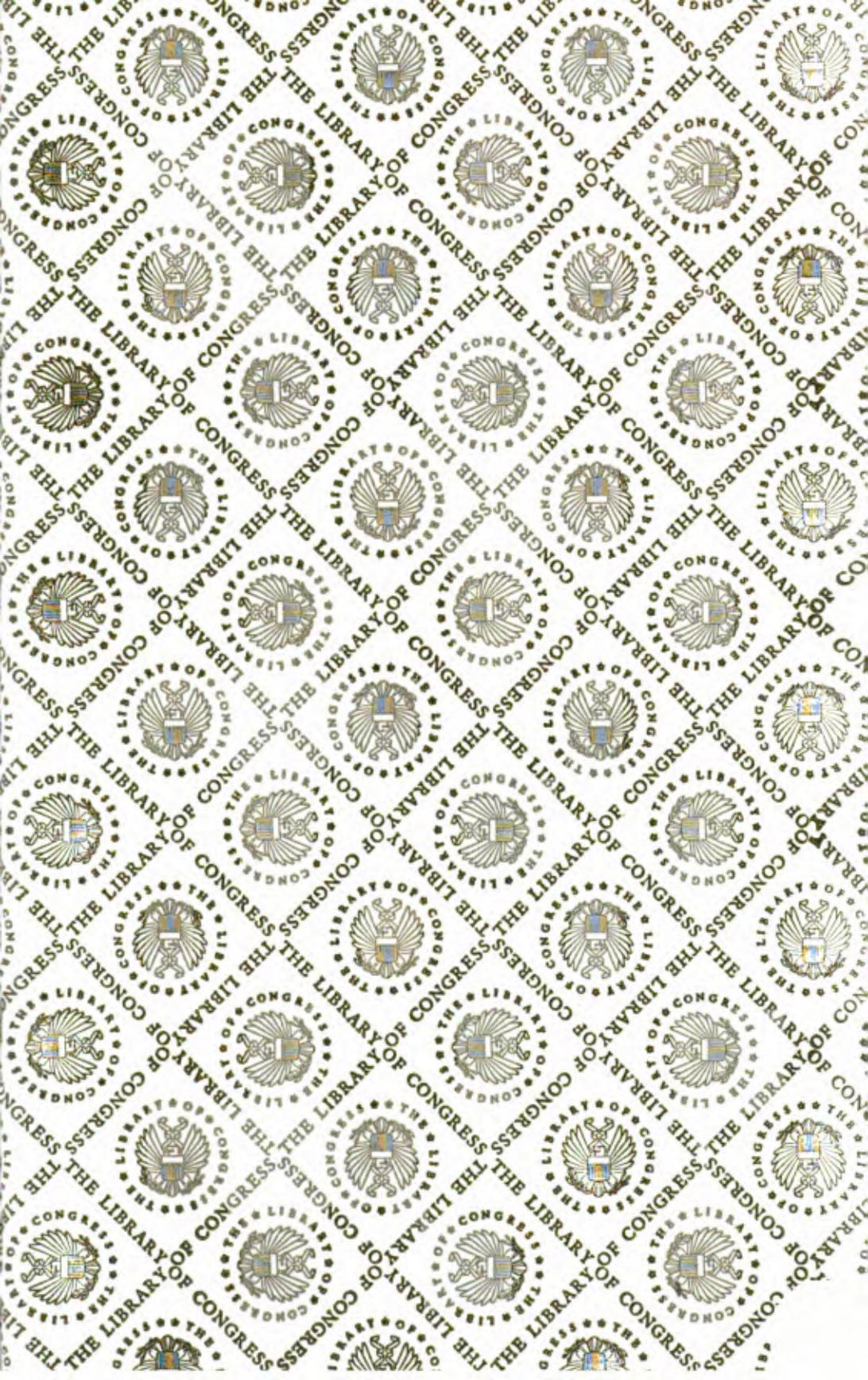


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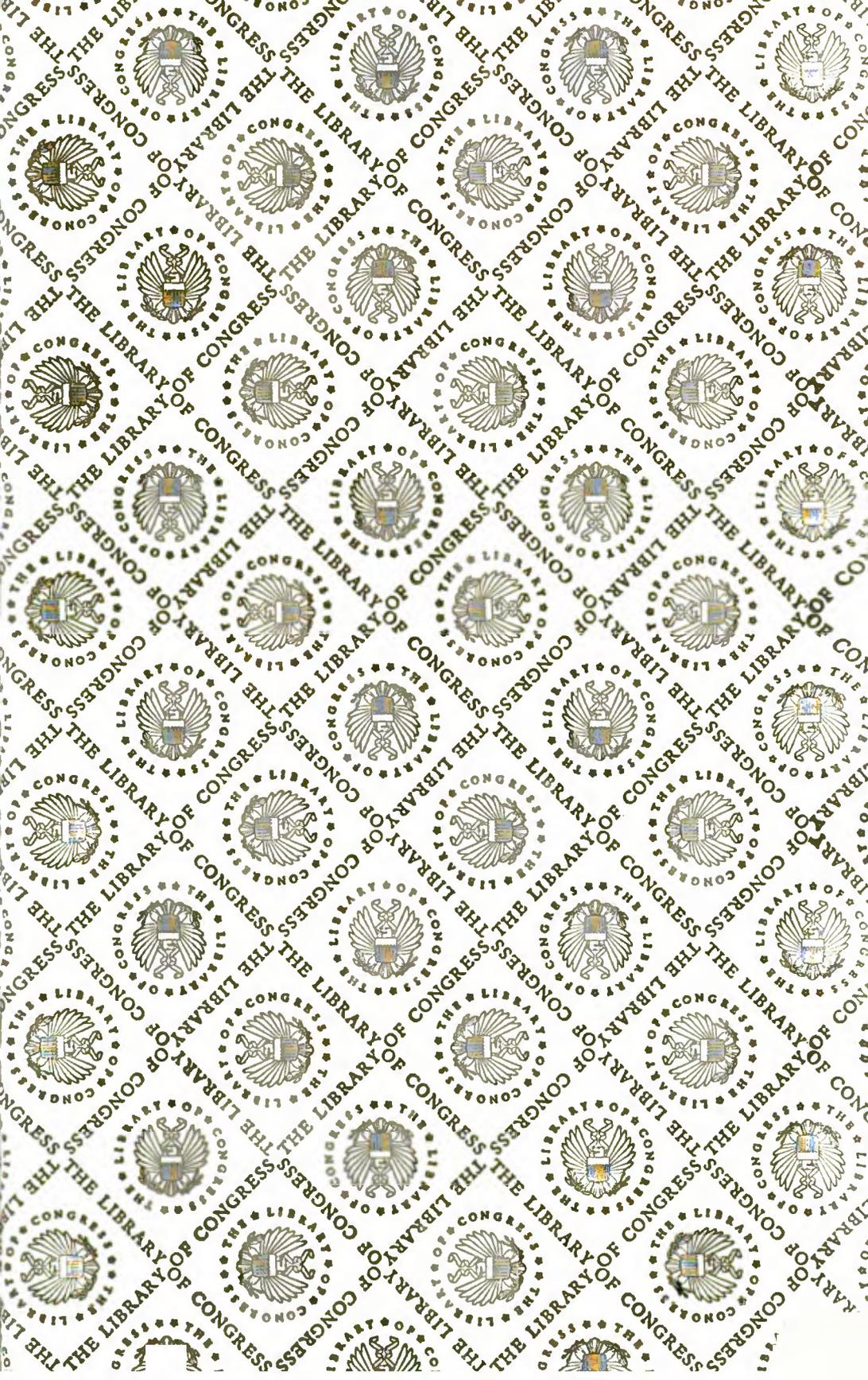
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United States Congress House ...
**GRANTING THE CONSENT OF CONGRESS TO
AMENDMENTS TO THE DELAWARE-
NEW JERSEY COMPACT**

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HEARING

BEFORE THE COPY ...

**SUBCOMMITTEE ON ADMINISTRATIVE LAW
AND GOVERNMENTAL RELATIONS**

OF THE

**COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES**

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

H.J. Res. 657

**GRANTING THE CONSENT OF CONGRESS TO AMENDMENTS TO THE
DELAWARE-NEW JERSEY COMPACT AND FOR OTHER REASONS**

OCTOBER 2, 1990

Serial No. 116



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GRANTING THE CONSENT OF CONGRESS TO AMENDMENTS TO THE DELAWARE-NEW JERSEY COMPACT

TUESDAY, OCTOBER 2, 1990

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ADMINISTRATIVE LAW
AND GOVERNMENTAL RELATIONS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:30 a.m., in room B-352, Rayburn House Office Building, Hon. Barney Frank (chairman of the subcommittee) presiding.

Present: Representatives Barney Frank and Chuck Douglas.

Also present: Belle Cummins, assistant counsel; David A. Naimon, assistant counsel; Cynthia Blackston, chief clerk; and Charles E. Kern, minority counsel.

Mr. FRANK. Two members of the subcommittee being present, we will commence the hearing.

This is a meeting of the Subcommittee on Administrative Law and Governmental Relations.

We will convene the hearing on House Joint Resolution 657, which would grant the consent of the Congress to amendments to the Delaware-New Jersey Compact.

Mr. Carper.

STATEMENT OF HON. THOMAS R. CARPER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF DELAWARE

Mr. CARPER. I am happy to wait for Bill Hughes.

Mr. FRANK. I am not, so please testify.

You can get a favorable report out of this committee or you get courtesy, but not both.

I will note for the record that Mr. Hughes first addressed me on this and he and Mr. Carper have both pushed for quick action.

Mr. CARPER. Let me introduce several people: Secretary of State Mike Harkins; Frank Biandi, legal counsel to the Delaware River Bay Commission, as well.

Governor Florio is represented, too, I believe. The amendments to the compact that have been forwarded to the Congress enjoy the overwhelming support of the legislature of New Jersey, the overwhelming support of the legislature of Delaware, the support of both Governors, the support of both parties.

I believe a great deal of care has been taken to address the concerns raised during the hearing process in both States and the re-

sulting protections contained in these amendments, I think reflect fairly the widespread support that these proposals have received in our two States.

There are in Delaware a few people who are not all together satisfied with the final product.

I would ask you to leave the record open for a sufficient time so that those individuals may have time to submit their written statements for the record.

Mr. FRANK. It has been ratified by the appropriate legislatures in New Jersey and Delaware?

Mr. CARPER. That is correct.

Mr. FRANK. Mr. Douglas.

Mr. DOUGLAS. No questions.

Mr. FRANK. No further questions.

[The bill, H.J. Res. 657, follows:]

101ST CONGRESS
2D SESSION

H. J. RES. 657

Granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 1990

Mr. HUGHES introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes.

Whereas the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, being 53 Laws of Delaware, chapter 145, and Public Law 1961, chapter 66 of the Laws of New Jersey, have provided, subject to the consent of Congress, for a compact, known as the Delaware-New Jersey Compact, establishing "The Delaware River and Bay Authority" for the development of the area in both States bordering the said Delaware River and Bay; and

Whereas the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, subject to the consent of Congress, for an amendment to the Delaware-New Jersey Compact to authorize the Delaware

River and Bay Authority to undertake economic development projects, other than major projects, at its own initiative, and to undertake major projects after securing only such approvals as may be required by the legislation of the State in which the project is to be located, except the Authority is prohibited from undertaking any major project to be located in the Delaware River and Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two States: Now, therefore, be it

1 *Resolved by the Senate and House of Representatives*
 2 *of the United States of America in Congress assembled,*

3 SECTION 1. CONSENT OF CONGRESS.

4 The Congress consents to the amendments to the Dela-
 5 ware-New Jersey Compact which have been enacted by the
 6 States of Delaware and New Jersey, so that the Delaware-
 7 New Jersey Compact reads substantially as follows:

“DELAWARE-NEW JERSEY COMPACT

“Whereas the States of Delaware and New Jersey are separated by the Delaware River and Bay which creates a natural obstacle to the uninterrupted passage of traffic other than by water and with normal commercial activity between the two States thereby hindering the economic growth and development of those areas in both States which border the River and Bay; and

“Whereas the pressures of existing trends from increasing traffic, growing population, and greater industrialization indicate the need for closer cooperation between the two States in order to advance the economic develop-

ment and to improve crossings, transportation, terminal, and other facilities of the area; and

“Whereas the financing, construction, operation and maintenance of such crossings, transportation, terminal, and other facilities of commerce and the overall planning for future economic development of the area may be best accomplished for the benefit of the two States and their citizens, the region and Nation, by the cordial cooperation of Delaware and New Jersey by and through a joint or common agency or authority; and

“Whereas the Delaware-New Jersey Compact, enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. §1701) and Public Law 1961, c. 66 (C. 32:11E-1 et seq.) of the Pamphlet Laws of New Jersey, with the consent of the United States Congress by Joint Resolution being Public Law 87-678, 87th Congress, H.J. Res. 783, September 20, 1962, created the Delaware River and Bay Authority with the intention of advancing the economic growth and development of those areas in both States which border the Delaware River and Bay by the financing, development, construction, operation, and maintenance of crossings, transportation, or terminal facilities, and other facilities of commerce, and by providing for overall planning for the future economic development of those areas; and

“Whereas the economic growth and development of areas of both States will be further advanced by authorizing the Authority to undertake economic development projects, other than major projects, as defined in Article II, at its own initiative, and to undertake major projects after securing only such approvals as may be required by legislation of the State in which the project is to be located,

1 and service routes and all appurtenances and equipment
2 relating thereto.

3 “ ‘Transportation facility’ and ‘terminal facility’ means
4 any structure or facility other than a crossing, as herein de-
5 fined, adapted for public use within each of the States party
6 hereto in connection with the transportation of persons or
7 property, including railroads, motor vehicles, watercraft, air-
8 ports and aircraft, docks, wharves, piers, slips, basins, stor-
9 age places, sheds, warehouses, and every means or vehicle of
10 transportation now or hereafter in use for the transportation
11 of persons and property or the storage, handling or loading of
12 property, as well as all appurtenances and equipment related
13 thereto.

14 “ ‘Commerce facility or development’ means any struc-
15 ture or facility adapted for public use or any development for
16 a public purpose within each of the States party hereto in
17 connection with recreational and commercial fishery develop-
18 ment, recreational marina development, aquaculture (marine
19 farming), shoreline preservation and development (including
20 wetlands and open-lands acquisition, active recreational and
21 park development, beach restoration and development,
22 dredge spoil disposal and port-oriented development), foreign
23 trade zone site development, manufacturing and industrial fa-
24 cilities, and other facilities of commerce which, in the judg-

1 ment of the Authority, are required for the sound economic
2 development of the area.

3 “ ‘Appurtenances’ and ‘Equipment’ mean all works,
4 buildings, structures, devices, appliances, and supplies, as
5 well as every kind of mechanism, arrangement, object, or
6 substance related to and necessary or convenient for the
7 proper construction, equipment, maintenance, improvement,
8 and operation of any crossing, transportation facility or ter-
9 minal facility, or commerce facility, or development.

10 “ ‘Project’ means any undertaking or program for the
11 acquisition or creation of any crossing, transportation facility
12 or terminal facility, or commerce facility or development, or
13 any part thereof, as well as for the operation, maintenance,
14 and improvement thereof.

15 “ ‘Major Project’ means any project, other than a cross-
16 ing, having or likely to have significant environmental im-
17 pacts on the Delaware River and Bay, its shorelines or estu-
18 aries, or any other area in the State of Delaware or the New
19 Jersey counties of Cape May, Cumberland, Gloucester, and
20 Salem, as determined in accordance with State law by the
21 environmental agency of the State in which the major project
22 is to be located.

23 “ ‘Tunnel’ means a tunnel of one or more tubes.

1 “ ‘Governor’ means any person authorized by the Con-
2 stitution and law of each State to exercise the functions,
3 powers, and duties of that office.

4 “ ‘Authority’ means the Authority created by this Com-
5 pact or any agency successor thereto.

6 “The singular whenever used in this Compact shall in-
7 clude the plural, and the plural shall include the singular.

