you very much for the opportunity to talk now. I just found out about the hearing on Tuesday and I will be out of the state on Monday. First may I say that my name is Jack Sadow; I come from Freehold Township in Monmouth County. I have been involved in mass transportation now pertaining to the Route 9 Corridor for 11 years. I'm the member of the Route 9 Advisory Committee, I'm the Chairman of the Freehold Township Transportation Board, I'm a member of the Bus Preferential Treatment and Advisory Committee sponsored by the New Jersey Transit Corporation, and I'm also a member of the Monmouth County Transportation Coordinating Committee.

May I say that I'm disappointed. I assumed that there are no other persons that will be talking or testifying before this Committee that come from a voluntary organization and will speak on behalf of those persons that this legislation will pertain to -- that's the commuter, the traveler. We have representatives from the authorities, from the motormen, but really no one here.

SENATOR RAND: We're going to allow that to happen, because we're not closing out this meeting.

MR. SADOW: I sincerely hope that's the situation. May I start off by-- And I'm working against the clock as fast as I can sir. "For eight years both authorities have repeatedly rejected the concept of preferential treatment of mass transit and have failed to be part of the mass transportation system network in New Jersey". What I've just read is out of the statement which I read before this board in March 1984. It's taken right out of context from 1984.

At that time in 1984, 18 elected representatives who were contacted for the affected districts in regard to Joint Resolution -- JR 9 and 10 -- supported the resolution in regard to preferential treatment. And there were at that time numerous editorials endorsing that concept. After the testimony of a representative from the Garden State Parkway, it was recommended that the resolution for that joint action -- the joint resolution -- be held over for a month, because the agencies seemed to be already acting to facilitate bus transportation. Needless to say, that month went by, another month went by, and that joint resolution died three years ago.

Three years later, the authorities are still not part of the mass transportation network. They are part of the transportation network. They are on the map, but they still do not participating in mass transportation. In statements by the representative of the Turnpike Authority, the Bus Preferential Treatment Advisory Committee meeting -- again sponsored by New

Jersey Transit, and we've been working on this now for over a year, and I believe there are over 45 members to that group-- We have been told that as an example, at the Raritan Toll Plaza 120 buses go by there during rush hour and that it represents less than one percent of the vehicle traffic and that nothing can be done to alleviate the congestion of the traffic. They continue to neglect the fact that those 120 to 130 buses move over 6000 people or over 50% of the people. One percent of the vehicles move over half of the people during rush hour. And the statement, again, made at that meeting unfortunately is almost identical to the statement made in February in 1984. Gentlemen, very little has changed.

May I say that the representative from both agencies that I have come across or have listened to are certainly articulate and are certainly very professional. Mass transit advocates now understand after all these years, the message from both agencies. Their mandate, what is written, and these documents creating the agencies, very poorly indicate an act to facilitate the vehicular traffic. Their professionals do that extremely well. It's time to bring both authorities into this generation to serve the commuters and the travelers and the citizens of New Jersey in this generation again, by becoming part of the mass transportation network. Move people, not just vehicles.

In December of 1986, the Central New Jersey Transportation Department (sic) issued and sent to all the agencies a resolution requesting our elected representatives to generate some sort of legislation to take care of that problem and to direct the agencies to have a responsibility to mass transportation and the movement of masses of people, not just vehicular traffic.

May I add that Monmouth County followed with their own resolutions, again, which was sent to our elected officials. There were articles in the newspaper regarding the concept. I

think at this point, it's time for the Legislature to act, and certainly the Central New Jersey Transportation Board strongly endorses the resolution -- the third one. I wish it didn't take a year, Senator Rand. It's already 11 years we've been talking to both agencies. If there was any way that while the survey and the review were going on, that legislation could be generated to at least address the major problem -- the definition of what the agencies are responsible to do -- think the commuters--

SENATOR RAND: That's why S-3082 is very important, at least to put the person who is in charge of the total transportation-- She's not only in charge of the highways -- and when I refer to "she," I'm talking about Commissioner Gluck -- but the Commissioner is in charge of the entire gamut and if you don't begin to weave in mass transit with your highway size, you are going to macadamize this thing. And that's what you are going to have, you are going to have a real asphalt jungle in this State, complete from one end to the other. I don't think the people of this State want it that way.

MR. SADOW: Senator, again, we do endorse the bills. We look forward to positive action. And again, I just urge the Committee that if there were some way that we could -- at this point, while we take a year to evaluate it -- could generate a change in the mandate of both agencies, it would be tremendously helpful. There has been no improvement in commuting time in all these years. And I cited to you what happened in 1984.

SENATOR RAND: Sir, I don't even know if the Governor is going to sign the bills. So, the year is not that long, you know. But this is the best in a conservative nature that we can act. Senator Gagliano?

SENATOR GAGLIANO: No, I have no questions. Thank you, Jack.

SENATOR RAND: Thank you very much, sir.

MR. SADOW: Thank you very much.

SENATOR RAND: Representative of the New Jersey Expressway Authority. I see Donald Vass is here or is Lois Braithwaite going to testify? Or both? (positive response) Both, that's fine. Good afternoon. At the inception, may we ask you the same as we asked Mr. Sullivan: Would you submit as quickly as you can, and send us your statements for the last five years as to your revenues and your expenditures and your employee picture? Is there anything else Senator Gagliano? (no response) Mr. Sullivan, did we not ask you for a summary of your revenues and your expenditures, your bond indebtedness, and your projections down the line? So we need about five or six different items of information. You don't have to bring it to us tomorrow, but within the next week to 10 days if you can get that to us.

MR. SULLIVAN: Going back five years?

SENATOR RAND: Yes. I think that will give us a pretty clear picture. Okay.

L O I S E. B R A I T H W A I T E: Thank you. I'm Lois Braithwaite and I serve as the Chairperson of the New Jersey Expressway Authority. It is a pleasure to appear before this Senate Transportation Committee this afternoon.

The New Jersey Expressway Authority is responsible for the operations of the Atlantic City Expressway, which presently serves as the main arterial highway moving traffic from the metropolitan Philadelphia area to Atlantic City and the numerous Cape May County seashore resorts communities.

During 1986, 37,037,486 vehicles traveled the Atlantic City Expressway. This is a far cry from the 1,014,548 vehicles which traveled the Expressway during its first year of operation in 1964. The region served by the Atlantic Expressway has been subject to dramatic and exciting changes during the past several years and even more dramatic changes and expansions are anticipated in future years. I concur with

and join with Chairman Sullivan of the New Jersey Turnpike Authority in expressing serious concerns and deep reservations regarding the passage of Senate Bills 3081, 3082, and 3083. These bills raise serious constitutional questions and further contain provisions which may impair bond covenants contained in the Authority's issued bonds under which revenues and reserves are pledged to bondholders.

The Authority's general counsel and bond counsel will be submitting in the near future to this Committee a written statement directly addressing these legal issues and concerns. In addition to Mr. Sullivan's comments, however, I would like to point out the following matters for your consideration from the viewpoint of the New Jersey Expressway Authority.