8 “ARTICLE III

9 “FAITHFUL COOPERATION

10 “They agree to and pledge, each to the other, faithful
11 cooperation in the effectuation of this Compact and any
12 future amendment or supplement thereto, and of any legisla-
13 tion expressly in implementation thereof hereafter enacted,
14 and in the planning, development, financing, construction,
15 operation, maintenance, and improvement of all projects en-
16 trusted to the authority created by this Compact.

17 “ARTICLE IV

18 “ESTABLISHMENT OF AGENCY; PURPOSES

19 “The two States agree that there shall be created and
20 they do hereby create a body politic, to be known as ‘The
21 Delaware River and Bay Authority’ (for brevity hereinafter
22 referred to as the ‘Authority’), which shall constitute an
23 agency of government of the State of Delaware and the State
24 of New Jersey for the following general public purposes, and

1 which shall be deemed to be exercising essential government
2 functions in effectuating such purposes, to wit:

3 “(a) The planning, financing, development, construction,
4 purchase, lease, maintenance, improvement, and operation of
5 crossings between the States of Delaware and New Jersey
6 across the Delaware River or Bay at any location south of
7 the boundary line between the State of Delaware and the
8 Commonwealth of Pennsylvania as extended across the Dela-
9 ware River to the New Jersey shore of said River, together
10 with such approaches or connections thereto as in the judg-
11 ment of the Authority are required to make adequate and
12 efficient connections between such crossings and any public
13 highway or other routes in the State of Delaware or in the
14 State of New Jersey; and

15 “(b) The planning, financing, development, construction,
16 purchase, lease, maintenance, improvement, and operation of
17 any transportation or terminal facility within the State of
18 Delaware or the New Jersey counties of Cape May, Cumber-
19 land, Gloucester, and Salem, which facility, in the judgment
20 of the Authority, is required for the sound economic develop-
21 ment of the area; and

22 “(c) The planning, financing, development, construction,
23 purchase, lease, maintenance, improvement, and operation of
24 any commerce facility or development within the State of
25 Delaware or the New Jersey counties of Cape May, Cumber-

1 land, Gloucester, and Salem, which in the judgment of the
2 Authority is required for the sound economic development of
3 the area; and

4 “(d) The performance of such other functions as may be
5 hereafter entrusted to the Authority by concurrent legislation
6 expressly in implementation hereof.

7 “The Authority shall not undertake any major project
8 or part thereof without having first secured such approvals as
9 may be required by legislation of the State in which the
10 project is to be located.

11 “The Authority shall not undertake any major project,
12 or part thereof to be located in the Delaware River or Bay,
13 including, without limitation, any deep-water port or super-
14 port, without having first secured approval thereof by concu-
15 rent legislation of the two States expressly in implementation
16 thereof.

17 “The Authority shall not undertake any major project
18 or part thereof without first giving public notice and holding
19 a public hearing, if requested, on any proposed major project,
20 in accordance with the law of the State in which the major
21 project is to be located. Each State shall provide by law for
22 the time and manner for the giving of such public notice, the
23 requesting of a public hearing and the holding of such public
24 hearings.

1 “ARTICLE V

2 “COMMISSIONERS

3 “The Authority shall consist of twelve Commissioners,
4 six of whom shall be residents of and qualified to vote in and
5 shall be appointed from the State of Delaware, and six of
6 whom shall be residents of and qualified to vote in and shall
7 be appointed from the State of New Jersey; not more than
8 three of the Commissioners of each State shall be of the same
9 political party; the Commissioners for each State shall be ap-
10 pointed in the manner fixed and determined from time to time
11 by the law of each State respectively. Each Commissioner
12 shall hold office for a term of five years, and until his succes-
13 sor shall have been appointed and qualified, but the terms of
14 the first Commissioners shall be so designated that the term
15 of at least one Commissioner from each State shall expire
16 each year. All terms shall run to the first day of July. Any
17 vacancy, however created, shall be filled for the unexpired
18 term only. Any Commissioner may be suspended or removed
19 from office as provided by law of the State from which he
20 shall be appointed.

21 “Commissioners shall be entitled to reimbursement for
22 necessary expenses to be paid only from revenues of the Au-
23 thority and may not receive any other compensation for serv-
24 ices to the Authority except such as may from time to time
25 be authorized from such revenues by concurrent legislation.

1 **“ARTICLE VI**2 **“BOARD ACTION**

3 **“The Commissioners shall have charge of the Authori-**
4 **ty’s property and affairs and shall, for the purpose of doing**
5 **business, constitute a Board, but no action of the Commis-**
6 **sioners shall be binding or effective unless taken at a meeting**
7 **at which at least four Commissioners from each State are**
8 **present, and unless at least four Commissioners from each**
9 **State shall vote in favor thereof. The vote of any one or more**
10 **of the Commissioners from each State shall be subject to can-**
11 **cellation by the Governor of such State at any time within 10**
12 **days (Saturdays, Sundays, and public holidays in the particu-**
13 **lar State excepted) after receipt at the Governor’s office of a**
14 **certified copy of the minutes of the meeting at which such**
15 **vote was taken. Each State may provide by law for the**
16 **manner of delivery of such minutes and for notification of the**
17 **action thereon.**

18 **“ARTICLE VII**19 **“GENERAL POWERS**

20 **“For the effectuation of its authorized purposes, the**
21 **Authority is hereby granted the following powers:**

22 **“(a) To have perpetual succession.**

23 **“(b) To adopt and use an official seal.**

24 **“(c) To elect a chairman and a vice chairman from**
25 **among the Commissioners. The chairman and vice chairman**

1 shall be elected from different States and shall each hold
2 office for two years. The chairmanship and vice chairmanship
3 shall be alternated between the two States.

4 “(d) To adopt bylaws to govern the conduct of its affairs
5 by the Board of Commissioners, and it may adopt rules and
6 regulations and may make appropriate orders to carry out
7 and discharge its powers, duties, and functions, but no bylaw
8 or rule, regulation, or order shall take effect until it has been
9 filed with the Secretary of State of each State or in such
10 other manner in each State as may be provided by the law
11 thereof. In the establishment of rules, regulations, and orders
12 respecting the use of any crossing, transportation, or terminal
13 facility or commerce facility or development owned or operat-
14 ed by the Authority, including approach roads, it shall con-
15 sult with appropriate officials of both States in order to
16 insure, as far as possible, uniformity of such rules, regula-
17 tions, and orders with the laws of both States.

18 “(e) To appoint or employ such other officers, agents,
19 attorneys, engineers, and employees as it may require for the
20 performance of its duties and to fix and determine their quali-
21 fications, duties, compensation, pensions, terms of office and
22 all other conditions and terms of employment and retention.

23 “(f) To enter into contracts and agreements with either
24 State or with the United States, or with any public body,
25 department, or other agency of either State or of the United

1 States or with any individual, firm, or corporation deemed
2 necessary or advisable for the exercise of its purposes and
3 powers.

4 “(g) To accept from any government or governmental
5 department, agency, or other public or private body, or from
6 any other source, grants, or contributions of money or prop-
7 erty as well as loans, advances, guarantees, or other forms of
8 financial assistance which it may use for or in aid of any of its
9 purposes.

10 “(h) To acquire (by gift, purchase, or condemnation),
11 own, hire, lease, use, operate, and dispose of property,
12 whether real, personal, or mixed, or of any interest therein,
13 including any rights, franchise and property for any crossing,
14 facility, or other project owned by another and which the
15 Authority is authorized to own and operate.

16 “(i) To designate as express highways, and control
17 public and private access thereto, all or any approaches to
18 any crossing or other facility of the Authority for the purpose
19 of connecting the same with any highway or other route in
20 either State.

21 “(j) To borrow money and to evidence such loans by
22 bonds, notes, or other obligations, either secured or unse-
23 cured, and either in registered or unregistered form, and to
24 fund or refund such evidences of indebtedness, which may be
25 executed with facsimile signatures of such persons as may be

1 designated by the Authority and by a facsimile of its corpo-
2 rate seal.

3 “(k) To procure and keep in force adequate insurance or
4 otherwise provide for the adequate protection of its property,
5 as well as to indemnify it or its officers, agents, or employees
6 against loss or liability with respect to any risk to which it or
7 they may be exposed in carrying out any function hereunder.

8 “(l) To grant the use of by franchise, lease, or other-
9 wise, and to make charges for the use of any crossing, facili-
10 ty, or other project or property owned or controlled by it.

11 “(m) To exercise the right of eminent domain to acquire
12 any property or interest therein.

13 “(n) To determine the exact location, system, and char-
14 acter of and all other matters in connection with any and all
15 crossings, transportation, or terminal facilities, commerce fa-
16 cilities or developments or other projects which it may be
17 authorized to own, construct, establish, effectuate, operate,
18 or control.

19 “(o) To exercise all other powers not inconsistent with
20 the Constitutions of the two States or of the United States,
21 which may be reasonably necessary or incidental to the effec-
22 tuation of its authorized purposes or to the exercise of any of
23 the foregoing powers, except the power to levy taxes or as-
24 sessments, and generally to exercise in connection with its
25 property and affairs, and in connection with property within

1 its control, any and all powers which might be exercised by a
 2 natural person or a private corporation in connection with
 3 similar property and affairs.

4 "ARTICLE VIII

5 "ADDITIONAL POWERS

6 "For the purpose of effectuating the authorized pur-
 7 poses of the Authority, additional powers may be granted to
 8 the Authority by legislation of either State without the con-
 9 currence of the other, and may be exercised within such
 10 State, or may be granted to the Authority by Congress and
 11 exercised by it; but no additional duties or obligations shall be
 12 undertaken by the Authority under the law of either State or
 13 of Congress without authorization by the law of both States.

14 "ARTICLE IX

15 "EMINENT DOMAIN

16 "If the Authority shall find and determine that any
 17 property or interest therein is required for a public use in
 18 furtherance of the purposes of the Authority, said determina-
 19 tion shall not be affected by the fact that such property has
 20 theretofore been taken over or is then devoted to a public
 21 use, but the public use in the hands or under the control of
 22 the Authority shall be deemed superior to the public use for
 23 which it has theretofore been taken or to which it is then
 24 devoted. The Authority shall not exercise the power of emi-
 25 nent domain granted herein to acquire any property, other

1 than a crossing, devoted to a public use, of either State, or of
2 any municipality, local government, agency, public authority
3 or commission, or of two or more of them, for any purpose
4 other than a crossing, without having first secured the au-
5 thorization of the holder of the title to the land in question
6 and such other approvals as may be required by legislation of
7 the State in which the project is to be located. The Authority
8 shall not exercise the power of eminent domain in connection
9 with any commerce facility or development.

10 "In any condemnation proceedings in connection with
11 the acquisition by the Authority of property or property
12 rights of any character in either State and the right of inspec-
13 tion and immediate entry thereon, through the exercise by it
14 of its power of eminent domain, any existing or future law or
15 rule of court of the State in which such property is located
16 with respect to the condemnation of property for the con-
17 struction, reconstruction, and maintenance of highways
18 therein shall control. The Authority shall have the same
19 power and authority with respect thereto as the State agency
20 named in any such law, provided that nothing herein con-
21 tained shall be construed as requiring joint or concurrent
22 action by the two States with respect to the enactment,
23 repeal, or amendment of any law or rule of court on the
24 subject of condemnation under which the Authority may pro-
25 ceed by virtue of this Article.

1 issued, or incurred by the Authority, together with interest
2 thereon, and (3) to provide reserves for such purposes; and
3 the Authority is hereby authorized and empowered, subject
4 to prior pledges, if any, to pledge such tolls and other reve-
5 nues or any part thereof as security for the repayment with
6 interest of any moneys borrowed by it or advanced to it for
7 its authorized purposes and as security for the satisfaction of
8 any other obligations assumed by it in connection with such
9 loans or advances. There shall be allocated to the cost of the
10 acquisition, construction, operation, maintenance, and im-
11 provement of such facilities and projects such proportion of
12 the general expenses of the Authority as it shall deem prop-
13 erty chargeable thereto.

14

“ARTICLE XI

15

“COVENANT WITH BONDHOLDERS

16 “The two said States covenant and agree with each
17 other and with the holders of any bonds or other securities or
18 obligations of the Authority, assumed, issued, or incurred by
19 it and as security for which there may be pledged the tolls
20 and revenues or any part thereof of any crossing, transporta-
21 tion, or terminal facility, commerce facility or development or
22 other project, that the two said States will not, so long as
23 any of such bonds or other obligations remain outstanding
24 and unpaid, diminish, or impair the power of the Authority to
25 establish, levy, and collect tolls and other charges in connec-

1 tion therewith, and that neither of the two said States will, so
2 long as any of such bonds or other obligations remain out-
3 standing and unpaid, authorize any crossing of the Delaware
4 River or Delaware Bay south of the line mentioned in Article
5 IV(a) of this Compact by any person or body other than the
6 Authority, unless, in either case, adequate provision shall be
7 made by law for the protection of those advancing money
8 upon such obligations.

9 "ARTICLE XII

10 "SECURITIES LAWFUL INVESTMENTS

11 "The bonds or other securities or obligations which may
12 be issued by the Authority pursuant to this Compact, or any
13 amendments hereof or supplements hereto, are hereby de-
14 clared to be negotiable instruments, and are hereby made
15 securities in which all State and municipal officers and bodies
16 of each State, all banks, bankers, trust companies, savings
17 banks, building and loan associations, saving and loan asso-
18 ciations, investment companies and other persons carrying on
19 a banking business, all insurance companies, insurance asso-
20 ciations and other persons carrying on an insurance business,
21 and all administrators, executors, guardians, trustees, and
22 other fiduciaries and all other persons whatsoever who are
23 now or may hereafter be authorized to invest in bonds or
24 other obligations of either State may properly and legally
25 invest any funds, including capital, belonging to them or

1 within their control, and said obligations are hereby made
2 securities which may properly and legally be deposited with
3 and shall be received by any State or municipal officer or
4 agency of either State for any purpose for which the deposit
5 of bonds or other obligations of such State is now or may
6 hereafter be authorized.

7 "ARTICLE XIII

8 "TAX STATUS

9 "The powers and functions exercised by the Authority
10 under this Compact and any amendments hereof or supple-
11 ments hereto are and will be in all respects for the benefit of
12 the people of the States of Delaware and New Jersey, the
13 region and Nation, for the increase of their commerce and
14 prosperity and for the enhancement of their general welfare.
15 To this end, the Authority shall be regarded as performing
16 essential governmental functions in exercising such powers
17 and functions and in carrying out the provisions of this Com-
18 pact and of any law relating thereto, and shall not be re-
19 quired to pay any taxes or assessments of any character,
20 levied by either State or political subdivision thereof, upon
21 any of the property used by it for such purposes, or any
22 income or revenue therefrom, including any profit from a sale
23 or exchange. The bonds or other securities or obligations
24 issued by the Authority, their transfer and the interest paid
25 thereon or income therefrom, including any profit from a sale

1 or exchange, shall at all times be free from taxation by either
 2 State or any subdivision thereof.

3 "ARTICLE XIV

4 "JURISDICTION; USE OF LANDS

5 "Each of the two States hereby consents to the use and
 6 occupancy by the Authority of any lands and property of the
 7 Authority in such State for the construction, operation, main-
 8 tenance or improvement of any crossing, transportation, or
 9 terminal facility, commerce facility or development, or other
 10 project which it is or may be authorized at any time to con-
 11 struct, own, or operate, including lands lying under water.

12 "ARTICLE XV

13 "REVIEW AND ENFORCEMENT OF RULES

14 "Judicial proceedings to review any bylaw, rule, regula-
 15 tion, order, or other action of the Authority or to determine
 16 the meaning or effect thereof may be brought in such court of
 17 each State, and pursuant to such law or rules thereof, as a
 18 similar proceeding with respect to any agency of such State
 19 might be brought.

20 "Each State may provide by law what penalty or penal-
 21 ties shall be imposed for violation of any lawful rule, regula-
 22 tion, or order of the Authority, and, by law or rule of court,
 23 for the manner of enforcing the same.

1 “(c) The Authority and the city, town, municipality, or
2 other political subdivision in which any project, other than a
3 crossing, is to be located are hereby authorized and empow-
4 ers, subject to compliance with the laws of the State in which
5 the project is to be located, to enter into an agreement or
6 agreements to provide which local laws, resolutions, ordi-
7 nances, rules, and regulations, if any, of the city, town, mu-
8 nicipality, or other political subdivision affected by such
9 project shall apply to such project. All other existing local
10 laws, resolutions, ordinances or rules and regulations not pro-
11 vided for in the agreement shall be applicable to the project,
12 other than a crossing. All local laws, resolutions, ordinances
13 or rules and regulations enacted after the date of the agree-
14 ment shall not be applicable to such projects unless made
15 applicable by the agreement or any modification thereto.

16 “ARTICLE XVIII

17 “DEPOSITARIES

18 “All banks, bankers, trust companies, savings banks and
19 other persons carrying on a banking business under the laws
20 of either State are authorized to give security for the safe-
21 keeping and prompt payment of moneys of the Authority de-
22 posited by it with them, in such manner and form as may be
23 required by and may be approved by the Authority, which
24 security may consist of a good and sufficient undertaking
25 with such sureties as may be approved by the Authority, or

1 may consist of the deposit with the Authority or other deposi-
 2 tory approved by the Authority as collateral of such securi-
 3 ties as the Authority may approve.

4 "ARTICLE XIX

5 "AGENCY POLICE

6 "Members of the police force established by the Author-
 7 ity, regardless of their residence, shall have in each State, on
 8 the crossings, transportation or terminal facilities, commerce
 9 facilities or developments and other projects and the ap-
 10 proaches thereto, owned, operated, or controlled by the Au-
 11 thority, and at such other places and under such circum-
 12 stances as the law of each State may provide, all the powers
 13 of investigation, detention, and arrest conferred by law on
 14 peace officers, sheriffs, or constables in such State or usually
 15 exercised by such officers in each State.

16 "ARTICLE XX

17 "REPORTS AND AUDITS

18 "The Authority shall make annual reports to the Gover-
 19 nors and Legislatures of the State of Delaware and the State
 20 of New Jersey, setting forth in detail its operations and
 21 transactions, and may make such additional reports from time
 22 to time to the Governors and Legislatures as it may deem
 23 desirable.

24 "It shall, at least annually, cause an independent audit
 25 of its fiscal affairs to be made, and shall furnish a copy of

1 such audit report together with such additional information or
 2 data with respect to its affairs as it may deem desirable to the
 3 Governors and Legislatures of each State.

4 "It shall furnish such information or data with respect
 5 to its affairs as may be requested by the Governor or Legisla-
 6 ture of each State.

7 "ARTICLE XXI

8 "BOUNDARIES UNAFFECTED

9 "The existing territorial or boundary lines of the States
 10 or the jurisdiction of the two States established by said
 11 boundary lines shall not be changed hereby.

12 "ARTICLE XXII

13 "ENVIRONMENTAL PROTECTION

14 "(a) The planning, development, construction, and oper-
 15 ation of any project, other than a crossing, shall comply with
 16 all environmental protection laws, regulations, directives, and
 17 orders, including, without limitation, any coastal zone laws,
 18 wetlands laws, or subaqueous land laws or natural resources
 19 laws, now or hereinafter enacted, or promulgated by the
 20 State in which the project, or any part thereof, is located.

21 "(b) The planning, development, construction, and oper-
 22 ation of any project, other than a crossing, to be located in
 23 the Delaware River and Bay shall comply with all environ-
 24 mental protection laws, regulations, directives, and orders,
 25 including, without limitation, any coastal zone laws, wetlands

1 laws, subaqueous land laws or natural resource laws now or
2 hereinafter enacted or promulgated by either State.

3 “(c) The planning, development, construction, and oper-
4 ation of any project, other than a crossing, located in the
5 coastal zone of Delaware (as defined in Chapter 70 of Title 7
6 of the Delaware Code, as in effect on January 1, 1989), shall
7 be subject to the same limitations, requirements, procedures,
8 and appeals as apply to any other person under the Delaware
9 Coastal Zone Act, Chapter 70 of Title 7 of the Delaware
10 Code, as in effect on January 1, 1989. Nothing in this Com-
11 pact shall be deemed to pre-empt, modify, or supersede any
12 provision of the Delaware Coastal Zone Act, Chapter 70 of
13 Title 7 of the Delaware Code, as in effect on January 1,
14 1989. The interpretation and application of this paragraph
15 shall be governed by the laws of the State of Delaware and
16 be determined by the courts of the State of Delaware.

17 “(d) The planning, development, construction, and oper-
18 ation of any project, other than a crossing, located in New
19 Jersey, shall be subject to the provisions of New Jersey law,
20 when applicable, including but not limited to the Wetlands
21 Act of 1970, N.J.S.A. 13:9A-1, et seq. and the Coastal
22 Area Facility Review Act, N.J.S.A. 13:19-1, et seq.”.

23 **SEC. 2. FEDERAL JURISDICTION NOT AFFECTED.**

24 Nothing contained in the compact set forth in section 1
25 shall be construed as impairing or in any manner affecting

1 any right or jurisdiction of the United States in and over the
2 area which forms the subject of such compact.

3 **SEC. 3. AUTHORITY FOR ADDITIONAL TOLL BRIDGES.**

4 Section 4 of the Act entitled "An Act to authorize the
5 State of Delaware, by and through its State highway depart-
6 ment, to construct, maintain, and operate a toll bridge across
7 the Delaware River near Wilmington, Delaware" approved
8 July 13, 1946 (60 Stat. 533), as amended by the Act of June
9 27, 1951 (66 Stat. 91) and the Act of October 3, 1962 (76
10 Stat. 741-742), is amended—

11 (1) by striking "and" at the end of paragraph (3);

12 (2) by striking the period at the end of paragraph

13 (4) and inserting "; and", and

14 (3) by adding after paragraph (4) the following:

15 "(5) to pay the cost of any project which the
16 Delaware River and Bay Authority is or may be au-
17 thorized to construct, own, operate, or control, under
18 the Delaware-New Jersey Compact, as consented to
19 by the Congress,".

20 **SEC. 4. REQUIREMENTS OF OTHER LAWS.**

21 In addition to any other requirement of law, any project
22 constructed by the Delaware River and Bay Authority in and
23 over the navigable waters of the United States shall be sub-
24 ject to the procedural requirements of section 2(a) of the Fish
25 and Wildlife Coordination Act (16 U.S.C. 662(a)).

1 SEC. 5. CONSTRUCTION.

2 Nothing in this resolution shall be construed as—

3 (1) amending or superseding the provisions of the
4 Act of September 27, 1961 (75 Stat. 688); or

5 (2) granting advance consent of Congress for the
6 performance by the Delaware River and Bay Authority
7 of other functions, as contemplated by Article IV,
8 paragraph (d) of the compact set forth in section 1 or
9 for the assumption by the Authority of additional
10 powers, as contemplated by Article VIII of such
11 compact.

12 SEC. 6. DISCLOSURE OF INFORMATION.

13 The right is reserved to the Congress or any of its
14 standing committees to require of the Delaware River and
15 Bay Authority the disclosure and furnishing of such informa-
16 tion and data as is deemed appropriate by the Congress or
17 any committee thereof having jurisdiction of the subject
18 matter of this resolution.

19 SEC. 7. RESERVATION BY THE CONGRESS.

20 The right to alter, amend, or repeal this joint resolution
21 is expressly reserved.

○

Mr. FRANK. We will now hear from Mr. Hughes.

**STATEMENT OF HON. WILLIAM J. HUGHES, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. HUGHES. Thank you, Mr. Chairman and members of the committee for scheduling this particular hearing so expeditiously.

Mr. Chairman, H.J. Res. 657 is needed to implement legislation enacted by both New Jersey and Delaware.

The compact, as a document, governs the Delaware River and Bay Authority, which is charged with maintaining the bridge and ferry crossings between New Jersey and Delaware, the Delaware Memorial Bridge, and the Cape May, NJ, Lewes, DE, ferry.

It makes two changes.

It increases the size of the board from 10 to 12, 6 from Delaware, 6 from New Jersey, and it gives economic development authority in southern New Jersey and in Delaware to the authority so that they can develop projects subject to the approval of both Governors and the legislature in the State where the project is to be located.

It does not change the funding formula. This particular authority has been very, very efficient.

They have managed the bridge and the ferry, which initially was a tremendous loser in revenues, in a very efficient manner.

The bridge toll, for instance, over the Delaware Memorial Bridge is only 75 cents.

There is no expectancy that that would increase, but they would like the authority to engage in some economic development projects subject to the approval of both States.

That, in essence, is what it does.

I have a statement for the record.

Mr. FRANK. We will put that statement in the record.

[The prepared statement of Mr. Hughes follows.]

PREPARED STATEMENT OF HON. WILLIAM J. HUGHES, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW JERSEY

Development of the Proposed Amendment to the Compact

The initiative to amend the Delaware-New Jersey Compact, which had been unchanged since its adoption by each state in 1961 (53 Del. L., c.145 P.L. 1961, Chapter 66 of the Laws of New Jersey) and consented to by Congress in 1962 (Pub. L. No. 87-678, 76 Stat. 560) began with a meeting between Governor Michael N. Castle of Delaware and Governor Thomas H. Kean of New Jersey in 1985. At that meeting, Governor Kean noted that New Jersey is party to two bi-state transportation authorities with the states of New York and Pennsylvania respectively. Both of these other authorities (the Port Authority of New York and New Jersey and the Delaware River Port Authority) enjoy the power to use toll revenues for public purposes other than crossings. The governors agreed at that meeting that amendments to the Delaware-New Jersey Compact (the "Compact") should be adopted in order to remove existing restrictions on the Delaware River and Bay Authority's to utilize toll revenue for public purposes other than the maintenance and operation of its toll crossings, the Delaware Memorial Twin Bridges and the ferry which crosses the Delaware Bay between Cape May, New Jersey, and Lewes, Delaware. The existing restrictions on the Authority's use of revenues are dealt with in Section 3 House Joint Resolution 657 (hereinafter the "Joint Resolution"), which amends the Delaware Bridge Act of 1946 (60 Stat. 533) to permit the use of toll revenue for authorized projects of the Authority, and

in Section 5 of the Joint Resolution which eliminates Section 3(b) of Public Law No. 87-678 by which Congress approved the existing Compact (76 Stat. 560) but withheld its consent for the use of tolls for transportation or terminal facilities as defined in the Compact.

On July 10, 1989, the New Jersey legislature enacted Senate Bill No. 3702 amending the Compact. This bill was signed into law by Governor Kean on October 18, 1989. The Delaware General Assembly passed identical legislation on June 20, 1990, and it was signed into law by Governor Castle on June 28, 1990. Both statutes authorized the governors of each state to apply on the states' behalf to Congress for its consent and approval to the amended Compact as required by Article I, section 10 of the Federal Constitution. Both Governor Florio of New Jersey and Governor Castle of Delaware have done so, and the amended Compact, as approved by the legislatures of Delaware and New Jersey, is embodied in Section 1 of House Joint Resolution 657.

Maintenance of Authority Facilities and Use
of Authority Revenues

As noted above, the principal purpose for amending the Compact is to permit the Delaware River and Bay Authority to utilize revenue generated by its toll crossings to finance projects of a public interest to the states of Delaware and New Jersey. The majority of the Authority's revenue is generated by tolls collected on the Delaware Memorial Twin

Bridges and the Cape May-Lewes Ferry. These revenues are currently used to: (i) amortize the principal and pay the interest on the Authority's long term debt, (ii) to pay operating costs at the ferry and bridges and (iii) to fund the cost, on a "pay-as-you-go" basis, of capital projects and construction.

Historically, the Authority has operated on a fiscally conservative basis. Since the completion of the second bridge in the early 1960s, the Authority has paid for capital improvements on a "pay as you go" basis. Following this fiscal policy, the Authority has consistently maintained the highest quality bridge and ferry facilities and it continues to pursue a program of responsible improvement and maintenance. For example, in 1987, the Authority embarked upon a five year capital improvement and maintenance program to upgrade existing facilities. Since 1987, the Authority has spent \$36,133,948 on capital projects without incurring any debt. Plans are currently under review for projects that would increase passenger capacity at the Cape May-Lewes Ferry and increase automobile throughput at the Delaware Memorial Bridge Toll Plazas. Further example of the Authority's fiscal soundness is its self-insurance fund in which it has accumulated \$11,000,000 since 1987.

Maintaining and upgrading the Authority's facilities is, and will continue to be, the Authority's primary purpose. The Authority is currently managed by ten commission-

ers, five from each state (the amended Compact will increase that number to six from each state). These Commissioners are charged under the Compact as originally approved by Congress and in the form now before Congress for its consideration -- and under the Trust Indenture governing the Authority's outstanding bond issue, with the responsibility for ensuring that the Authority's bridges and ferries are maintained in good condition and working order. In accordance with the Trust Indenture governing the Authority's original long term debt financing, the Commissioner's receive semi-annual reports and recommendations from an independent engineering firm regarding the maintenance needs of the Authority's facilities. Based on these reports, and future traffic analyses prepared by the Authority's staff and consultants the Commissioners are guided in meeting their primary responsibilities under the Trust Indenture and the Compact to see to it that the bridges and ferry are maintained in the highest working order and that there is sufficient and adequate crossing capacity over the Delaware River and Bay.

In addition to the responsibilities imposed on the Commissioners to see that the Authority's primary function is satisfied, the Governors of each state, by virtue of their right under the Compact to cancel the votes of their Commissioners on any matter, retain an absolute veto over any action by the Authority. Thus, each state individually maintains a check on the activities of the Authority, a check which is

unchanged by the Compact amendments set forth in the Joint Resolution. In this manner, each state can guarantee that the Authority continues to meet its fundamental responsibility to properly maintain its crossings and, once it has been empowered to engage in economic development projects by virtue of the Compact amendments, that such powers are exercised in a judicious manner.

The Proposed Amendments to the Compact

Article IV of the Delaware-New Jersey Compact sets out the purposes for which the Delaware River and Bay Authority was created and the scope of the activities in which the Authority may engage. In its current form, Article IV provides the Authority with the power to engage in the development, financing and operation of crossings and approaches or connections thereto. The Authority is also permitted to engage in the financing, development and operation of transportation or terminal facilities after securing the approval for any such facility by concurrent legislation of the states of Delaware and New Jersey. However, as noted above, Congress has expressly reserved its advance consent to the use of toll revenue for the financing of any transportation or terminal facility. Thus, under current law, notwithstanding concurrent legislation by Delaware and New Jersey, the Authority must obtain the consent of Congress to use toll revenue to finance a transportation or terminal facility.

Article IV of the existing Compact also provides that one of the roles of the Authority is the performance of such other functions as may be entrusted to the Authority by concurrent legislation expressly and in implementation thereof. However, Congress has reserved its consent to the performance by the Authority of any function other than crossings, approaches and connections thereto and transportation or terminal facilities.

House Joint Resolution 657 would amend the Compact in three significant ways:

First, it would provide the Authority with economic development functions in addition to the powers it already has to finance and develop crossings and transportation or terminal facilities.

Second, it would modify those provisions of the existing Compact that require the approval by concurrent legislation of both states prior to undertaking any project, other than a crossing. The amended Compact would provide instead that the Authority need only secure such approval for "major projects" as may be required by the law of the state in which a major project is to be located. A "major project" as defined by the amended Compact means:

Any project, other than a crossing, having or likely to have significant environmental impacts on the Delaware River and Bay, its shorelines or estuaries or any other area in the State of Delaware or the New Jersey Counties of Cape May, Cumberland, Gloucester and Salem as determined in accordance with state law by the environmental

agency of the state in which the major project is to be located.

All major projects to be located in the Delaware River or Bay would, however, still require concurrent legislation from both states.

Third, the amended Compact would allow the Authority to use revenue generated by tolls in connection with the financing of any of the Authority's projects including economic development projects.