Senate Bill 3081 provides for an increase of 100% in contributions which each toll road would make to the Transportation Trust Fund. In the case of the Expressway Authority, this bill would mandate a payment of \$5 million, double the guaranteed payment of \$2.5 million presently set forth in the existing agreement between the Expressway Authority and the DOT dated November 17, 1983. From the Expressway Authority's viewpoint, however, this bill is unnecessary. The present agreement provides that the Expressway Authority is to make a minimum guaranteed State payment of \$2.5 million in any fiscal year. The agreement further provides, and I quote:

"In addition to the guaranteed minimum State payment set forth above, additional State payments may be determined annually by consultation between the Authority and DOT and the amount of such additional State payment shall be determined based upon the Authority's requirements for its Annual Budget in the next ensuing fiscal year of payment."

Whether any sum in addition to \$2.5 million is to be paid to the Transportation Trust Fund is predicated upon the money available to the Authority to meet its annual budget in

the next ensuing fiscal year. The application of this agreement resulted in the Expressway Authority paying \$3 million in 1987, \$500,000 more than the minimum required by the agreement. Clearly, the proposed legislation is not needed to increase the present contribution which the Expressway Authority makes to the Transportation Trust Fund.

However, the bill does not take into consideration the operating needs of the Authority and its present debt obligations, factors which are considered in the review process by which the Department of Transportation may determine that additional funds should be paid by the Expressway Authority. In 1986, the Expressway Authority had gross toll revenues of \$19,587,547. The proposed bill would thus require the Authority to pay more than 25% of its gross toll revenues to the Transportation Trust Fund.

The unfortunate effect of this bill, if passed, would be to place a burden upon the ability of the Expressway Authority to perform its legislated duty of designing, constructing, maintaining, and operating a safe, high speed, limited access roadway without regard to the financial needs of the Authority and its obligation to its bondholders. The ultimate effect might be to require an increase in tolls if excessive funds are required to be paid to the Transportation Trust Fund.

Senate Bill 3082 would add the State Commissioner of Transportation as an ex officio member of the Board of Commissioners of the New Jersey Expressway Authority. This would appear to create a substantial conflict between the Department of Transportation and the New Jersey Expressway Authority. This is especially true in light of the fact that a number of agreements exist between the Department of Transportation and the Expressway Authority which spell out the respective obligations of both parties. Since the Commissioner of Transportation already has final approval of these

agreements on behalf of the Department of Transportation, participating as a voting member of the Expressway Authority would allow the Commissioner to participate with the Authority in an agreement which she much also approve for the Department of Transportation.

I'd like to point out that at the present time a representative of the Department of Transportation attends every meeting of the New Jersey Expressway Authority. Actions of the Expressway Authority are subject to approval of the Governor, who may veto any action taken by the Authority before it is given final effect. Additionally, the agreement between the New Jersey Expressway Authority and the Department of Transportation provides for the Department to review the Authority's budget each year to ascertain whether additional monies may be paid to the Transportation Trust Fund. As presently structured, the Commissioner of Transportation has the ability to consult with the Expressway Authority before it takes any action, can make recommendations to the Governor about any action which it takes, and has review authority over the budget. Giving the Commissioner of Transportation additional power as a voting member would appear to create a clear conflict without obtaining any further benefits for the State of New Jersey or its citizens.

Senate Bill 3083 proposes to establish a seventeen member study commission to make recommendations regarding the role of toll road authorities in the State transportation system. Given the present interaction between the New Jersey Expressway Authority and the Department of Transportation, as well as the Governor's office, it is questionable whether any meaningful recommendations will result from such a study commission. The State Planning Act already provides a comprehensive framework upon which all vital State agencies and authorities may coordinate future planning activities. It would thus appear that the proposed bill would simply duplicate

the efforts of the Governor's office and the Department of Transportation which already coordinates the activities of the various toll road authorities in the State's transportation system. It would seem that the money needed to fund this commission as well as the talent and efforts of those persons appointed to serve on the commission could be better spent in other areas of transportation.

If the purpose of the commission is to find ways to have revenue not needed by the Expressway Authority flow to other areas of transportation in the State, the mechanism for this procedure is already in place. If the purpose of the bill is to find a way to replace the existing toll road authorities, the question of why it is necessary to replace an authority which is operating efficiently and carrying out its legislative mandate must be asked.

The Atlantic City Expressway is one of the safest, most efficient and best maintained roads in the country. This is clear evidence of the Authority's commitment to fulfill its legislative mandate of operating a safe high-speed limited access roadway. Further, the New Jersey Expressway Authority has recognized its responsibility to cooperate with the State of New Jersey, the New Jersey Department of Transportation, and any other governmental bodies to address the numerous transportation related issues which affect the South Jersey region.

As an example of this desire to cooperate and participate, at the last meeting of the Authority, conceptual approval was given by the Authority's Commissioners to a plan developed by the Authority and the New Jersey Department of Transportation to make road improvements at the easterly terminus of the Expressway on roadways which are entering Atlantic City. The need for these road improvements became evident during a recent weather emergency. Severe flooding occurs at this location which could adversely affect the public

safety, since vehicles have difficulty in leaving the barrier island of Atlantic City during severe weather emergencies. The Authority has agreed to pay for these road improvements.

Further, after receiving technical advice from the New Jersey Department of Transportation and the New Jersey Department of Environmental Protection, the Authority recently authorized the undertaking of the Route 30 Connector Study in the vicinity of the Garden State Parkway eastbound. The results of this study which is herein fully paid by the Authority will permit the State to develop a sound plan for future road networking in this region. The Expressway Authority has further recently joined in a cooperative effort with the public and private sector to address changes regarding egress and ingress to the Expressway at points where major developments impact on traffic flow. And I could go on.

Thus, it is our feeling that the underlying concerns of the Legislature which may have prompted the introduction of Senate Bills 3081, 3082, and 3083 have already been satisfied by the Authority in action and in practice. I thank you for your consideration.

SENATOR RAND: Thank you very much. Senator McManimon?

SENATOR McMANIMON: I'm very pleased with the presentation. No comments.

SENATOR RAND: Senator Hurley?

SENATOR HURLEY: No, I have no comments.

SENATOR RAND: I will certainly address a couple of the comments. Ms. Braithwaite, we believe we are on very safe ground; that we're doing nothing unconstitutional. You are a creature of the Legislature and the Legislature has every right to act. So, we're doing nothing that we're not permitted to do. And I know that you are under a little different situation than the Turnpike and the Parkway because there is a mechanism in there where the State Treasurer can take-- That was written in. And you are under a perpetuity clause of paying that money, so I understand the differential in there.

I will say to you the same as I said to some other people. There is a movement by a lot of people, as you heard from Assemblyman Mazur, that they want to absorb the toll roads. I think that the more conservative approach is 3083 and there is nothing wrong with looking over authorities that have lasted for over 50 years. And I very truthfully think that it is really incumbent on the Legislature to sometimes review what past Legislatures have done and improve the situation or maybe change it, or alter it, or fix it, or leave it the same if it's that good. I have no problems with that. And we don't do it in a tenor of retaliatory action. That's not what we're about.

Quite to the contrary, we would hope that 3082 and 3081 would not have to be. We're very happy. We're very happy the way the Transportation Trust Fund was agreed upon -- the 24 and half million. We think that the Turnpike, we think that the Expressway, and we think that the Parkway acted responsibly and responded to the needs of this State. Maybe we could work that out again. I don't want to see 3081 -- I'll be very truthful with you. I would rather see the sitting down of the Governor's people and the Department of Transportation. And we'd like to have a representative from our Legislative Services, I'll tell you that, and sit down and see maybe what we can work out. Maybe the doubling of the amount is too much. Maybe it isn't enough, I don't know. But I did think--

MS. BRAITHWAITE: It appears that we have already done that, Senator Rand.

SENATOR RAND: Then I will say this to you, that you will probably be exempt from that. But we certainly have a right to sit down to project what your revenues are going to be and if you're going to increase tolls. We're not telling you to or not. What we say is not going to stop you from doing it or not doing it. But I think that as a matter of public policy, we in the State that represent the entire State, and we are representing the entire State as well as our own

district, have an obligation, and we think everybody has to pitch in to help the whole State.

MS. BRAITHWAITE: And we're willing to do that, Senator Rand.

SENATOR RAND: And if you disagree with me, well then so be it. But in no way are we attempting to use up your authority in running your business; in no way are we trying to take your money; in no way are we trying to penalize you. That's not the purpose. The purpose rather is to conduct a dialogue that we think will contribute to the overall benefit of this State. I would hope that everybody would take that into consideration. We're not here to chew anybody out nor are we here to take anybody's authority, or so forth. There might be a study from the commission that might change the direction of where we're going. That's not altogether bad; and I didn't say that it's altogether good. Assemblyman Mazur thinks that that's altogether bad and that we should adopt his proposal. I don't happen to think that we should adopt his proposal. I think we have to do what we have to do in a normal conventional manner.

MS. BRAITHWAITE: I think Senator Rand, that by our actions that we have indicated that we are willing to be cooperative and help in any way we can to improve the transportation system of this State.

SENATOR RAND: Ms. Braithwaite, I am sure of that. I have no problem with the-- I sometimes have a little problem. Atlantic City thinks they own it, and they don't own it. It is a regional transportation artery owned by the people of this State, not Atlantic City and not Atlantic County, and that sort of gets my dander up very frankly because it's just as much in Camden County and maybe not as much in Gloucester, but it impacts on those too. So, it really doesn't belong to Atlantic City. The truth of the matter is that the State would have taken it over if casino gambling had never come here because

they were bankrupt. They'd have been bankrupted already. They couldn't even begin to pay their interest on their bonds, let alone pay off their bonds. So, we have a situation. Thank goodness that they are doing well and God bless them. I hope they do three times as well because then maybe we will get three times as much money. I thank you for your testimony.

MS. BRAITHWAITE: Thank you.

SENATOR RAND: Mr. Vass, do you have anything that you would like to offer?

D O N A L D B. V A S S: I would just like to make a couple of general statements.

SENATOR RAND: Yes, indeed.

MR. VASS: Again, Senator Rand, I think you and I have had a very good working relationship and I think your comments in the past have always been relative to the Expressway. We would like you to be able to do a little more because you are a very efficiently run operation and we encourage that. There are a couple of projects, as you know, that are very dear to your heart and I'm sure that we will be to the Commissioner's--

SENATOR RAND: And Senator Hurley.

MR. VASS: And Senator Hurley. And I was surprised and grateful to hear Senator Gagliano talk about the access from the Delaware area over to Atlantic City. There's a definite need for a connection to hit I-295 within New Jersey Turnpike. We on the Expressway -- and I'm part of that review committee -- are looking for everything in the world for that to happen -- which would generate the thoughts that you have passed to us in the past about having access in the Camden area.

SENATOR RAND: But it's interesting to note that why I want the Commissioner of Transportation on it is the very report that they are going to issue at the end of this year which says very simply that Route 40 is not that great big connector from the Delaware Memorial Bridge to Atlantic City. Quite to the contrary -- the traffic that's generated is within

that county and intercounty and they have figures of all kinds to show it. That report, as I understand, will be out sometime at the end of September or the beginning of October or something like that. But I understand that--

MR. VASS: There's a meeting tomorrow in Vineland on it.

SENATOR RAND: Yes. And I understand that they are not saying what they are going to do. But they are saying what they are not going to do based on their studies. They're not going to build a super highway, they are not going to build a freeway, but they do admit that it has to be improved, maybe widened to a four lane highway, etc., so forth and so on. But I feel more comfortable with that being the case, certainly with the Department head on board.

SENATOR GAGLIANO: Mr. Chairman?

SENATOR RAND: Yes, Senator Gagliano.

SENATOR GAGLIANO: I just have one comment. I appreciate your comments very much. I know that the Atlantic Expressway does a very good job. I just want to follow through on the issue of conflict of interest with respect to the Commissioner being part of the Authority. That is no more a conflict of interest than it is for the Governor to have the right to veto your minutes at any time he so chooses. The Commissioner of Transportation is a direct representative and appointee of the Governor. So what the Commissioner of Transportation is doing in effect is representing the Governor's administration on your Authority. And that's no more of a conflict than what was set up legislatively when it was said that the Governor may veto your minutes, and if the Governor vetoes your minutes, as you know, what you did was void -- dead. I think that that's the parallel I'd like to draw. I would argue that with any of the guys who get \$500 an hour anytime. I believe I'm right. I believe that the Commissioner-- In fact, I even think that sometimes it was an

oversight; that 30, 40, 50 years ago we did not provide for the Commissioner to be a part of the Authority. It might have been a good idea.

MR. VASS: It's compounded, if I may Senator, in our present legislation, or in the agreement that we have with the DOT Trust Fund. The Department of Transportation has the right to review our budget. It's a little bit unique than the Turnpike. That kind, with the Commissioner on the board and having that other authority-- If one leaves, if you get rid of one, then the conflicts are not there. But there is a conflict of a voting member from DOT being on the board and then at the end of it or when you get to the budget -- also have just about the final say of whether the budget gets passed. That's where I'm--

SENATOR GAGLIANO: It's a conflict in a sense, but also in a sense it's a permitted conflict, recognized and permitted as part of our governmental structure, just the way it is when the Legislature set it up so that the Governor can veto your minutes. Let's say you decide to build a bridge that's going to cost \$10 million and the Governor doesn't think you should spend that kind of money. He just draws a line through it. No bridge.

MR. VASS: We have another major-- We have a ban on billboards. You know if you go through a process, you go through an administrative law judge. We're opposed to it and then they ask the State DOT as what their findings are on it. It ends up in a conflict and puts both DOT in a very uncomfortable position as does the authority. Nothing gets accomplished.