In essence, the amended Compact would allow the authority to engage in broader economic development activities, in addition to the construction of crossings and transportation or terminal facilities, and to use the proceeds of tolls to finance such projects, without having to obtain the concurrent legislative approval of the legislatures of Delaware and New Jersey (except for major projects to be located in the Delaware River or Bay, which, as noted, would still require approval by concurrent legislation). To this end, the Authority would be specifically granted the power to engage in the development of "commerce facilities or developments" which are defined as:

Any structure or facility adapted for public use or any development for a public purpose within each of the states party hereto in connection with recreational and commercial fishery development, recreational marina development, aquaculture (marine farming), shoreline preservation and development, including wetlands and open-lands acquisition, active recreational and park development, beach restoration and development, dredge spill or disposal and

port-oriented development, foreign trade zone site development, manufacturing and industrial facilities and other related facilities of commerce which in the judgment of the Authority are acquired for the sound economic development of the area.

While the amended Compact will permit the Authority to use Authority toll revenues in connection with economic development projects, as well as transportation and terminal facilities, it is important to note that the Authority's bridge tolls are limited as to rate and amount by federal law. Under the Surface Transportation and Uniform Relocation Assistance Act of 1987, the tolls for passage over the Authority's bridges must be "just and reasonable", (33 U.S.C. § 508) a term the Courts have interpreted as permitting a toll rate which allows a bridge operator to receive a reasonable rate of return on its investment in the bridge and related transportation facilities. Thus, even after amendment of the Compact, the bridge toll rate charged by the Authority is limited by federal law to allow only a rate which permits the Authority a reasonable rate of return on its transportation facilities.

State and Local Governmental Control

Coupled with the new economic development power afforded by the Compact amendment, are limitations designed to ensure that state and local governments have adequate input and control over the exercise of the Authority's expanded powers, including control in the area of land use and the exercise by the Authority of the power of eminent domain. As

a further control, the amended Compact is designed to ensure that the exercise of the Authority's new powers is subject to complete compliance with all federal, state and local laws and regulations designed to protect the environment. To this end, all of the Authority's economic development activities are subject to veto by the governor of either state in addition to the requirement that such projects must be approved by a majority of the Commissioners from each state.

Additionally, as noted, the Authority may not undertake any major project without having secured such approvals as may be required by the legislature of the state in which the project is to be located. Pursuant to companion legislation in New Jersey, with respect to any project to be located in New Jersey, the Authority must obtain legislative authorization and approval from a majority of each House in the legislature. Pursuant to companion legislation in Delaware, with respect to any major project to be located in Delaware, the Authority must receive the authorization and approval of three-quarters of the members of each House in its General Assembly. Finally, with respect to any major project to be located in the Delaware River or Bay, the Authority must secure authorization and approval by concurrent legislation of each state expressly in implementation thereof. In advance of such approval by the Commissioners, the Authority must conduct a public hearing, if requested, to discuss the merits of the proposed major project. (Article IV(d).)

In addition to these Compact restrictions relating to the approval by the Commissioners and Governors of both states, with subsequent legislative authorization, Authority projects, other than crossings, are made expressly subject to land use, environmental and other local laws, resolutions, ordinances, rules and regulations of any city, town, municipality or other political subdivision in which such project is to be located. Additionally, with respect to any project other than a crossing, the Authority may exercise the power of eminent domain to acquire property devoted to a public use only after having first secured the authorization of the title holder to the land in question and such other approvals as may be required by the laws of the State in which the project is to be located. It is important to note that with respect to the Authority's exercise of the economic development powers granted by this legislation, the Authority lacks the power of eminent domain and thus, as to the Authority's projects, it is in the same shoes as any other private citizen in either of the respective states.

Environmental Protection

One of the most important provisions of the amended Compact is Article XXII. This new section makes any Authority project, other than a crossing, subject to all the environmental protection laws, regulations, directives and orders now or hereinafter enacted or promulgated by the state in which such project is located. Additionally, any project, other than a crossing, to be located in the Delaware River or Bay must comply with the environmental protection laws and regulations of both states.

As part of these environmental protections, the governors and legislatures of both states have seen fit to specifically provide that the Authority will be bound by the environmental laws currently in force in both states in addition to such laws as may be passed in the future. In the case of Delaware, the planning, development, construction and operation of any project, other than a crossing, located in the coastal zone of Delaware is subject to the same limitations, requirements and procedures that apply to any private person under Delaware's Coastal Zone Act in force as of January 1, 1989. The planning, development, construction and operation of any project, other than a crossing, located in New Jersey is subject to applicable New Jersey environmental law including the provisions of the New Jersey Wetlands Act of 1970 and Coastal Area Facility Review Act.

CONCLUSION

The new powers granted to the Delaware River and Bay Authority by the states of Delaware and New Jersey, to which this Congress is asked to give its consent, are subject to numerous safeguards and controls designed to ensure (i) that such powers are exercised in a manner that is wholly consistent with the Authority's primary obligation to maintain, construct and operate safe and adequate crossings over the Delaware River and Bay; (ii) that major projects of the Authority will be approved by the Governors and Commissioners from each state and by the legislatures of the state in which

the project is located and, in the case of a major project in the Delaware River or Bay, by concurrent legislation of both states; and (iii) that Authority projects are subject to federal and state environmental protection laws, and to the land use requirements of local governments.

House Joint Resolution 657 will give the states of Delaware and New Jersey an agency which can serve as a positive force in the sound development of the lower Delaware River and Delaware Bay area. The amended Compact gives the Authority the opportunity to put its revenue to work for the citizens of New Jersey and Delaware in a way that protects the environment of New Jersey, Delaware and the Delaware River and Bay. The legislation applies greater environmental controls to the Authority than currently exist and is responsive to the fundamental concern of protecting the natural environment and quality of life of New Jersey and Delaware. Thank you for your consideration of this Joint Resolution.

Mr. FRANK. My view is that if two sovereign States decide, as sovereign as States can be within the Constitution, decide to change an agreement, it doesn't seem to me it is appropriate for us to interpose objections unless they were conspiring in some way to violate the rights of citizens.

There is no allegation that that is happening, no third State not a party to the compact alleges that there is any violence done to its rights.

In the absence of those, since I have been chairman and a member of the subcommittee, our attitude has been to do what we can to carry out the wishes of the States.

That would be my intention now.

Mr. Douglas.

Mr. DOUGLAS. I was deeply in doubt after Mr. Carper's testimony, but yours is so persuasive I have no opposition to it.

Mr. FRANK. I think I want to lay out what I think are the rules.

If we are talking about people in one of the States who disagree as a matter of general public policy, I don't think it is our position constitutionally to interpose our views over the States.

If some individuals come to us and say these two States have gotten together to violate our rights, that is a different story.

I have heard nothing like that, and in the absence of that, we have no intention to oppose this.

The subcommittee is adjourned.

[Whereupon, at 10:45 a.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIXES

APPENDIX 1.—JIM FLORIO, GOVERNOR, STATE OF NEW JERSEY, LETTER TO HON. THOMAS FOLEY, SEPTEMBER 28, 1990, WITH ENCLOSURE



STATE OF NEW JERSEY
OFFICE OF THE GOVERNOR
CN-001
TRENTON
08625

JIM FLORIO
GOVERNOR

September 28, 1990

The Honorable Thomas S. Foley
Speaker of the House
U.S. House of Representatives
H-204 The Capitol
Washington, D.C. 20515-6501

Dear Mr. Speaker:

It is my pleasure to send you the enclosed certified copy of the Delaware River & Bay Authority Compact reauthorization as enacted by the New Jersey legislature, and signed by Gov. Kean on October 18, 1989.

If you require any additional information for the hearing scheduled on Tuesday, October 2, 1990, please do not hesitate to let me know. Ann Mosher of my Washington office will be eager to assist in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Jim Florio".

Jim Florio
Governor

P.L.1989, CHAPTER 192, *approved October 18, 1989*
1989 Senate No. 3702 (*First Reprint*)

1 AN ACT concerning the Delaware River and Bay Authority and
2 amending P.L.1961, c.66.

3

4 BE IT ENACTED by the Senote and General Assembly of the
5 State of New Jersey:

6 1. Section 1 of P.L.1961, c.66 (C.32:11E-1) is amended to read
7 as follows:

8 1. The State of New Jersey hereby agrees with the State of
9 Delaware, upon enactment by the State of Delaware of
10 legislation having the same effect as this section, to the
11 following compact:

12

13 DELAWARE-NEW JERSEY COMPACT

14 WHEREAS, The ¹[State] States¹ of Delaware and New Jersey are
15 separated by the Delaware River and Bay which create a
16 natural obstacle to the uninterrupted passage of traffic other
17 than by water and with normal commercial activity between
18 the two States thereby hindering the economic growth and
19 development of those areas in both States which border the
20 river and bay; and

21 WHEREAS, The pressures of existing trends from increasing
22 traffic, growing population and greater industrialization
23 indicate the need for closer cooperation between the two
24 States in order to advance the economic development and to
25 improve crossings, transportation, terminal and other facilities
26 of the area; and

27 WHEREAS, The financing, construction, operation and
28 maintenance of such crossings, transportation, terminal and
29 other facilities of commerce and the overall planning for
30 future economic development of the area may be best
31 accomplished for the benefit of the two States and their
32 citizens, the region and nation, by the cordial cooperation of
33 Delaware and New Jersey ¹[.]¹ by and through a joint or
34 common agency or authority; and

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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SIA committee amendments adopted June 26, 1989.

S3702 [1R]

2

1 WHEREAS, The Delaware-New Jersey Compact, enacted
2 pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C.
3 1[A.])¹ §1701) and P.L.1961, c.66 (C.32:11E-1 et seq.) of the
4 Pamphlet Laws of New Jersey, with the consent of the United
5 States Congress in accordance with Pub. L. 67-676 (1962),
6 created the Delaware River and Bay Authority with the
7 intention of advancing the economic growth and development
8 of those areas in both States which border the Delaware River
9 and Bay by the financing, development, construction, operation
10 and maintenance of crossings, transportation or terminal
11 facilities, and other facilities of commerce, and by providing
12 for overall planning for the future economic development of
13 those areas; and

14 WHEREAS, The economic growth and development of areas of
15 both States ¹[bordering the Delaware River and Bay]¹ will be
16 further advanced by ¹[also entrusting the Delaware River and
17 Bay Authority with responsibility or the general economic
18 development of those areas, and by]¹ authorizing the authority
19 to undertake ¹economic development¹ projects ¹[relating
20 thereto]¹, other than major projects as defined in Article II, at
21 its own initiative, and to undertake major projects after
22 securing only such approvals as may be required by legislation
23 of the State in which the project is to be located, except that
24 the authority is prohibited from undertaking any major project,
25 to be located in the Delaware River or Bay, including, without
26 limitation, any deep-water port or superport, without the prior
27 approval, by concurrent legislation, of the two States; and

28 WHEREAS, The natural environment of those areas in the two
29 States which border the Delaware River and Bay would be
30 better preserved by requiring that the projects, other than
31 crossings, of the authority shall be in complete compliance
32 with all applicable environmental protection laws and
33 regulations before the authority may undertake the planning,
34 development, construction or operation of any project, other
35 than a crossing;

36
37 NOW THEREFORE, The State of Delaware and the State of
38 New Jersey, do hereby solemnly covenant and agree, each with
39 the other as follows:

S3702 [tR]

3

ARTICLE I

SHORT TITLE

This compact shall be known as the "Delaware-New Jersey Compact."

ARTICLE II

DEFINITIONS

"Crossing" means any structure or facility adapted for public use in crossing the Delaware River or Bay between the States, whether by bridge, tunnel, ferry or other device, and by any vehicle or means of transportation of persons or property, as well as all approaches thereto and connecting and service routes and all appurtenances and equipment relating thereto.

"Transportation facility" and "terminal facility" ^t(means) mean^t any structure or facility other than a crossing as herein defined, adapted for public use within each of the States party hereto in connection with the transportation of persons or property, including railroads, motor vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips, basins, storage places, sheds, warehouses, and every means or vehicle of transportation now or hereafter in use for the transportation of persons and property or the storage, handling or loading of property, as well as all appurtenances and equipment related thereto.

"Commerce facility or development" means any structure or facility adapted for public use or any development for a public purpose within each of the States party hereto in connection with recreational and commercial fishery development, recreational marina development, aquaculture (marine farming), shoreline preservation and development (including wetlands and open-lands acquisition, active recreational and park development, beach restoration and development, dredge spoil disposal, and port-oriented development), foreign trade zone site development, manufacturing and industrial facilities, and other ¹[related]¹ facilities of commerce which, in the judgment of the authority, are required for the sound economic development of the area.

"Appurtenances" and "equipment" mean all works, buildings, structures, devices, appliances and supplies, as well as every kind of mechanism, arrangement, object or substance related to and necessary or convenient for the proper construction, equipment,

1 maintenance, improvement and operation of any crossing,
2 transportation facility or terminal facility, or commerce facility
3 or development.

4 "Project" means any undertaking or program for the
5 acquisition or creation of any crossing, transportation facility or
6 terminal facility, or commerce facility or development, or any
7 part thereof, as well as for the operation, maintenance and
8 improvement thereof.

9 "Major project" means any project, other than a crossing,
10 having or likely to have significant environmental ¹[in]impact]
11 Impacts¹ on the Delaware River and Bay, its shorelines or
12 estuaries, or any other area ¹[of] in¹ the State of Delaware or the
13 New Jersey counties of Cape May, Cumberland, Gloucester and
14 Salem, as determined ¹in accordance with state law¹ by the
15 environmental agency of the State in which the major project is
16 to be located.

17 "Tunnel" means a tunnel of one or more tubes.

18 "Governor" means any person authorized by the Constitution
19 and law of each State to exercise the functions, powers and
20 duties of that office.

21 "Authority" means the authority created by this compact or
22 any agency successor thereto.

23 The singular whenever used ¹{herein} in this compact¹ shall
24 include the plural, and the plural shall include the singular.

25

26

ARTICLE III

27

FAITHFUL COOPERATION

28

29 They agree to and pledge, each to the other, faithful
30 cooperation in the effectuation of this compact and any future
31 amendment or supplement thereto, and of any legislation
32 expressly in implementation thereof hereafter enacted, and in the
33 planning, development, financing, construction, operation,
34 maintenance and improvement of all projects entrusted to the
35 authority created by this compact.

35

36

ARTICLE IV

37

ESTABLISHMENT OF AGENCY; PURPOSES

38

39 The two States agree that there shall be created and they do
40 hereby create a body politic, to be known as "The Delaware River
and Bay Authority" (for brevity hereinafter referred to as the

1 "authority"), which shall constitute an agency of government of
2 the State of Delaware and the State of New Jersey for the
3 following general public purposes, and which shall be deemed to
4 be exercising essential government functions in effectuating such
5 purposes, to wit:

6 (a) The planning, financing, development, construction,
7 purchase, lease, maintenance, improvement and operation of
8 crossings between the States of Delaware and New Jersey across
9 the Delaware River or Bay at any location south of the boundary
10 line between the State of Delaware and the Commonwealth of
11 Pennsylvania as extended across the Delaware River to the New
12 Jersey shore of said river, together with such approaches or
13 connections thereto as in the judgment of the authority are
14 required to make adequate and efficient connections between
15 such crossings and any public highway, or other routes in the
16 State of Delaware or in the State of New Jersey; and

17 (b) The planning, financing, development, construction,
18 purchase, lease, maintenance, improvement and operation of any
19 transportation or terminal facility within [those areas of both
20 States which border on or are adjacent to the Delaware River or
21 bay south of the aforesaid line and] the State of Delaware or the
22 New Jersey counties of Cape May, Cumberland, Gloucester and
23 Salem, which facility, in the judgment of the [States] authority, is
24 required for the sound economic development of the area; ¹and¹

25 (c) The planning, financing, development, construction,
26 purchase, lease, maintenance, improvement and operation of any
27 commerce facility or development within the State of Delaware
28 or the New Jersey counties of Cape May, Cumberland, Gloucester
29 and Salem, which in the judgment of the authority is required for
30 the sound economic development of the area; and

31 [(c)] (d) The performance of such other functions as may be
32 hereafter entrusted to the authority by concurrent legislation
33 expressly in implementation hereof.

34 The authority shall not undertake any major project or part
35 thereof [, other than a crossing,] without having first secured
36 [approval thereof by concurrent legislation of the two States
37 expressly in implementation hereof] such approvals as may be
38 required by legislation of the State in which the project is to be

1 located.