I wanted to give you one more number for you, because we are, as mentioned a couple of times, relative to the number of employees the Expressway has. If I can just give you one number to ponder: In 1964, the road traffic was 740,000 vehicles. There was a little less than 100 employees on the road. Now there are 37 million vehicles used on the

Expressway and there are 206 employees. If you use that ratio, we have less people on the road now than were running the road back in 1964. I wanted Senator Rand to hear that number.

SENATOR RAND: What's that? How many?

MR. VASS: If you look at the numbers of employment in 1964, there were 740,000 vehicles and there were less than -- maybe 99 to 100 employees. And we can use that as a round number. One hundred employees for 740,000 vehicles. We have 37 million vehicles and we have 260 employees. The ratio shows that we have less employees on the road now than we did in 1964.

SENATOR RAND: Mr. Vass, that will dispel-- When somebody makes a statement, I like to either disprove it or certainly give them credence for what they said. And when somebody makes a challenging statement like Assemblyman Mazur, I think that he deserves an answer. And that's why--

MR. VASS: I was hoping that number would give you some--

SENATOR RAND: And we certainly will convey that to him. Of course, when you supply that information too, we'll have it. We also want one other thing, your surplus accounts for your reserves. We'd like to have those -- the little pots. And I know at one time there were a lot of little pots down there, but I don't think that you have as many little pots now. I did want to say to--

SENATOR McMANIMON: Walter is so much concerned with these errors, he really doesn't want your money -- (inaudible due to commotion)

SENATOR RAND: I did want to say to Ms. Braithwaite before you came on board, I thought so highly of the Atlantic City Expressway that I wanted to make them a regionalized factor in the operation of the airport and everything else. So I want you to know that I am a student of the Atlantic City Expressway for many years and I think that they made a mistake when Atlantic City didn't recognize and Atlantic County didn't

recognize that could have been a coordinating factor for all the transportation in that five county or four county area -- both in mass transit and both in highway and both in the air. I got so disgusted that very frankly I walked away and said just do whatever you want down there. Now I understand that they are coming around to realize that there has to be a certain amount of regionalization. I have people visit me from down there every week. But, again, after spending four years in utter frustration, I thought I'd turn my talents or whatever I have, elsewhere. So, I want you to know that I've been very cognizant of the Atlantic City Expressway. We do thank you very much.

MS. BRAITHWAITE: Thank you.

MR. VASS: Thank you.

SENATOR RAND: Mr. Zilocchi, Executive Director of the Garden State -- oh, one of our favor arteries.

G E O R G E P. Z I L O C C H I: Thank you Senator.

SENATOR RAND: Good afternoon, sir.

MR. ZILOCCHI: Good afternoon, Senator. Senator, I really don't have any prepared statement. We have submitted a position paper which I'm sure the Committee will review if they have any questions they have subsequent to this meeting. I'll only be too glad to try to answer them. Some of the positions that were stated by the Turnpike and the Expressway Authorities are, of course, similar to ours. I'd just like to state that the position on Senate Bill 3081, we too in our position paper raised a question of the possible problem with our bond covenant. We raised that question only from the standpoint that we feel the Senate Committee would want to know what the problems would be so they could investigate it even further.

Transportation, Senator, as you advocate and I wholeheartedly agree, is everybody's business. It just doesn't just belong to the Parkway or the Turnpike, or the Expressway, or DOT. The network has become so complex that often we find that we interacting. Just to give you some examples of what

we're doing with DOT right now. Of course we're quite proud that we have 2500 commuter lots (sic) on the Parkway that we built. Some of them are park & ride in conjunction with DOT. In fact, one of them, up in what we call Elmwood Commuter Parking Lot in the Clifton area, 90% of the users do not use the Parkway to get to the lot and do not use the Parkway after they park in the lot. We have done this simply as a public service and in fact, we have just recently met with New Jersey Transit. We found the commuter lot is small, there is more demand for it, and we have undertaken to foot the bill for the cost of design to see what has to be done to expand this commuter lot.

We're also talking with New Jersey Transit about possible other commuter lots up and down the road, including utilization, perhaps off-season of the parking lot of the Garden State Arts Center for park & ride situation. And Interchange 145 in East Orange. In Essex County there's a ramp that carries traffic from the Parkway to northbound Interstate 280 which is inadequate right now to handle the volume that is there. Though the bridge over I-280 is entirely on State property, we are discussing with DOT and have even offered the possibility of getting into the cost whatever is necessary to look at it on a preliminary design basis and possibly also a final design.

At Interchange 127, we are designing shoulders to be constructed on the ramp from the northbound Parkway to westbound on Route 440. This shoulder work is in the area of the State jurisdiction in this interchange. The congestion is caused by the joining of a one lane ramp from U.S. Route 9 with two lanes from the Parkway just prior to a two lane bridge over the Parkway constructed and owned by JNDOT.

At Interchange 105, we're also working at the Route 36 area which really is the NJDOT's responsibility, and we are taking the lead, again, recognizing the responsibility that we

have -- that we have created the impact in that particular area. At Interchange 102, we have also been involved with DOT in trying to improve not only the ramp network of the Parkway, but also what effect it has on the roads in the area. Interchange 100, which has been a major undertaking where we have to widen the Parkway, in so doing we had to move two bridges, namely Route 33 and Route 66. We have been in constant discussions with DOT, in coordination with DOT, and we have done the work which is beyond, really, if you want to get technical, the responsibility. But we look upon it as we have an obligation to do that.

Of course there are other areas. But the main thing is what was just approved by the State House Commission recently, which the Commissioners will ratify at their next authority meeting to take over, as referred to by Commissioner Gluck, the State-owned sections.

SENATOR RAND: And we think that you should be given credit for that, by the way -- monetary credit.

MR. ZILOCCHI: Possibly yes.

SENATOR RAND: In other words, we discussed that and what I said. You're taking the responsibility off of DOT and to what that costs the DOT if there is to be any agreement, that should be taken into consideration.

MR. ZILOCCHI: Senator, I pointed out though, at this particular instance, just to express the cooperation and the coordination that is going on right now -- besides the takeover of the maintenance and operation of these three sections, there is a lot of work that has to be done which will relieve DOT of that responsibility. Primarily, the two areas that we're going to address is the Toms River area and the Cape May area. We're definitely going to do everything we have to do to get rid of those two traffic lights down in Cape May. I know that will make Senator Hurley happy.

SENATOR HURLEY: Very happy.

SENATOR GAGLIANO: Then I can't win any more dollar bets.

MR. ZILOCCHI: And in Toms River, of course, which is one of the most congested areas we have on the Parkway. We are already doing the preliminary design that is needed to expand the roadway in that section. So, the message that I want to give is not just the expensive taking over the maintenance and operation. There are enormous capital improvement expenses that we are undertaking. And of course, the main section of 13 miles of Union and Middlesex, I have to be very frank with this Committee: There is so much that has to be done that at this point we don't even know where to start, but we have started the preliminary study on that.