2 The authority shall not undertake any major project, or part
3 thereof, to be located in the Delaware River or Bay, including,
4 without limitation, any deep-water port or superport, without
5 having first secured approval thereof by concurrent legislation of
6 the two States expressly in implementation thereof.

7 The authority shall not undertake any major project or part
8 thereof without first giving public notice and holding a public
9 hearing, if requested, on any proposed major project, in
10 accordance with the law of the State in which the major project
11 is to be located. Each State shall provide by law for the time and
12 manner for the giving of such public notice, the requesting of a
13 public hearing and the holding of such public hearings.

14

15

ARTICLE V

16

COMMISSIONERS

17

18 The authority shall consist of ¹~~10~~ ¹² commissioners, ¹~~five~~
19 ^{six}~~1~~ of whom shall be residents of and qualified to vote in, and
20 shall be appointed from, the State of Delaware, and ¹~~five~~ ^{six}~~1~~
21 of whom shall be residents of and qualified to vote in, and shall
22 be appointed from, the State of New Jersey; not more than three
23 of the commissioners of each State shall be of the same political
24 party; the commissioners for each State shall be appointed in the
25 manner fixed and determined from time to time by the law of
26 each State respectively. Each commissioner shall hold office for
27 a term of five years, and until his successor shall have been
28 appointed and qualified, but the terms of the first commissioners
29 shall be so designated that the term of ¹~~at least~~¹ one
30 commissioner from each State shall expire each year. All terms
31 shall run to ¹~~the first day of~~¹ July ¹~~1~~¹. Any vacancy, however
32 created, shall be filled for the unexpired term only. Any
33 commissioner may be suspended or removed from office as
34 provided by law of the State from which he shall be appointed.

35

36 Commissioners shall be entitled to reimbursement for
37 necessary expenses to be paid only from revenues of the authority
38 and may not receive any other compensation for services to the
authority except such as may from time to time be authorized
from such revenues by concurrent legislation.

S3702 [1R]

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ARTICLE VI
BOARD ACTION

The commissioners shall have charge of the authority's property and affairs and shall, for the purpose of doing business, constitute a board; but no action of the commissioners shall be binding or effective unless taken at a meeting at which at least ¹[three] four commissioners from each State are present, and unless at least ¹[three] four commissioners from each State shall vote in favor thereof. The vote of any one or more of the commissioners from each State shall be subject to cancellation by the Governor of such State at any time within 10 days (Saturdays, Sundays and public holidays in the particular State excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes, and for notification of the action thereon.

ARTICLE VII
GENERAL POWERS

For the effectuation of its authorized purposes, the authority is hereby granted the following powers:

- a. To have perpetual succession.
- b. To adopt and use an official seal.
- c. To elect a chairman and a vice-chairman from among the commissioners. The chairman and vice-chairman shall be elected from different States, and shall each hold office for two years. The chairmanship and vice-chairmanship shall be alternated between the two States.
- d. To adopt bylaws to govern the conduct of its affairs by the board of commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties and functions, but no bylaw, or rule, regulation or order shall take effect until it has been filed with the Secretary of State of each State or in such other manner in each State as may be provided by the law thereof. In the establishment of rules, regulations and orders respecting the use of any crossing, transportation or terminal facility or commerce facility or development owned or operated by the authority, including approach roads, it shall consult with appropriate officials of both

1 States in order to insure, as far as possible, uniformity of such
2 rules, regulations and orders with the law of both States.

3 e. To appoint, or employ, such other officers, agents,
4 attorneys, engineers and employees as it may require for the
5 performance of its duties and to fix and determine their
6 qualifications, duties, compensation, pensions, terms of office
7 and all other conditions and terms of employment and retention.

8 f. To enter into contracts and agreements with either State or
9 with the United States, or with any public body, department, or
10 other agency of either State or of the United States or with any
11 individual, firm or corporation, deemed necessary or advisable for
12 the exercise of its purposes and powers.

13 g. To accept from any government or governmental
14 department, agency or other public or private body, or from any
15 other source, grants or contributions of money or property as well
16 as loans, advances, guarantees, or other forms of financial
17 assistance which it may use for or in aid of any of its purposes.

18 h. To acquire (by gift, purchase or condemnation), own, hire,
19 lease, use, operate and dispose of property, whether real,
20 personal or mixed, or of any interest therein, including any rights,
21 franchise and property for any crossing, facility or other project
22 owned by another, and which the authority is authorized to own
23 and operate.

24 i. To designate as express highways, and control public and
25 private access thereto, all or any approaches to any crossing or
26 other facility of the authority for the purpose of connecting the
27 same with any highway or other route in either State.

28 j. To borrow money and to evidence such loans by bonds, notes
29 or other obligations, either secured or unsecured, and either in
30 registered or unregistered form, and to fund or refund such
31 evidences of indebtedness, which may be executed with facsimile
32 signatures of such persons as may be designated by the authority
33 and by a facsimile of its corporate seal.

34 k. To procure and keep in force adequate insurance or
35 otherwise provide for the adequate protection of its property, as
36 well as to indemnify it or its officers, agents or employees
37 against loss or liability with respect to any risk to which it or
38 they may be exposed in carrying out any function hereunder.

39 l. To grant the use of, by franchise, lease or otherwise, and to

1 make charges for the use of, any crossing, facility or other
2 project or property owned or controlled by it.

3 m. To exercise the right of eminent domain to acquire any
4 property or interest therein.

5 n. To determine the exact location, system and character of
6 and all other matters in connection with any and all crossings,
7 transportation or terminal facilities, commerce facilities or
8 developments or other projects which it may be authorized to
9 own, construct, establish, effectuate, operate or control.

10 o. To exercise all other powers not inconsistent with the
11 Constitutions of the two States or of the United States, which
12 may be reasonably necessary or incidental to the effectuation of
13 its authorized purposes or to the exercise of any of the foregoing
14 powers, except the power to levy taxes or assessments, and
15 generally to exercise in connection with its property and affairs,
16 and in connection with property within its control, any and all
17 powers which might be exercised by a natural person or a private
18 corporation in connection with similar property and affairs.

19
20 ARTICLE VIII
21 ADDITIONAL POWERS

22 For the purpose of effectuating the authorized purposes of the
23 authority, additional powers may be granted to the authority by
24 legislation of either State without the concurrence of the other,
25 and may be exercised within such State, or may be granted to the
26 authority by Congress and exercised by it; but no additional
27 duties or obligations shall be undertaken by the authority under
28 the law of either State or of Congress without authorization by
29 the law of both States.

30
31 ARTICLE IX
32 EMINENT DOMAIN

33 If the authority shall find and determine that any property or
34 interest therein is required for a public use [because] in
35 furtherance of the purposes of the authority, said determination
36 shall not be affected by the fact that such property has
37 theretofore been taken over or is then devoted to a public use,
38 but the public use in the hands or under the control of the
39 authority, shall be deemed superior to the public use for which it

1 has theretofore been taken or to which it is then devoted. The
2 authority shall not exercise the power of eminent domain granted
3 herein to acquire any property, other than a crossing, devoted to
4 a public use, of either State, or of any municipality, ¹[county,]¹
5 local government, agency, public authority or commission, or of
6 two or more of them, for any purpose other than a crossing,
7 without having first secured the authorization of the holder of
8 the title to the land in question and such other approvals as may
9 be required by legislation of the state in which the project is to
10 be located. The authority shall not exercise the power of
11 eminent domain in connection with any commerce facility ¹or¹
12 development.

13 In any condemnation proceeding in connection with the
14 acquisition by the authority of property or property rights of any
15 character in either State and the right of inspection and
16 immediate entry thereon, through the exercise by it of its power
17 of eminent domain, any existing or future law or rule of court of
18 the State in which such property is located with respect to the
19 condemnation of property for the construction, reconstruction
20 and maintenance of highways therein. shall control. The
21 authority shall have the same power and authority with respect
22 thereto as the State agency named in any such law; provided that
23 nothing herein contained shall be construed as requiring joint or
24 concurrent action by the two States with respect to the
25 enactment, repeal or amendment of any law or rule of court on
26 the subject of condemnation under which the authority may
27 proceed by virtue of this article.

28 If the established grade of any street, avenue, highway or other
29 route shall be changed by reason of the construction by the
30 authority of any work so as to cause loss or injury to any property
31 abutting on such street, avenue, highway or other route, the
32 authority may enter into voluntary agreements with such abutting
33 property owners and pay reasonable compensation for any loss or
34 injury so sustained, whether or not it be compensable as damages
35 under the condemnation law of the State.

36 The power of the authority to acquire property by
37 condemnation shall be a continuing power, and no exercise
38 thereof shall be deemed to exhaust it.

ARTICLE X

REVENUES AND APPLICATION

1
2
3 The authority is hereby authorized to establish, levy and
4 collect such tolls and other charges as it may deem necessary,
5 proper or desirable, in connection with any crossing,
6 transportation or terminal facility, commerce facility or
7 development, or other project which it is or may be authorized at
8 any time to construct, own, operate or control, and the aggregate
9 of said tolls and charges shall be at least sufficient (1) to meet
10 the combined expenses of operation, maintenance and
11 improvement thereof. (2) to pay the cost of acquisition or
12 construction, including the payment, amortization and retirement
13 of bonds or other securities or obligations assumed, issued or
14 incurred by the authority, together with interest thereon and (3)
15 to provide reserves for such purposes; and the authority is hereby
16 authorized and empowered, subject to prior pledges, if any, to
17 pledge such tolls and other revenues or any part thereof as
18 security for the repayment with interest of any moneys borrowed
19 by it or advanced to it for its authorized purposes and as security
20 for the satisfaction of any other obligations assumed by it in
21 connection with such loans or advances. There shall be allocated
22 to the cost of the acquisition, construction, operation,
23 maintenance and improvement of such facilities and projects,
24 such proportion of the general expenses of the authority as it
25 shall deem properly chargeable thereto.

ARTICLE XI

COVENANT WITH BONDHOLDERS

26
27
28 The two said States covenant and agree with each other and
29 with the holders of any bonds or other securities or obligations of
30 the authority, assumed, issued or incurred by it and as security
31 for which there may be pledged the tolls and revenues or any part
32 thereof of any crossing, transportation or terminal facility,
33 commerce facility or development, or other project, that the two
34 said States will not, so long as any of such bonds or other
35 obligations remain outstanding and unpaid, diminish or impair the
36 power of the authority to establish, levy and collect tolls and
37 other charges in connection therewith, and that neither of the
38 two said States will, so long as any of such bonds or other
39

1 obligations remain outstanding and unpaid, authorize any crossing
2 of the Delaware River or Delaware Bay south of the line
3 mentioned in Article IV (a) of this compact, by any person or
4 body other than the authority; unless, in either case, adequate
5 provision shall be made by law for the protection of those
6 advancing money upon such obligations.

7
8 **ARTICLE XII**

9 **SECURITIES LAWFUL INVESTMENTS**

10 The bonds or other securities or obligations which may be
11 issued by the authority pursuant to this compact, or any
12 amendments hereof or supplements hereto, are hereby declared
13 to be negotiable instruments, and are hereby made securities in
14 which all State and municipal officers and bodies of each State,
15 all banks, bankers, trust companies, savings banks, building and
16 loan associations, saving and loan associations, investment
17 companies and other persons carrying on a banking business, all
18 insurance companies, insurance associations and other persons
19 carrying on an insurance business, and all administrators,
20 executors, guardians, trustees and other fiduciaries and all other
21 persons whatsoever who are now or may hereafter be authorized
22 to invest in bonds or other obligations of either State, may
23 properly and legally invest any funds, including capital, belonging
24 to them or within their control; and said obligations are hereby
25 made securities which may properly and legally be deposited with
26 and shall be received by any State or municipal officer or agency
27 of either State for any purpose for which the deposit of bonds or
28 other obligations of such State is now or may hereafter be
29 authorized.

30
31 **ARTICLE XIII**

32 **TAX STATUS**

33 The powers and functions exercised by the authority under this
34 compact and any amendments hereof or supplements hereto are
35 and will be in all respects for the benefit of the people of the
36 States of Delaware and New Jersey, the region and nation, for
37 the increase of their commerce and prosperity and for the
38 enhancement of their general welfare. To this end, the authority
39 shall be regarded as performing essential governmental functions

1 in exercising such powers and functions and in carrying out the
2 provisions of this compact and of any law relating thereto, and
3 shall not be required to pay any taxes or assessments of any
4 character, levied by either State or political subdivision thereof,
5 upon any of the property used by It for such purposes, or any
8 income or revenue therefrom, including any profit from a sale or
7 exchange. The bonds or other securities or obligations issued by
8 the authority, their transfer and the interest paid thereon or
9 income therefrom, including any profit from a sale or exchange,
10 shall at all times be free from taxation by either State or any
11 subdivision thereof.

12

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ARTICLE XIV

14

JURISDICTION; USE OF LANDS

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ARTICLE XV

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REVIEW AND ENFORCEMENT OF RULES

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ARTICLE XVI

37

NO PLEDGE OF CREDIT

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The authority shall have no power to pledge the credit or to
create any debt or liability of the State of Delaware, of the State

1 of New Jersey, or of any other agency or of any political
2 subdivision of said States.

3
4 ARTICLE XVII

5 LOCAL COOPERATION AND AGREEMENTS

6 a. All municipalities, political subdivisions and every
7 department, agency or public body of each of the States are
8 hereby authorized and empowered to cooperate with, aid and
9 assist the authority in effectuating the provisions of this compact
10 and of any amendment hereof or supplement hereto.

11 b. The authority is authorized and empowered to cooperate
12 with each of the States, or any political subdivision thereof, and
13 with any municipality, ¹[county,]¹ local government, agency,
14 public authority or commission of the foregoing, in connection
15 with the acquisition, planning, rehabilitation, construction or
16 development of any project, other than a crossing, and to enter
17 into an agreement or agreements ¹, subject to compliance with
18 the laws of the state in which the project is to be located,¹ with
19 each of the States, or with any political subdivision thereof, and
20 with any municipality, county, local government, agency, public
21 authority or commission or with two or more of them, for or
22 relating to such purposes.

23 c. The authority and the city, town, municipality or other
24 political subdivision in which any project, other than a crossing, is
25 to be located are hereby authorized and empowered ¹, subject to
26 compliance with the laws of the state in which the project is to
27 be located,¹ to enter into an agreement ¹ or agreements¹ to
28 provide which local laws, resolutions, ordinances, rules and
29 regulations, if any, of the city, town, municipality or other
30 political subdivision affected by such project shall apply to such
31 project. All other existing local laws, resolutions, ordinances or
32 rules and regulations not provided for in the agreement shall be
33 applicable to the project, other than a crossing. All local laws,
34 resolutions, ordinances or rules and regulations enacted after the
35 date of the agreement shall not be applicable to ¹[any] such¹
36 projects unless made applicable by the agreement or any
37 modification thereto.

1 ARTICLE XVIII
2 DEPOSITARIES

3 All banks, bankers, trust companies, savings banks and other
4 persons carrying on a banking business under the laws of either
5 State are authorized to give security for the safekeeping and
6 prompt payment of moneys of the authority deposited by It with
7 them, in such manner and form as may be required by and may be
8 approved by the authority, which security may consist of a good
9 and sufficient undertaking with such sureties as may be approved
10 by the authority, or may consist of the deposit with the authority
11 or other depositary approved by the authority as collateral of
12 such securities as the authority may approve.

13
14 ARTICLE XIX
15 AGENCY POLICE

16 Members of the police force established by the authority,
17 regardless of their residence, shall have in each State, on the
18 crossings, transportation or terminal facilities, commerce
19 facilities or developments and other projects and the approaches
20 thereto, owned, operated or controlled by the authority, and at
21 such other places and under such circumstances as the law of
22 each State may provide, all the powers of investigation, detention
23 and arrest conferred by law on peace officers, sheriffs or
24 constables in such State or usually exercised by such officers in
25 each State.

26
27 ARTICLE XX
28 REPORTS AND AUDITS

29 The authority shall make annual reports to the Governors and
30 Legislatures of the State of Delaware and the State of New
31 Jersey, setting forth in detail its operations and transactions, and
32 may make such additional reports from time to time to the
33 Governors and Legislatures as it may deem desirable.