But, of course, as stated by Chairman Sullivan and the Expressway Authority, we have reservations about Bill 3081. We don't have reservations about the concept of working together to resolve the transportation problems of the State of New Jersey. In regard to Bill 3082, I'm not going to take on my good friend Senator Gagliano, because I'm not an attorney and he is an attorney and I know better. But I--

SENATOR GAGLIANO: I'm not saying things here as an attorney; I'm just saying things. (laughter)

MR. ZILOCCHI: But I happen to know that you are an attorney, Senator.

SENATOR RAND: He's not being paid for these comments.

MR. ZILOCCHI: But our position paper does raise the question of the possible conflict of interest. And again, it's not that the New Jersey Highway Authority feels that it should be isolated and DOT has no business. I think I made that point clear already. There are many interactions with DOT which require signing of agreements and only from that point of view, with the Commissioner of DOT voting on that and then signing the agreement representing both DOT and the case that relates to the Garden State Parkway. From that point, the conflict of

interest issue was raised. I'm not going to get into a legal argument Senator.

SENATOR RAND: No, because Feather O'Connor sits on many of those and has the same problem -- three times as many or four times many as the Commissioner of Transportation.

MR. ZILOCCHI: I've listened to all of the testimony and I've heard Senator Gagliano come with that. I could have skirted it, but I figured I'd take it on anyway.

SENATOR GAGLIANO: We're all friends.

MR. ZILOCCHI: But perhaps one alternative suggestion that we just have, because we just don't want to come and be negative and say watch out for this and watch out for that, but we also like to try to be positive. We just ask the Committee what's in our position paper. The Commissioner of DOT, sitting on the various authorities besides getting involved with other matters-- But the main purpose that I see is, and maybe if I misinterpret that, I'll stand corrected, is to coordinate the major improvements and necessary transportation issues in the State of New Jersey. And perhaps a more direct way is to set up some sort of -- and I have no name for it -- some sort of identity where the Commissioner of the Department of Transportation would be the Chairman and the various toll roads be part of it to discuss capital planning and capital improvements. And that all capital improvements would have to be discussed and coordinated at this type of forum.

Again I just ask that it be considered. It's in my position paper. As far as 3083, of course we feel that we are very efficient and we're well run. I wouldn't say anything otherwise. We do have controls, but I'll leave that as stated in our position papers. I really have nothing to say. I'll gladly answer any questions.

SENATOR RAND: Let me just say thank you very much. We appreciate you coming here today. Let me say this. I happen to think that you might look at 3081, 3082. and 3083 as

rather helpful, rather than hindering. I tell you the winds blow no good. I mean I sense the sentiments of a lot of legislators and a lot of people on the outside. There are things that have happened in the past year which has sensitized a lot of public opinion. And if we don't move in this direction, I have great fears that we're going to move in a different direction. I think that this is a logical way to move: intelligently, painfully -- maybe a little slow, as you heard here this afternoon.

But it's a much more intelligent approach. I tell you very frankly, if you fight 3081, 3082, or 3083 -- I tell you this as an individual who, I think, has the sense and pulse of a lot of things that's happening -- I think you make a very grievous error. That's my opinion. Again, you do as you please. You are your own independent authority. But there are just a lot of things in the wind, and I think what 3082 and 3083 does is head them off at the pass, to use an old cliché. I think they're intelligent and I think they are the right way to go.

S-3081, I must tell you. I didn't want to do 3081. I would hope that we could sit down and talk about 3081. I hope we get that from Mr. Sullivan, I hope we get that from Mr. Vass, I hope we would get that from you, and that there might be a way without legislation. I don't like legislation, very frankly, in that tenor. I don't think it's the right way to go. I have no choice in the matter. And of course, I disagree with your bond counsel, very frankly.

I know that again, and to go back to the question that I asked Mr. Sullivan is, that your bond payments are predicated on your revenue. And if you get in excess of that revenue, they couldn't give tinker's damn. They might! They have no right to tell you what to do with that anticipated revenue or that real revenue that you raised above that line.

And learned counsel here is very distinguished. I'm sure they know more about me. But the people that I speak to I

think are pretty bright and pretty intelligent. They tell me that I'm on the right path. Your counsel, I understand-- They're protecting you in every manner. But I would hope, and I say the last thing before I turn it over to my colleagues, that I would hope that we would have a better reception, very frankly, both from the Turnpike and yourself, because there is a mechanism in Mr. Vass' organization in which the Treasurer can recapture more money than the initial payment. That was something that was put into their legislation a long time ago.

So actually, if we get more money, and as I say, you know, the day will come and you're going to raise tolls -- make no bones about it. You know, we've got to be honest. The Turnpike is going to raise tolls and the Expressway is going to raise tolls -- when, I don't know, but down the line. And I think when that happens, you're going to have some surpluses. I, very frankly, don't want it to go for the arts. I tell you that. You know my position. I think it's a matter of public policy. You're an instrument of the State dedicated to running your highway, and I think if you make overage in money, it's entitled to come back to us for the benefit of the taxpayers of this State. I don't say that in any manner of being an adversary of yours. I say it in a very public manner, because that's what I believe in.

MR. ZILLOCCI: Senator, I don't think we disagree in the scope. I think maybe we have some disagreement in the means, but I think in the scope, we're in complete agreement.

SENATOR RAND: And I would hope that we could sit down, very frankly-- Not me, I think it's incumbent for some of the Governor's people to do that -- to sit down and discuss it. Maybe there's a way that you could-- You know, we're asking the people of this State for an increase in gasoline. We're asking them to put a nickel-- I mean, that was proposed. We're asking to go on a \$4 billion 4-year program. We're asking the people of this State to go on a \$2.450 million

debt which will cost this State's taxpayers over \$5 billion. I just think that that's wrong. I think that if we can help that and lower it -- I think we might have to do that -- but certainly, if you can chip in a little bit, and Mr. Sullivan can chip in a little bit, and the Expressway too, I just think that that's a wonderful thing. I think it's great public relations for you.

You've caused better public relations in the last three years by me going around and telling every group -- and I've spoken to hundreds of groups -- that the authorities are doing their job, that they're contributing to the overall transportation network of this State, that they kicked in \$24.5 million, and I say very plainly to them, that if they see the need for more, I'm sure that they are going to acquiesce to do whatever they can above their bond covenant. That's the type of cooperation that I would like to have. If you can't give us \$10 million, maybe you can give us \$5 million. But I think that you certainly ought to consider as your revenues increase-- I just think that that's the right thing to do. And I'd like to see that type of an expression rather than saying that it's not constitutional, or the bond counsel tells us that we can't do that. It does not impress this Committee.

MR. ZILOCCHI: But Senator, I come to you with that and also come to you with examples where we have cooperated with DOT and not just in spirit, but also monetarily.

SENATOR RAND: Yes indeed. And certainly. Mr. Zilocchi, I have said that is to your credit. I wouldn't even want to penalize you because that ought to be a considerable part of whatever there is. No question about that.

Senator Gagliano, I know you are waiting.

SENATOR GAGLIANO: No. I don't have any questions. I've said it all.

SENATOR RAND: Senator Hurley?

SENATOR HURLEY: I have to seize the opportunities. You went into the agreement with DOT or the sections of the DOT

highway that now comes under your jurisdiction. And you went in with your eyes wide open about the two traffic lights in Cape May County. Can you shed any light on what your plans are and when those plans might come to fruition? You want to do away with the lights. You've already said that today.

MR. ZILOCCHI: Yes Senator. We are, at this point, doing preliminary studies of what we have to do in general in Cape May County and Toms River. At this point, I can't give you much detail, but you can rest assured as I indicated to you that once I get the information, I'll gladly sit down with you and discuss it with you.

SENATOR HURLEY: A couple of years ago, we had a Phase I and a Phase II -- Phase I being all access to the Parkway from those side streets, and the building of a -- you might call it an access road or a service road. Were those your plans or were they DOT's plans and do they have any relevance today?

MR. ZILOCCHI: I don't recall them being Parkway plans. I could stand corrected, but I don't recall those.

SENATOR HURLEY: So, they don't exist today, as far as you're concerned?

MR. ZILOCCHI: That's right. But, I will be in touch with you, Senator.

SENATOR HURLEY: As far as you know now, you will be building overpasses?

MR. ZILOCCHI: Yes. That much I know.

SENATOR HURLEY: Thank you.

SENATOR RAND: We're not going to continue Monday, because we're coming to a close, but we will have one more public hearing on this subject. Thank you very much.

MR. ZILOCCHI: Thank you Senator.

SENATOR RAND: Is there anybody else that wishes to testify? I know there were a couple of people. New Jersey Motor Truck? They are not here? (no response) If not, we will

return to our original schedule on Monday at 10:00, and we will not have a continuation of this hearing on Monday. We will have one more public hearing on these three bills. I want to thank Mr. Sullivan, I want to thank Mr. Zilocchi, and I want to thank Mr. Vass. Ms. Braithwaite, I do appreciate it. I would hope you will leave here with some optimism for us. And I thank everybody very much for appearing.

(HEARING CONCLUDED)

APPENDIX

New Jersey State Library



Garden State Parkway

Memorandum

DATE: 6/9/87

TO: Judith H. Stanley, Chairman
Comms. L.M. Levey, R.S. Sambol, J.K. Robinson,
J.J. Padovano, Jr., J.P. Miele, H.G. Buckwald

FROM: George P. Zilocchi, Executive Director

SUBJECT: SENATE BILLS 3081, 3082 AND 3083

Attached is a proposed position paper which I intend to submit to the Senate Transportation Committee on Thursday, June 11, 1987 concerning Senate Bills 3081, 3082 and 3083.

The objectives of the bills are more precisely delineated in the proposed position paper.

If you have any comments, please give me a call by tomorrow, otherwise I will assume that you have no objections to the presentation of the position paper.


George P. Zilocchi

GPZ:g
Attachment



New Jersey Highway Authority

EXECUTIVE OFFICES • WOODBRIDGE, NEW JERSEY, 07095 • (201) 442-8600

Garden State Parkway
Garden State Arts Center

COMMISSIONERS

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H. GEORGE BUCKWALD

June 8, 1987

GEORGE P. ZILCCHI
Executive Director

Honorable Walter Rand,
and Members of the Senate
Transportation and Communication Committee
State House Annex
CN-068
Trenton, New Jersey 08625

RE: Senate Bills Numbered 3081, 3082 and 3083

Dear Senator Rand & Members of the Committee:

The Authority respectfully submits this position paper with respect to proposed Senate Bills 3081, 3082 and 3083.

I. SENATE BILL 3081

Senate Bill 3081 would require the New Jersey Highway Authority to increase its present annual payment to the Transportation Trust Fund Authority from \$10 million to \$20 million. The Bill would also require the New Jersey Turnpike Authority and the New Jersey Expressway Authority to increase their annual payments by twofold. The Authority is opposed to the passage of Senate Bill 3081 for the following reasons:

1. The Authority respectfully submits that Bill 3081 unconstitutionally impairs the Authority's contract with its bondholders.

In the dual cases of New Jersey Highway Authority vs. Sills, 109 N.J. Super. 424 (Ch.Div. 1970) and 111 N.J. Super. 313 (Ch.Div. 1970) the Court held that Chapter 352 and Chapter 414 of the Laws of 1968, which would have exempted certain members of the New Jersey National Guard and Armed Forces from paying Parkway tolls, were unconstitutional impairments of the Authority's bond contract, in violation of Article IV, Section 7, paragraph 3 of the New Jersey Constitution and Article I, Section 10 of the United States Constitution.

In the Sills case the Court concluded that even if those laws were enacted under the guise of the State's police power, the laws were nonetheless an unconstitutional impairment of the

obligation of the contract to collect tolls and maintain revenues for the benefit of the bondholders. The Court noted that free passage that would have been occasioned by the laws would result in a future loss to the Authority of approximately \$27,300 a year. While this sum seemed small in contrast to the total revenues of the Authority, the Court nevertheless held that the laws constituted an impermissible impairment of the Authority's contractual obligations with its bondholders.

In reaching this conclusion, the Court held that the Authority's bond resolution, which constituted its contract with the bondholders, required the Authority to collect tolls and maintain revenues for the benefit of its bondholders. Any legislation which would cause the bondholders' position to deteriorate would violate those covenants.

Present Authority bond resolutions contain similar if not identical covenants and, as was the case with earlier bond resolutions, stipulate that the resolutions constitute a contract with the Authority's bondholders.

Moreover, the existing bond resolution specifically refers to and incorporates the terms of the 1984 State Agreement with its limitation of the annual \$10 million payment to be made by the Authority to the State. In other words, when a bondholder made a purchase of the bonds, that bondholder understood that the State payments were capped at \$10 million a year for twenty years.

Manifestly, Senate Bill 3081, if enacted, would not only violate this particular covenant, but would also cause a significant diminution in Authority revenues. The resulting deterioration in every bondholder's position would constitute an impermissible impairment of that bondholder's rights.

The Trustees under the bond resolution are required to enforce the rights of bondholders. In light of such a clear violation of the bondholders' rights, it is almost a certainty that the Trustees will bring an action challenging the constitutionality of Senate Bill 3081. The bond resolution requires the Authority to pay for the costs of such legal action. Those costs would be a substantial and unwarranted expenditure of Authority revenues.

Authority Bond Counsel, Carella, Byrne, Bain & Gilfillan, has reviewed the provisions of Senate Bill 3081 and agrees that the bill would constitute an unconstitutional impairment of the Authority's contract with its bondholders. A copy of the Carella opinion of June 8, 1987 is annexed. As the Carella firm indicates, the Authority may not increase its payment under the State Agreement without bondholder consent without precipitating a default.