34 It shall, at least annually, cause an independent audit of its
35 fiscal affairs to be made and shall furnish a copy of such audit
36 report together with such additional information or data with
37 respect to its affairs as it may deem desirable to the Governors
38 and Legislatures of each State.

39 It shall furnish such information ¹[on] or¹ data with respect to

1 its affairs as may be requested by the Governor or Legislature of
2 each State.

3
4 ARTICLE XXI
5 BOUNDARIES UNAFFECTED

6 The existing territorial or boundary lines of the States, or the
7 jurisdiction of the two States established by said boundary lines,
8 shall not be changed hereby.

9
10 ARTICLE XXII
11 ENVIRONMENTAL PROTECTION

12 a. The planning, development, construction and operation of
13 any project, other than a crossing, shall comply with all
14 environmental protection laws, regulations, directives and orders,
15 including, without limitation, any coastal zone laws, wetlands
16 laws, or subaqueous land laws or natural resource laws, now or
17 hereinafter enacted, or promulgated by the State in which the
18 project¹, or any part thereof,¹ is located.

19 b. The planning, development, construction and operation of
20 any¹ [major]¹ project, other than a crossing, to be located in the
21 Delaware River and Bay¹ [having or likely to have significant
22 environmental impacts upon both States]¹ shall comply with all
23 environmental protection laws, regulations, directives and orders,
24 including, without limitation, any coastal zone laws, wetlands
25 laws, subaqueous land laws or natural resource laws, now or
26 hereinafter enacted or promulgated by either State.

27 c. The planning, development, construction and operation of
28 any project, other than a crossing, located in the coastal zone of
29 Delaware (as defined in Chapter 70 of Title 7 of the Delaware
30 Code, as in effect on January 1, 1989), shall be subject to the
31 same limitations, requirements, procedures and appeals as apply
32 to any other person under the Delaware Coastal Zone Act,
33 Chapter 70 of Title 7 of the Delaware Code, as in effect on
34 January 1, 1989. Nothing in this compact shall be deemed to
35 preempt, modify or supersede any provision of the Delaware
36 Coastal Zone Act, Chapter¹ [79] 70¹ of Title 7 of the Delaware
37 Code, as in effect on January 1, 1989. The interpretation and
38 application of this paragraph shall be governed by the laws of the
39 State of Delaware and be determined by the courts of the State

1 of Delaware.

2 d. The planning, development, construction and operation of
 3 any project, other than a crossing, located in New Jersey, shall be
 4 subject to the provisions of New Jersey law, when applicable,
 5 including, but not limited to, ¹[the] ¹The¹ Wetlands Act of
 6 1970," P.L.1970, c.272 (C.13:9A-1 et seq.) and the "Coastal Area
 7 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.)
 8 (cf: P.L.1961, c.66, s.1)

9 2. Section 2 of P.L.1961, c.66 (C.32:11E-2) is amended to read
 10 as follows:

11 2. The commissioners for the State of New Jersey, provided
 12 for in Article V of the compact set out in section 1 hereof, shall
 13 be appointed by the Governor with the advice and consent of the
 14 Senate[, and 3 of the 5 commissioners shall, at the time of their
 15 appointment, be residents of the area embraced by the counties
 16 of Salem, Cumberland and Cape May] as follows: one resident
 17 each from the counties of Salem, Cumberland, Gloucester and
 18 Cape May, and ¹[one] ¹two¹ at-large ¹[commissioner who]
 19 commissioners each of whom¹ shall be a resident of the area
 20 embraced by the counties of Salem, Cumberland, Gloucester and
 21 Cape May. ¹Notwithstanding the aforementioned residency
 22 requirement, any commissioner from the State of New Jersey
 23 -serving on the effective date of this 1989 amendatory act shall be
 24 eligible for reappointment¹ regardless of that commissioner's
 25 place of residence.¹ Immediately upon enactment of this act,
 26 the Governor may so appoint the first¹ commissioners for the
 27 State of New Jersey, notwithstanding that the said compact may
 28 not have yet taken effect. The persons nominated by him to
 29 serve as the first commissioners shall be authorized to sign
 30 duplicate originals of said compact on the part of the State of
 31 New Jersey and to apply to Congress for such consent thereto as
 32 may be required by law, although they may not then have been
 33 confirmed or have taken their oath of office.

34 (cf: P.L.1961, c.66, s.2)

35 3. This act shall take effect immediately but shall remain
 36 inoperative until the enactment into law by the State of
 37 Delaware of legislation of substantially similar substance and
 38 effect: but if such legislation already has been enacted, this act
 39 shall take effect immediately.

1 **AUTHORITIES AND REGIONAL COMMISSIONS**

2 **Building and Construction**

3

4 **Empowers the Delaware River and Bay Authority to take certain**
5 **actions with respect to commerce facilities and developments**
6 **and requires projects, other than crossings, approved by the**
7 **authority to comply with environmental laws.**

APPENDIX 2.—MICHAEL HARKINS, SECRETARY OF STATE, STATE OF
DELAWARE, LETTER TO HON. THOMAS S. FOLEY, OCTOBER 1, 1990,
WITH ENCLOSURE



SECRETARY OF STATE

MICHAEL HARKINS

POST OFFICE BOX 600
DOVER, DE 19008-0600
(302) 739-4111

October 1, 1990

BY HAND

The Honorable Thomas S. Foley
Speaker of the House
U.S. House of Representatives
H-204 The Capitol
Washington, D.C. 20515-6501

Dear Mr. Speaker:

It is my pleasure to forward to you the enclosed copy of House Substitute No. 1 for House Bill No. 338 as Amended by House Amendment Nos. 3, 4, 5, 6, and 7 and Senate Amendment No. 2, the Delaware legislation amending the Delaware-New Jersey Compact. I hereby certify that this enclosed legislation was signed by Michael N. Castle, Governor of the State of Delaware, on June 28, 1990.

If you require any additional information in connection with the hearing on the legislation scheduled for Tuesday, October 2, 1990, before the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary Committee, please do not hesitate to let me know.

Respectfully,

Michael Harkins
Secretary of State

MH/sjpb
Enclosure

cc: The Hon. Joseph R. Biden
The Hon. Robert C. Byrd
The Hon. William J. Hughes



JUN 28 1990 67 252

HOUSE OF REPRESENTATIVES
135TH GENERAL ASSEMBLY
HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 338

AS AMENDED BY

HOUSE AMENDMENT NOS. 3, 4, 5, 6 AND 7

AND

SENATE AMENDMENT NO. 2

AN ACT TO AMEND SECTION 1701, TITLE 17 OF THE DELAWARE CODE THE "DELAWARE-NEW JERSEY COMPACT" CREATING THE DELAWARE RIVER AND BAY AUTHORITY.

WHEREAS, the Delaware-New Jersey Compact, enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. §1701) and P.L. 1961, c. 66 (C. 32:11E-1 et seq.) of the Pamphlet Laws of New Jersey, with the consent of the United States Congress by Joint Resolution being Pub. L. 87-678, 87th Congress, H.J. Res. 783, September 20, 1962, created the Delaware River and Bay Authority with the intention of advancing the economic growth and development of those areas in both States which border the Delaware River and Bay by the financing, development, construction, operation and maintenance of crossings, transportation or terminal facilities, and other facilities of commerce, and by providing for overall planning for the future economic development of those areas; and

WHEREAS, the economic growth and development of areas of both States will be further advanced by authorizing the Authority to undertake economic development projects, other than major projects, as defined in Article II, at its own initiative, and to undertake major projects after securing only such approvals as may be required by legislation of the State in which the project is to be located, except that the Authority is prohibited from undertaking any major project, to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two States; and

WHEREAS, the natural environment of those areas in the two States which border the

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Delaware River and Bay would be better preserved by requiring that the projects, other than crossings, of the Authority shall be in complete compliance with all applicable environmental protection laws and regulations before the Authority may undertake the planning, development, construction or operations of any project other than a crossing;

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

Section 1. Section 1701, Title 17 of the Delaware Code is hereby amended to read in its entirety as follows:

§1701. Delaware-New Jersey Compact.

The State of Delaware agrees with the State of New Jersey, upon the enactment by the State of New Jersey of legislation having the same effect as this section, to the following Compact:

DELAWARE-NEW JERSEY COMPACT

WHEREAS, the States of Delaware and New Jersey are separated by the Delaware River and Bay which creates a natural barrier to the uninterrupted passage of traffic other than by water and with normal commercial activity between the two States thereby hindering the economic growth and development of those areas in both States which border the River and Bay; and

WHEREAS, the pressures of existing trends from increasing traffic, growing population and greater industrialization indicate the need for closer cooperation between the two States in order to advance the economic development and to improve crossings, transportation, terminal and other facilities of the area; and

WHEREAS, the financing, construction, operation and maintenance of such crossings, transportation, terminal and other facilities of commerce and the overall planning for future economic development of the area may be best accomplished for the benefit of the two States and their citizens, the region and Nation, by the cordial cooperation of Delaware and New Jersey by and through a joint or common agency or authority; and

WHEREAS, the Delaware-New Jersey Compact, enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. §1701) and P.L. 1961, c. 66 (C. 32:118-1 et seq.) of the Pamphlet Laws of New Jersey, with the consent of the United States Congress by Joint Resolution being Pub. L. 87-678, 87th Congress, H.J. Res. 783, September 20, 1962, created the Delaware River and Bay Authority with the intention of advancing the economic growth and development of those areas in both States which border the Delaware River and Bay by the financing, development, construction, operation and maintenance of crossings, transportation or terminal facilities, and other facilities of commerce, and by providing for overall planning for the future economic development of those areas; and

WHEREAS, the economic growth and development of areas of both States will be further advanced by authorizing the Authority to undertake economic development projects, other than major projects, as defined in Article II, at its own initiative, and to undertake major projects after securing only such approvals as may be required by legislation of the State in which the project is to be located, except that the Authority is prohibited from undertaking any major project, to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two States; and

WHEREAS, the natural environment of those areas in the two States which border the Delaware River and Bay would be better preserved by requiring that the projects, other than crossings, of the Authority shall be in complete compliance with all applicable environmental protection laws and regulations before the Authority may undertake the planning, development, construction or operation of any project, other than a crossing;

NOW, THEREFORE, the State of Delaware and the State of New Jersey do hereby solemnly covenant and agree, each with the other as follows:

ARTICLE I

SHORT TITLE

This Compact shall be known as the "Delaware-New Jersey Compact."

ARTICLE II

DEFINITIONS

"Crossing" means any structure or facility adapted for public use in crossing the Delaware River or Bay between the States, whether by bridge, tunnel, ferry or other device, and by any vehicle or means of transportation of persons or property, as well as all approaches thereto and connecting and service routes and all appurtenances and equipment relating thereto.

"Transportation facility" and "terminal facility" mean any structure or facility other than a crossing, as herein defined, adapted for public use within each of the States party hereto in connection with the transportation of persons or property, including railroads, motor vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips, basins, storage places, sheds, warehouses and every means or vehicle of transportation now or hereafter in use for the transportation of persons and property or the storage, handling or loading of property, as well as all appurtenances and equipment related thereto.

"Commerce facility or development" means any structure or facility adapted for public use or any development for a public purpose within each of the States party

hereto in connection with recreational and commercial fishery development, recreational marina development, aquaculture (marine farming), shoreline preservation and development (including wetlands and open-lands acquisition, active recreational and park development, beach restoration and development, dredge spoil disposal and port-oriented development), foreign trade zone site development, manufacturing and industrial facilities, and other facilities of commerce which, in the judgment of the Authority, are required for the sound economic development of the area.

"Appurtenances" and "equipment" mean all works, buildings, structures, devices, appliances and supplies, as well as every kind of mechanism, arrangement, object or substance related to and necessary or convenient for the proper construction, equipment, maintenance, improvement and operation of any crossing, transportation facility or terminal facility, or commerce facility or development.

"Project" means any undertaking or program for the acquisition or creation of any crossing, transportation facility or terminal facility, or commerce facility or development, or any part thereof, as well as for the operation, maintenance and improvement thereof.

"Major Project" means any project, other than a crossing, having or likely to have significant environmental impacts on the Delaware River and Bay, its shorelines or estuaries, or any other area in the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester, and Salem, as determined in accordance with state law by the environmental agency of the State in which the major project is to be located.

"Tunnel" means a tunnel of one or more tubes.

"Governor" means any person authorized by the Constitution and law of each State to exercise the functions, powers and duties of that office.

"Authority" means the Authority created by this Compact or any agency successor thereto.

The singular whenever used in this Compact shall include the plural, and the plural shall include the singular.

ARTICLE III

FAITHFUL COOPERATION

They agree to and pledge, each to the other, faithful cooperation in the effectuation of this Compact and any future amendment or supplement thereto, and of any legislation expressly in implementation thereof hereafter enacted, and in the planning, development, financing, construction, operation, maintenance and improvement of all projects entrusted to the authority created by this Compact.

ARTICLE IV

ESTABLISHMENT OF AGENCY; PURPOSES

The two States agree that there shall be created and they do hereby create a body politic, to be known as "The Delaware River and Bay Authority" (for brevity hereinafter referred to as the "Authority"), which shall constitute an agency of government of the State of Delaware and the State of New Jersey for the following general public purposes, and which shall be deemed to be exercising essential government functions in effectuating such purposes, to wit:

(a) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of crossings between the States of Delaware and New Jersey across the Delaware River or Bay at any location south of the boundary line between the State of Delaware and the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said River, together with such approaches or connections thereto as in the judgment of the Authority are required to make adequate and efficient connections between such crossings and any public highway or other route in the State of Delaware or in the State of New Jersey; and

(b) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of any transportation or terminal facility within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester and Salem, which facility, in the judgment of the Authority, is required for the sound economic development of the area; and

(c) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of any commerce facility or development within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester and Salem, which in the judgment of the Authority is required for the sound economic development of the area; and

(d) The performance of such other functions as may be hereafter entrusted to the Authority by concurrent legislation expressly in implementation hereof.

The Authority shall not undertake any major project or part thereof without having first secured such approvals as may be required by legislation of the State in which the project is to be located.

The Authority shall not undertake any major project, or part thereof to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without having first secured approval thereof by concurrent legislation of the two States expressly in implementation thereof.

The Authority shall not undertake any major project or part thereof without first giving public notice and holding a public hearing, if requested, on any proposed major project, in accordance with the law of the State in which the major project is to be located. Each State shall provide by law for the time and manner for the giving of such public notice, the requesting of a public hearing and the holding of such public hearings.

ARTICLE V

COMMISSIONERS

The Authority shall consist of twelve Commissioners, six of whom shall be residents of and qualified to vote in and shall be appointed from the State of Delaware, and six of whom shall be residents of and qualified to vote in and shall be appointed from the State of New Jersey; not more than three of the Commissioners of each State shall be of the same political party; the Commissioners for each State shall be appointed in the manner fixed and determined from time to time by the law of each State respectively. Each Commissioner shall hold office for a term of five years, and until his successor shall have been appointed and qualified, but the terms of the first Commissioners shall be so designated that the term of at least one Commissioner from each State shall expire each year. All terms shall run to the first day of July. Any vacancy, however created, shall be filled for the unexpired term only. Any Commissioner may be suspended or removed from office as provided by law of the State from which he shall be appointed.

Commissioners shall be entitled to reimbursement for necessary expenses to be paid only from revenues of the Authority and may not receive any other compensation for services to the Authority except such as may from time to time be authorized from such revenues by concurrent legislation.

ARTICLE VI

BOARD ACTION

The Commissioners shall have charge of the Authority's property and affairs and shall, for the purpose of doing business, constitute a Board, but no action of the Commissioners shall be binding or effective unless taken at a meeting at which at least four Commissioners from each State are present, and unless at least four Commissioners from each State shall vote in favor thereof. The vote of any one or more of the Commissioners from each State shall be subject to cancellation by the Governor of such State at any time within 10 days (Saturdays, Sundays and public holidays in the particular State excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by

law for the manner of delivery of such minutes and for notification of the action thereon.

ARTICLE VII
GENERAL POWERS

For the effectuation of its authorized purposes, the Authority is hereby granted the following powers:

(a) To have perpetual succession.

(b) To adopt and use an official seal.

(c) To select a chairman and a vice-chairman from among the Commissioners. The chairman and vice-chairman shall be elected from different States and shall each hold office for two years. The chairmanship and vice-chairmanship shall be alternated between the two States.

(d) To adopt bylaws to govern the conduct of its affairs by the Board of Commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties and functions, but no bylaw or rule, regulation or order shall take effect until it has been filed with the Secretary of State of each State or in such other manner in each State as may be provided by the law thereof. In the establishment of rules, regulations and orders respecting the use of any crossing, transportation or terminal facility or commerce facility or development owned or operated by the Authority, including approach roads, it shall consult with appropriate officials of both States in order to insure, so far as possible, uniformity of such rules, regulations and orders with the laws of both States.

(e) To appoint or employ such other officers, agents, attorneys, engineers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, compensation, pensions, terms of office and all other conditions and terms of employment and retention.

(f) To enter into contracts and agreements with either State or with the United States, or with any public body, department or other agency of either State or of the United States or with any individual, firm or corporation deemed necessary or advisable for the exercise of its purposes and powers.

(g) To accept from any government or governmental department, agency or other public or private body, or from any other source, grants or contributions of money or property as well as loans, advances, guarantees or other forms of financial assistance which it may use for or in aid of any of its purposes.

(h) To acquire (by gift, purchase or condemnation), own, hire, lease, use, operate and dispose of property, whether real, personal or mixed, or of any interest therein, including any rights, franchise and property for any crossing, facility or other project owned by another and which the Authority is authorized to own and operate.

(i) To designate as express highways, and control public and private access thereto, all or any approaches to any crossing or other facility of the Authority for the purpose of connecting the same with any highway or other route in either State.

(j) To borrow money and to evidence such loans by bonds, notes or other obligations, either secured or unsecured, and either in registered or unregistered form, and to fund or refund such evidences of indebtedness, which may be executed with facsimile signatures of such persons as may be designated by the Authority and by a facsimile of its corporate seal.

(k) To procure and keep in force adequate insurances or otherwise provide for the adequate protection of its property, as well as to indemnify it or its officers, agents or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function hereunder.

(l) To grant the use of by franchise, lease or otherwise, and to make charges for the use of any crossing, facility or other project or property owned or controlled by it.

(m) To exercise the right of eminent domain to acquire any property or interest therein.

(n) To determine the exact location, system and character of and all other matters in connection with any and all crossings, transportation or terminal facilities, commerce facilities or developments or other projects which it may be authorized to own, construct, establish, effectuate, operate or control.

(o) To exercise all other powers not inconsistent with the Constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

ARTICLE VIII
ADDITIONAL POWERS

For the purpose of effectuating the authorized purposes of the Authority, additional powers may be granted to the Authority by legislation of either State without the concurrence of the other, and may be exercised within each State, or may be granted to the Authority by Congress and exercised by it; but no additional duties or obligations shall be undertaken by the Authority under the law of either State or of Congress without authorization by the law of both States.

ARTICLE IX
EMINENT DOMAIN

If the Authority shall find and determine that any property or interest therein is required for a public use in furtherance of the purposes of the Authority, said determination shall not be effected by the fact that such property has theretofore been taken over or is then devoted to a public use, but the public use in the hands or under the control of the Authority shall be deemed superior to the public use for which it has theretofore been taken or to which it is then devoted. The Authority shall not exercise the power of eminent domain granted herein to acquire any property, other than a crossing, devoted to a public use, of either State, or of any municipality, local government, agency, public authority or commission, or of two or more of them, for any purpose other than a crossing, without having first secured the authorization of the holder of the title to the land in question and such other approvals as may be required by legislation of the State in which the project is to be located. The Authority shall not exercise the power of eminent domain in connection with any commerce facility or development.

In any condemnation proceedings in connection with the acquisition by the Authority of property or property rights of any character in either State and the right of inspection and immediate entry thereon, through the exercise by it of its power of eminent domain, any existing or future law or rule of court of the State in which such property is located with respect to the condemnation of property for the construction, reconstruction and maintenance of highways therein shall control. The Authority shall have the same power and authority with respect thereto as the State agency named in any such law, provided that nothing herein contained shall be construed as requiring joint or concurrent action by the two States with respect to the enactment, repeal or amendment of any law or rule of court on the subject of condemnation under which the Authority may proceed by virtue of this Article.

If the established grade of any street, avenue, highway or other route shall be changed by reason of the construction by the Authority of any work so as to cause loss or injury to any property abutting on such street, avenue, highway or other route, the Authority may enter into voluntary agreements with such abutting property owners and pay reasonable compensation for any loss or injury so sustained, whether or not it be compensable as damages under the condemnation law of the State.

The power of the Authority to acquire property by condemnation shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

ARTICLE X

REVENUE AND APPLICATION

The Authority is hereby authorized to establish, levy and collect such tolls and other charges as it may deem necessary, proper or desirable in connection with any crossing, transportation or terminal facility, commerce facility or development or other project which it is or may be authorized at any time to construct, own, operate or control, and the aggregate of said tolls and charges shall be at least sufficient (1) to meet the combined expenses of operation, maintenance and improvement thereof, (2) to pay the cost of acquisition or construction, including the payment, amortization and retirement of bonds or other securities or obligations assumed, issued or incurred by the Authority, together with interest thereon and (3) to provide reserves for such purposes; and the Authority is hereby authorized and empowered, subject to prior pledges, if any, to pledge such tolls and other revenues or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumed by it in connection with such loans or advances. There shall be allocated to the cost of the acquisition, construction, operation, maintenance and improvement of such facilities and projects such proportion of the general expenses of the Authority as it shall deem properly chargeable thereto.

ARTICLE XI

COVENANT WITH BONDHOLDERS

The two said States covenant and agree with each other and with the holders of any bonds or other securities or obligations of the Authority, assumed, issued or incurred by it and as security for which there may be pledged the tolls and revenues or any part thereof of any crossing, transportation or terminal facility, commerce facility or development or other project, that the two said States will

not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish or impair the power of the Authority to establish, levy and collect tolls and other charges in connection therewith, and that neither of the two said States will, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize any crossing of the Delaware River or Delaware Bay south of the line mentioned in Article IV(e) of this Compact by any person or body other than the Authority, unless, in either case, adequate provision shall be made by law for the protection of those advancing money upon such obligations.

ARTICLE XII

SECURITIES LAWFUL INVESTMENTS

The bonds or other securities or obligations which may be issued by the Authority pursuant to this Compact, or any amendments hereof or supplements hereto, are hereby declared to be negotiable instruments, and are hereby made securities in which all state and municipal officers and bodies of each State, all banks, bankers, trust companies, savings banks, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of either State may properly and legally invest any funds, including capital, belonging to them or within their control, and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any State or municipal officer or agency of either State for any purpose for which the deposit of bonds or other obligations of such State is now or may hereafter be authorized.

ARTICLE XIII

TAX STATUS

The powers and functions exercised by the Authority under this Compact and any amendments hereof or supplements hereto are and will be in all respects for the benefit of the people of the States of Delaware and New Jersey, the region and Nation, for the increase of their commerce and prosperity and for the enhancement of their general welfare. To this end, the Authority shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this Compact and of any law

relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either State or political subdivision thereof, upon any of the property used by it for such purposes, or any income or revenue therefrom, including any profit from a sale or exchange. The bonds or other securities or obligations issued by the Authority, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either State or any subdivision thereof.

ARTICLE XIV

JURISDICTION; USE OF LANDS

Each of the two States hereby consents to the use and occupancy by the Authority of any lands and property of the Authority in such State for the construction, operation, maintenance or improvement of any crossing, transportation or terminal facility, commerce facility or development, or other project which it is or may be authorized at any time to construct, own or operate, including lands lying under water.

ARTICLE XV

REVIEW AND ENFORCEMENT OF RULES

Judicial proceedings to review any bylaw, rule, regulation, order or other action of the Authority or to determine the meaning or effect thereof may be brought in such court of each State, and pursuant to such law or rules thereof, as a similar proceeding with respect to any agency of such State might be brought.

Each State may provide by law what penalty or penalties shall be imposed for violation of any lawful rule, regulation or order of the Authority, and, by law or rule of court, for the manner of enforcing the same.

ARTICLE XVI

NO PLEDGE OF CREDIT

The Authority shall have no power to pledge the credit or to create any debt or liability of the State of Delaware, of the State of New Jersey or of any other agency or of any political subdivision of said States.

ARTICLE XVII

LOCAL COOPERATION AND AGREEMENTS

(e) All municipalities, political subdivisions and every department, agency or public body of each of the States are hereby authorized and empowered to cooperate with, aid and assist the Authority in effectuating the provisions of this Compact and of any amendment hereof or supplement hereto.

(b) The Authority is authorized and empowered to cooperate with each of the States, or any political subdivision thereof, and with any municipality, local government, agency, public authority or commission of the foregoing, in connection with the acquisition, planning, rehabilitation, construction or development of any project, other than a crossing, and to enter into an agreement or agreements, subject to compliance with the laws of the state in which the project is to be located, with each of the States, or any political subdivision thereof, and with any municipality, county, local government, agency, public authority or commission or with two or more of them, for or relating to such purposes.

(c) The Authority and the city, town, municipality or other political subdivision in which any project, other than a crossing, is to be located are hereby authorized and empowered, subject to compliance with the laws of the state in which the project is to be located, to enter into an agreement or agreements to provide which local laws, resolutions, ordinances, rules and regulations, if any, of the city, town, municipality or other political subdivision affected by such project shall apply to such project. All other existing local laws, resolutions, ordinances or rules and regulations not provided for in the agreement shall be applicable to the project, other than a crossing. All local laws, resolutions, ordinances or rules and regulations enacted after the date of the agreement shall not be applicable to such projects unless made applicable by the agreement or any modification thereto.

ARTICLE XVIII

DEPOSITARIES

All banks, bankers, trust companies, savings banks and other persons carrying on a banking business under the laws of either State are authorized to give security for the safekeeping and prompt payment of moneys of the Authority deposited by it with them, in such manner and form as may be required by and may be approved by the Authority, which security may consist of a good and sufficient undertaking with such sureties as may be approved by the Authority, or may consist of the deposit with the Authority or other depository approved by the Authority as collateral of such securities as the Authority may approve.

ARTICLE XIX

AGENCY POLICE

Members of the police force established by the Authority, regardless of their residence, shall have in each State, on the crossings, transportation or terminal

facilities, commerce facilities or developments and other projects and the approaches thereto, owned, operated or controlled by the Authority, and at such other places and under such circumstances as the law of each State may provide, all the powers of investigation, detention and arrest conferred by law on peace officers, sheriffs or constables in each State or usually exercised by such officers in each State.

ARTICLE XX

REPORTS AND AUDITS

The Authority shall make annual reports to the Governors and Legislatures of the State of Delaware and the State of New Jersey, setting forth in detail its operations and transactions, and may make such additional reports from time to time to the Governors and Legislatures as it may deem desirable.

It shall, at least annually, cause an independent audit of its fiscal affairs to be made, and shall furnish a copy of such audit report together with such additional information or data with respect to its affairs as it may deem desirable to the Governors and Legislatures of each State.

It shall furnish such information or data with respect to its affairs as may be requested by the Governor or Legislature of each State.

ARTICLE XXI

BOUNDARIES UNAFFECTED

The existing territorial or boundary lines of the States or the jurisdiction of the two States established by said boundary lines shall not be changed hereby.

ARTICLE XXII

ENVIRONMENTAL PROTECTION

(a) The planning, development, construction and operation of any project, other than a crossing, shall comply with all environmental protection laws, regulations, directives and orders, including, without limitation, any coastal zone laws, wetlands laws, or subaqueous land laws or natural resources laws, now or hereinafter enacted, or promulgated by the State in which the project, or any part thereof, is located.

(b) The planning, development, construction and operation of any project, other than a crossing, to be located in the Delaware River and Bay shall comply with all environmental protection laws, regulations, directives and orders, including, without limitation, any coastal zone laws, wetlands laws, subaqueous land laws or natural resource laws now or hereinafter enacted or promulgated by either State.

(c) The planning, development, construction and operation of any project, other than a crossing, located in the coastal zone of Delaware (as defined in Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989), shall be subject to the same limitations, requirements, procedures and appeals as apply to any other person under the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. Nothing in this Compact shall be deemed to pre-empt, modify or supersede any provision of the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. The interpretation and application of this paragraph shall be governed by the laws of the State of Delaware and be determined by the courts of the State of Delaware.

(d) The planning, development, construction and operation of any project, other than a crossing, located in New Jersey, shall be subject to the provisions of New Jersey law, when applicable, including but not limited to the Wetlands Act of 1970, N.J.S.A. 13:9A-1, et seq., and the Coastal Area Facility Review Act, N.J.S.A. 13:19-1, et seq.

Section 2. This Act shall take effect upon the enactment by the State of New Jersey of legislation having a substantial similar effect as this Act, but if the State of New Jersey shall have already enacted such legislation, this Act shall take effect immediately. The Governor is hereby authorized to apply on behalf of the State of Delaware to the Congress of the United States for its consent and approval to the aforesaid Compact or Agreement and to the use of tolls collected on any crossing for the financing of any transportation or terminal facility or commerce facility or development constructed or operated by the Authority; but in the absence of such consent and approval the Delaware River and Bay Authority shall have all of the powers which the State of Delaware and the State of New Jersey may confer upon it without the consent and approval of Congress.

APPENDIX 3.—GRACE W. PIERCE-BECK, CONSERVATION DIRECTOR,
DELAWARE AUDUBON SOCIETY, LETTER TO HON. BARNEY FRANK,
OCTOBER 10, 1990



DELAWARE AUDUBON SOCIETY

Chapter of National Audubon
Box 1718, Wilmington, Delaware 19899

October 10, 1990

The Honorable
Barney Frank
Chairman of the Sub-Committee on
Administrative Law and Governmental Relations
Committee on the Judiciary
U. S. House of Representatives
Rayburn House Office Building B-351A
Washington, D. C. 20515

Dear Mr. Frank:

The Delaware Audubon Society is a statewide organization of 1,100 Delaware citizens committed to the conservation and preservation of our natural world. We offer herewith our concerns, comments and questions on legislation before you that extends the powers of the Delaware River and Bay Authority by amending Delaware Code, Title 17, Section 1701, - "The Delaware-New Jersey Compact".

Unlike Delaware's Coastal Zone Act which protects and preserves our Delaware coastal lands and waters from commercial overdevelopment, this legislation extends the powers of the Delaware River and Bay Authority allowing them to become another Delaware Development agency to advance economic growth and development in Delaware, the Delaware River, and Delaware Bay. It is possible under this bill for the Authority to put a "commerce facility" anywhere in Delaware. With this legislation, each of the two state governments would be able to finance and operate any number of commercial ventures in competition with the private sector.

We worry about the 80% of toll monies paid by citizens of all other states. Should they pay for "commerce facilities" in Delaware and New Jersey?

When the "commercial facilities" of the Authority produce a profit, shouldn't the facility be paying taxes to the State of Delaware or New Jersey?

Also, shouldn't the "commercial facilities" or development be subject to Delaware and New Jersey labor laws?

Should a bi-state Authority be allowed to deal in real estate anywhere in Delaware or New Jersey?

Should this politically appointed body have the power to by-pass present funding procedures for economic development?

The Delaware Bay is one of the largest transfer sites for petro-chemical barges in the world. In sharp contrast, this same bay each year hosts thousands of migrating shorebirds from South America, serves as a major staging area for 80% of snow geese in the Atlantic Flyway, and supports a remarkable variety of fish and wildlife that results in a multi-million dollar recreational and commercial resource for thousands of citizens.

Citizens and officials of Delaware have worked over the past years to clean up our river and bay. We are winning - the waters in the Delaware River and Bay are cleaner, even to the point of trying to re-establish oyster beds in the bay. We will lose the war if we allow our river and bay to be ringed with "commercial facilities". The Chesapeake Bay is struggling to stay alive. Our inland bays in Delaware are struggling to survive. Over-development of all kinds has caused this. Can't we ever learn from past mistakes? Let's really look at this legislation and ask, do we need this? Will it benefit our fragile coastal lands and waters? - or will its eventual impact be one of destruction for Delaware and New Jersey lands and waters?