2. Wholly aside from the question of whether the proposed bill is constitutionally defective, it is at the very least a breach of both the letter and spirit of the Authority's 1984 Agreement with the State setting forth the Authority's annual \$10 million payment to the Transportation Trust Fund. That Agreement was entered into after a lengthy and intensive review of the transportation needs and objectives of both the State and the Authority. As a result of that intensive examination, it was agreed by both parties that the annual payment would be \$10 million and that this payment would be sufficient to meet the needs of the State for a period of twenty years. Now, barely three years later, the State proposes to abrogate that commitment and agreement.

3. In addition, the proposed bill would also constitute a violation of the pledge of the State of New Jersey to Authority bondholders. That pledge provides as follows (N.J.S.A. 27:12B-11):

"The State of New Jersey does pledge to and agree with the holders of the bonds or notes issued pursuant to authority contained in this act, that the State will not limit or restrict the rights hereby vested in the Authority to maintain, acquire, construct, reconstruct and operate any project as defined in this act or to establish and collect such tolls or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds or notes authorized by this act or in any way impair the rights or remedies of the holders of such bonds or notes until the bonds and notes, together with interest thereon, are fully paid and discharged. L.1952, c.16, p.82, Sec. 11."

Since Senate Bill 3081 necessarily diminishes Authority funds, it impairs the rights and remedies of Authority bondholders in contravention of the State's pledge.

4. The Statement forming a part of Senate Bill 3081 provides in part that it is an opportune time to re-examine the State payments made by the toll road authorities because the revenues of these authorities have increased over the years since the original contract date. The Authority entered into the State Agreement in 1984. In 1984, the Authority's total revenue was approximately \$108,156,000. In 1986, the Authority's total revenue was \$124,330,000. The Authority's projected revenue for 1987 is \$129,180,000. In 1984, the

Authority's net revenue (after a prorata payment to the State Transportation Fund) was \$20,602,000. The 1986 net revenue was \$17,425,000. The projected net revenue for 1987 is \$3,919,494. These amounts, pursuant to the Authority Bond resolution, must be transferred to the Authority's reserves or necessary improvement projects.

The proposed bill would require the Authority to double its contribution to the State Transportation Trust Fund. Surely, neither the Authority's gross nor net revenues have come close to doubling in the last three years. Indeed, net revenue has decreased.

The Authority's 1986 Official Statement shows that the Authority will require additional net revenues in the years 1988 through 1991. If the Authority is required to pay an additional \$10 million to the State Transportation Fund, the Authority's shortfall in these years will be significantly increased.

II. SENATE BILL 3082

Senate Bill 3082 provides that the Commissioner of Transportation will be an ex officio member with voting powers of the Authority, the Turnpike Authority and the Expressway Authority. The Authority is opposed to the enactment of this bill for the following reasons:

1. While the Authority is in agreement with the underlying concept that there should be continued interaction and coordination with the Department of Transportation, the Authority does not believe that this bill is the proper vehicle to continue and enhance the existing high level of cooperation.

If the Commissioner were a member of the Authority, the Commissioner would be involved in the routine day-to-day operations of the Authority. The Authority believes that this level of involvement ill serves the Commissioner, the Authority, and the public interest; rather the DOT should be aware of the major projects of the Authority which interface with the overall transportation system in New Jersey.

2. Indeed, there is presently a significant level of interaction between the Authority and the DOT regarding numerous capital improvement projects which impact upon State highways and other State transportation concerns. The Authority is also involved in many discussions with New Jersey Transit concerning commuter parking lots, park and ride facilities, and other cooperative ventures. Most importantly, the Authority is about to assume the responsibility and expense for maintaining the State-Owned Sections of the Parkway.

There is every reason to believe that the Authority will continue to have numerous projects, contracts and other cooperative efforts with the DOT. If the Commissioner of Transportation were a member of the Authority, the Commissioner could not discuss, participate in or vote upon any matter in which the DOT had an interest. For the Commissioner to do so would be a clear violation of conflict of interest legislation and the State's and the Authority's rules and regulations regarding conflict of interest. Thus, having the Commissioner as a member of the Authority would serve to decrease rather than enhance the level of cooperation presently existing between the DOT and the Authority.

3. The Authority will shortly set forth its position on proposed Senate Bill 3083 which calls for a Commission to study the various authorities. One of the stated objectives of that Commission is to consider a more coordinated and integrated system between the Authority and the DOT including the role of the Commissioner of DOT with respect to the Authority. If the Study Commission is to consider those objectives, then this bill is premature.

4. The Authority believes it has a better way to implement a more coordinated and integrated system with the DOT. Currently, a member of the DOT attends each Authority monthly meeting. If the DOT requires a more substantial level of participation, the Authority respectfully suggests that the Commissioner establish a monthly meeting with designated representatives of each authority. The Commissioner would be able to set the agenda for such a meeting and concentrate on substantial future transportation planning and major capital improvement projects of each authority. The Commissioner would be fully aware of all of these major developments without unnecessarily being involved in day-to-day minutia and without running afoul of any legislation or regulations pertaining to conflict of interest.

III. SENATE BILL 3083

Senate Bill 3083 provides for the establishment of a Toll Road Authorities Study Commission to study and make recommendations concerning the role of the Highway Authority, Turnpike Authority and Expressway Authority in the State's transportation system. The Authority has the following observations with respect to this bill:

1. The Authority believes that it is an efficiently run and well-managed entity which maintains extremely high standards with respect to its operation of the Garden State Parkway and the Garden State Arts Center. It is generally recognized that the Garden State Parkway is one of the premier commuter toll roads in the United States. We believe that the Turnpike

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June 8, 1987

George P. Zilocchi
Executive Director
Executive Offices
New Jersey Highway Authority
Woodbridge, New Jersey 07095

RE: New Jersey Highway Authority

Dear Mr. Zilocchi:

You have requested our opinion, as Bond Counsel to the New Jersey Highway Authority (the "Authority"), on the effect of S-3081, introduced in the New Jersey Senate on March 9, 1987 and still in Committee, on the outstanding bonds of the Authority.

On April 26, 1984, the Authority and the State of New Jersey entered into the "1984 Agreement Between New Jersey Highway Authority and Treasurer of the State of New Jersey" (the "State Agreement"), which provides that the Authority shall pay to the State \$10,000,000 each calendar year for twenty years for the development of State transportation projects. The State Agreement further provides that "the obligation of the Authority to make such payments shall be on a parity with or subordinate to, as and to the extent provided in the Bond Resolutions, the Authority's obligations to pay the principal of and interest on bonds outstanding under the Bond Resolutions." (Section 201) The State Agreement provides that "the State and Authority have entered into this Agreement with the intention that the amount of the State Payment [\$10,000,000] to be made by the Authority to the State during the term hereof, will constitute a sufficient contribution by the Authority to the State during the term of this Agreement": twenty years. (Page 3 of State Agreement)

S-3081 essentially provides that within 90 days after its enactment, the State shall enter into negotiations with the Authority to "modify" the State Agreement to increase the amount

7x

of the annual payment due from the Authority under the State Agreement from \$10,000,000 to \$20,000,000. The bill provides that "these negotiations shall be entered into in good faith by all of the parties to the contracts, for the purpose of working out a mutually satisfactory means of changing the annual payments to the amounts specified in this section, while protecting the interests of all of the parties to the contracts, and the interests of the holders of bonds, notes or other obligations of the... [Authority]." (Section 1) Section 5 of S-3081 gives to the Authority the power to modify its payments under the State Agreement "subject to the rights and security interests of the holders from time to time of bonds or notes" of the Authority.