Members of the Delaware Audubon Society have no problem with the Authority being allowed to use excess funds to improve those entities over which they have present jurisdiction. We have problems with the Authority becoming a third development department. Most Delaware citizens feel we have enough growth in our state.
ENOUGH IS ENOUGH!!

DELAWARE AUDUBON SOCIETY

PAGE 3

Delaware Audubon urges you to consider our concerns and those of other Delawareans and to reject this amendment to the Delaware-New Jersey Compact. We thank you for your considerations.

Very truly yours,



Grace W. Pierce-Beck,
Conservation Director

GWPB:bp

cc: The Honorable
Thomas R. Carper
U.S. House of Representatives

APPENDIX 4.—ROBERT S. WEINER, ZONING VICE PRESIDENT, COUNCIL OF CIVIC ORGANIZATIONS OF BRANDYWINE HUNDRED, LETTER TO HON. BARNEY FRANK, OCTOBER 2, 1990, WITH ENCLOSURE

COUNCIL OF CIVIC ORGANIZATIONS OF BRANDYWINE HUNDRED
ROBERT S. WEINER
Zoning Vice President
11 TENBY DRIVE
WILMINGTON, DELAWARE 19803

(W) 302-658-8700

October 2, 1990

The Honorable Barney Frank, Chairman
Subcommittee on Administrative Law
and Governmental Relations
Committee on the Judiciary
B-351-A Rayburn House Office Building
Washington, D.C. 20515

Re: H. J. Res. 657
The Delaware-New Jersey Compact Amendments

Dear Mr. Frank:

The proposed Compact Amendments would empower the Delaware River & Bay Authority to spend surpluses from the Delaware Memorial Bridge on economic development projects in Delaware and New Jersey.

Under the Compact between Delaware and New Jersey, tolls collected from users of the bridge and ferry connecting Delaware and New Jersey pay for the construction and maintenance of the facilities crossing the Delaware River and Delaware Bay.

The system has worked well and the trust maintained between the users and the Authority should not be broken - as could happen if the tolls that are collected are sidetracked to economic development projects.

The Delaware River & Bay Authority issued a technical memorandum titled, "Future Traffic Demands Between Delaware and New Jersey". This study forecasts that current surpluses plus additional revenue will be needed by the year 2000 for expenses associated with crossing the Delaware River.

The Honorable Barney Frank, Chairman

October 2, 1990

This Authority report was not available at the time that Delaware and New Jersey approved these Compact Amendments.

Using surplus funds for economic development will contribute to deterioration of traffic service on the bridge and ferry facilities.

If any true surplus funds exist, using those resources on facilities that are likely to be used by the toll payer makes the most sense.

The structures involved in these crossings of the Delaware River are some of the largest and most complex structures in this region. Since the overall management of the Authority is entrusted to a politically appointed ten person commission, it would be in the best interest of the users and that of the general public to have a day-to-day operations overseen by a professional engineer.

The Council of Civic Organizations of Brandywine Hundred, The Delaware Audubon Society, Save-Our-Waterways, The Delaware Nature Society, The League of Women Voters of Delaware, The Civic League for New Castle County and many other groups are opposed to this legislation. There has been no citizen support for this legislation. The Delaware State Legislature passed this bill without meaningful opportunity for public hearing. Such a hearing would have afforded an opportunity for members of the public to express their opposition.

The Authority has no expertise in economic development and would be in competition with other economic development arms of each of the respective states.

Without a Sunshine Law and without public accountability, members of the Authority would be free to abuse the public trust with which they are charged by handing out big contracts, dispensing patronage and soliciting political contributions in exchange.

There has been much discussion about the integrity of this Bill and of the process surrounding its composition and passage. The power and potential for abuse which this Bill gives the Delaware River & Bay Authority and its Executive Director are obvious.

If true surpluses were shown to exist looking at a realistic time horizon in the future, then those funds ought to be

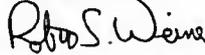
The Honorable Barney Frank, Chairman

October 2, 1990

directed solely to construction and maintenance of transportation systems since tolls are collected from users with the implied promise that the funds will be used for transportation purposes.

I have enclosed some articles which have appeared in Delaware newspapers from other groups sharing similar thoughts on this subject.

Respectfully,



ROBERT S. WEINER
C.C.O.B.H.
Zoning Vice President

RSW:lm

Enc.

Cc: U. S. Representative Thomas R. Carper
131 Cannon House Office Building
Washington, D.C. 20515

Negatives in widening river-bay unit's powers

In an equally subtle shift, the governor's report also says that, however Delaware goes on to address the transportation trust funds, the legislature is likely to be able to do so in a way that is not as restrictive as the current law. The report also says that the legislature is likely to be able to do so in a way that is not as restrictive as the current law.

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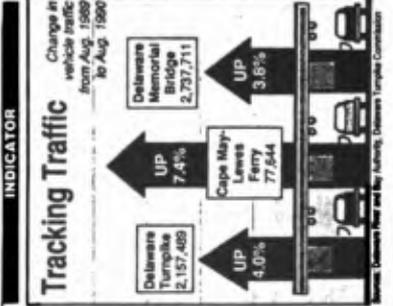
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THINKING OUT LOUD

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Wilmington News Journal
October 1, 1990

F O R O P E N E R S :

PERHAPS UNWISE TO EXPAND RIVER & BAY AUTHORITY

We have recently sent a letter to all members of the Delaware Senate regarding pending bills that would revise the compact under which the Delaware River and Bay Authority operates. We question the basic premise for expanding the authority's power to include "commerce facilities or development" (language used in the legislation).

The rationale for two states joining in a compact to build and operate a bridge and ferries across a large river which divides them is, in our view, clear. That those facilities should be tax exempt is also reasonable.

We do question, however, the whole idea of expanding the power of the authority to include "commerce facilities or development" which could compete with the private sector and be tax exempt besides! We think the impact on infrastructure needed by such facilities as well as the effect on the tax base of local governments and school districts should be examined closely with input from experts of differing economic philosophies. Only four of New Jersey's counties are affected by the compact, whereas in Delaware "commerce facilities" could be developed anywhere in the state.

This tax-exempt authority is not even subject to the Freedom of Information Act. We urge the Senate to examine closely the long-term results of revising the present compact.

Joann O. Hasee, President
League of Women Voters of Delaware
Wilmington

Wilmington News Journal
January 24, 1990

Crowds in forecast for twin spans, ferry

By JEFF BORTOOMERY
Dover Bureau reporter

NEW CASTLE — Traffic on the Delaware Memorial Bridge could reach "new" levels in as little as a decade, a newly released study predicts.

Meanwhile, failure to improve or expand the Cape May-Lewes Ferry could result in waits of up to 2½ hours for summer weekend ferry trips by 1995, according to the forecast by New York-based URS Consultants.

URS developed the projections of traffic between Delaware and New Jersey for the

Delaware River and Bay Authority. An evaluation of possible improvements — including a new bridge across the middle or upper Delaware Bay — is expected next month.

"We wanted to make everyone aware of the fact that we're growing like Topsy," said William J. Miller, the authority's executive director, who declined to speculate on the need for a new bridge or ferries. "If this occurs on the bridge, not only we, but the states of Delaware and New Jersey, are going to have to handle an awful lot more traffic. The approaches are going to get clogged up, too."

"Basically we have to start preparing, if they're at all correct, because the onslaught is just 10 years away or so," said Garnett B. Lyons, authority vice chairman. "The projected figures of what they thought were going on are pretty awesome."

Nearly 2.3 million vehicles crossed the Delaware Memorial Bridge between Delaware and New Jersey in June, up more than 5 percent over the previous year's mark. For the full year ending June 30, traffic increased more than 6 percent, or

See STUDY — B3

Study: Brace for crush on bridge, ferry

FROM PAGE B1
nearly 1.5 million vehicles, over the previous year.

URS projected that traffic would increase by 60 percent by the year 2005. Weekday traffic in the year 2000 is expected to average 100,000 vehicles per day, with weekend crossings averaging 130,000 daily.

Overall ferry traffic is expected to double by 2005, the study predicted, with average August weekday traffic rising from 2,500 in 1988 to 5,800 by 2005 and 7,800 by 2020.

"These forecasts of traffic assume that sufficient capacity is

bridge traffic growth, including construction of the U.S. 301 connector to Interstate 95.

"It's just too early to say," Miller said when asked about recommendations for a new bridge or ferries. "We'll have to wait and see what the next report says. All we know is this is the amount of traffic we expect across those facilities."

The study is not related to an effort to allow the authority to use surplus funds for economic development projects, Miller said. Authority members unanimously agreed to support the proposal in June.

Wilmington News Journal
August 16, 1989

River and Bay authority should not have these new powers to act

By JERRY A. SHIELDS

A June 28 editorial titled "Let sun shine on increased bridge authority powers" brought out several useful points.

It correctly stated that the Delaware River and Bay Authority was beyond direct control of voters and elected officials, takes very good care of its commissioners and staff and secures steady, low-stress employment for the politically well connected.

It also opined that, if the DRBA gets the powers it seeks to use surplus bridge tolls (and money borrowed against projected toll revenues) to underwrite thus far unspecified "economic development" projects, more sunshine should be let into the process than previously has been.

So far, so good.

Had the editorial stopped there, it would have rendered good service by pointing out the dangers implicit in giving such broad powers to "quasi-governmental bodies" virtually outside the law.

Unfortunately it went further, indulging in invective and name-calling aimed not at the authority members who have so often abused their powers but at opponents of the DRBA legislation.

"Do-gooders," it called us, and "winners."

Maybe "do-gooders" is not such a bad thing to be called, given that the alternative is doing bad or doing nothing.

But "winners,"

Give us a break!

Ask where we'd be today had not environmentalists stood up to greedy business interests and demanded protection for our air, water and wildlife, our coastal zone and woods and farm lands. To paraphrase Patrick Henry: If this be whining, make the most of it!

The editorial makes other points, some wrong, some wrong-headed.

An example of a wrong point: "Because the authority would be the vehicle for major development," the text reads, "environmentalists objected. Their objections were met with prompt amendments that eliminated their fears."

What actually happened was that several prominent environmentalists — including former Gov. Russell Peterson and recent gubernatorial candidate Jake Krashtool — quickly pointed out some glaring problems and omissions in the legislation.

These were willingly, even eagerly, conceded by the bill's proponents.

When this happens, you get the feeling that you're being snookered, and a closer reading of the legislation convinced most opponents that a whole basketful of amendments couldn't fix all the things that were wrong with it.

The fact is that this is bad legislation — bad in concept, unneeded and self-serving.

ANOTHER OPINION

Once passed, it would throw the door of opportunity wide open to much more of the deal cutting that already characterizes the DRBA.

It is not enough to keep an eye on things.

Delaware, especially New Castle County, is already burdened with more "economic development" than it can reasonably handle.

Adding another straw this big to the camel's back will only worsen the situation.

Our continued opposition to the much amended DRBA package, however, draws the editorial's wrath.

"When asked about all this," it states, "the winners shake their heads and say they're still opposed. The only confidence they have, it seems, is in their own judgment. That kind of cynicism is beyond understanding."

Maybe our editor had better go back and reread Thoreau.

Whose judgment should we trust, if not our own?

The DRBA's?

The governor's?

The legislature's?

We're supposed to feel comfortable with the idea that three-fourths of the legislature must approve major DRBA projects. That, however, becomes really scary when you realize that this bill was steamrollered through the House 33-3, with five absent or not voting, after only a couple of committee hearings and virtually no debate, despite no showing of public support whatever for the bill.

Call it what you want, the House vote here no resemblance to democracy, though it was called

Jerry A. Shields is chairman of Watch Our Waterways.

Wilmington News Journal
August 3, 1989

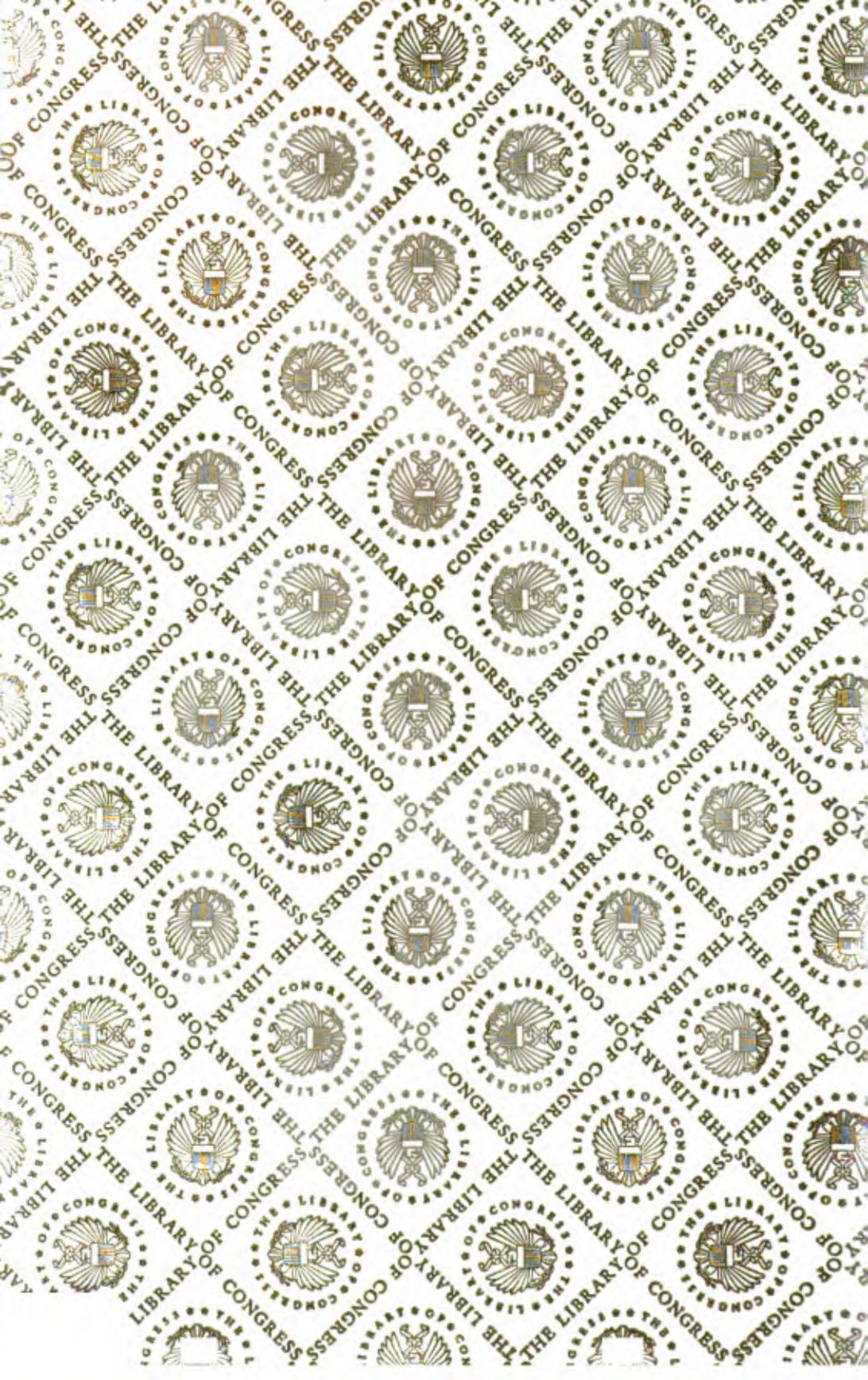
tainly more than the necessary three-fourths majority.

The bills, like much other legislation, got bogged down in 11th-hour wrangling in the Senate, so this is still a live issue which will no doubt resurface later.

Voters and users of the Delaware Memorial Bridge and Cape May-to-Lewis ferry will be well-advised to familiarize themselves with the issue in the interim.

They can begin by looking up the history of the DRBA and learning why we distrust the authority and oppose broadening of its powers.

Actually, we do trust the authority. We trust it to do what it has done since its founding a quarter century ago: look after its own and its friends and perpetuate itself forever if it can. Certainly beats working for a living.





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