On April 29, 1986, the Authority issued \$340,000,000 Senior Parkway Revenue Bonds, 1986 Series (the "Bonds") pursuant to a resolution of the Authority adopted on November 15, 1984 and entitled "Parkway Revenue Bond Resolution" as amended and supplemented. This Resolution, by its terms, constitutes a contract with the Bondholders: "In consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time...the Resolution shall be deemed to be and shall constitute a contract between the Authority and the Holders from time to time of such Bonds and coupons, and the pledge effected by the Resolution and the covenants and agreements therein set forth to be performed on behalf of the Authority shall be for the equal benefit, protection and security of the Holders of any and all of such Bonds and Coupons..." (Section 103)

"State Agreement" is defined in the Resolution to mean the agreement "pursuant to which the Authority agrees to make annual payments of not exceeding \$10,000,000 to the State or its assignee for transportation purposes for a period of not more than 20 years", (Section 101) (emphasis added) and "State Payments" is defined to mean the payments required to be made by the Authority pursuant to the State Agreement." (Section 101) As was set forth in the Official Statement for the Bonds, the full disclosure document on the basis of which the Bonds were sold to the Bondholders, the Authority is obligated to pay to the State \$10,000,000 annually for 20 years in accordance with the State Agreement. (pp. iii, 7, 22-23). In making their decision to purchase the Bonds, the Bondholders understood through review of the Official Statement, which summarized the provisions of the Resolution, that the State Payments were capped at \$10,000,000 a year for a period of twenty years.

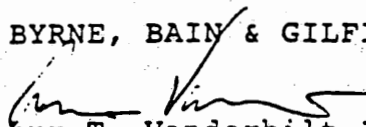
The Authority has specifically covenanted to the Bondholders not to "create or cause to be created any lien or charge on the Revenues, or such moneys, securities or funds" of the Authority. (Section 707) Therefore, the Authority's annual payments under the State Agreement could not lawfully be increased to mandate payment of \$20,000,000 a year without violating the Authority's covenant with its Bondholders. S-3081, which would double the size of the annual State Payments, from \$10,000,000 to \$20,000,000, would, if enacted and imposed on the Authority, constitute a material change of the Resolution and a breach of the Authority's covenants with its Bondholders. The Resolution provides that "any modification or amendment of the Resolution and of the rights and obligations of the Authority and of the Holders of the Bonds and coupons thereunder, may be made by a Supplemental Resolution, with the written consent...of the Holders of at least two-thirds in principal amount of the Bonds Outstanding." (Section 1102) Such increase in the annual payments made by the Authority under the State Agreement without Bondholders' approval would be an event of default under the Resolution since it would constitute a default by the Authority in the performance or observance of the covenants, agreements or conditions on its part to be performed in the Resolution. (Section 801) The Bondholders could therefore declare the principal of all the Bonds then outstanding and the interest accrued thereon to be due and payable immediately. (Section 801) The enactment and imposition of such legislation as described above could constitute an unconstitutional impairment of the contract between the Authority and its Bondholders. See New Jersey Highway Authority v. Sills, 109 N.J. Super. 429 (Ch. Div. 1970); 111 N.J. Super. 313 (Ch. Div. 1970).

In conclusion, pursuant to the Resolution, the Authority may not increase its payment under the State Agreement as described above without consent of its bondholders, without precipitating a default.

Please let us know if you have additional questions about this matter.

Very truly yours,

CARELLA, BYRNE, BAIN & GILFILLAN


Arthur T. Vanderbilt II

ATV:kmh

ccs. Thomas Critchley, Esq.
Martin Fox, Esq.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NO. 172

WHEREAS, the New Jersey Turnpike Authority was created by the New Jersey Turnpike Authority Act of 1948 (L. 1948, c. 454) as an autonomous instrumentality of the State exercising public and essential governmental functions in the construction, operation and maintenance of the revenue-financed facility known as the New Jersey Turnpike; and

WHEREAS, the New Jersey Highway Authority was created by the New Jersey Highway Authority Act (L. 1952, c. 16) as an autonomous instrumentality of the State exercising public and essential governmental functions in the construction, operation and maintenance of the revenue-financed facility known as the Garden State Parkway; and

WHEREAS, the New Jersey Expressway Authority was created by the New Jersey Expressway Authority Act (L. 1962, c. 10) as an autonomous instrumentality of the State exercising public and essential governmental functions in the construction, operation and maintenance of the revenue-financed facility known as the Atlantic City Expressway; and

WHEREAS, the Governor is charged with the responsibility of safeguarding the public interest pursuant to the enabling legislation creating these Authorities which states that each Authority action shall not take effect until the Governor has reviewed and approved such proposed actions; and

WHEREAS, the expansion of these highways and incidental subordinate operations may have impact upon important legitimate local interests which must be given due regard and fairly considered by those Authorities charged with the responsibility of effectuating the public objective in a reasonable fashion; and

WHEREAS, there exists the need to balance the best interests of the entire State, for which the concept of these transportation facilities was designed, with the concerns of those local governmental authorities and private individuals potentially impacted by a proposed project; and

WHEREAS, in recognition of the vital importance of public input to the implementation of transportation projects so as to identify community values and concerns with respect to the nature of the alternatives and the concerns and constraints that need to be accounted for in order to safeguard the public

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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WHEREAS, to assure that potential adverse effects and local concerns relating to any proposed project on these highways have been fully considered in the development of such project, and that the final decisions on the project are made in the best overall public interest; taking into consideration the need for fast, safe and efficient transportation and attendant services, and the cost of minimizing such adverse effects on communities and natural resources and the disruption of community cohesion and aesthetic values;

NOW, THEREFORE, I, THOMAS H. KEAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Within forty-five (45) days from the date of this Executive Order, the New Jersey Turnpike Authority, the New Jersey Highway Authority and the New Jersey Expressway Authority shall adopt, by formal resolution of their Boards, a policy and implementing procedures to ensure the provision of comprehensive information as well as the opportunity for maximum public comment as part of the project development process for Authority highway projects.

2. The policy and procedures for public participation shall, at a minimum, provide mechanisms for:

a. Adequate public notice to advise of a proposed project that is not an emergency or routine maintenance project; and

b. A forum which permits the Authority to make a public presentation of its plans and which allows those affected to adequately voice their opinions, recommendations and suggestions in a timely manner; and

c. The Authority to evaluate and respond to all public comments as an integral part of the project development process.

GIVEN, under my hand and seal, this
20th day of *May*
in the Year of Our Lord, one
thousand nine hundred and
eighty-seven, and of the
Independence of the United
States, the two hundred and
eleventh.

/s/ Thomas H. Kean

GOVERNOR

(seal)

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