

DRAFT 3

SUBSTITUTE FOR

SENATE BILL NO. 1197

A bill to amend 1952 PA 214, entitled

"An act authorizing the Mackinac bridge authority to acquire a bridge connecting the upper and lower peninsulas of Michigan, including causeways, tunnels, roads and all useful related equipment and facilities, including park, parking, recreation, lighting and terminal facilities; extending the corporate existence of the authority; authorizing such authority to enjoy and carry out all powers incident to its corporate objects; authorizing the appropriation and use of state funds for the preliminary purposes of the authority; providing for the payment of the cost of such bridge and in that connection authorizing the authority to issue revenue bonds payable solely from the revenues of the bridge; granting the right of condemnation to the authority; granting the use of state land and property to the authority; making provisions for the payment and security of such bonds and granting certain rights and remedies to the holders thereof; authorizing banks and trust companies to perform certain acts in connection therewith; authorizing the imposition of tolls and charges; authorizing the authority to secure the consent of the United States government to the construction of the bridge and to secure approval of plans, specifications and location of same; authorizing employment of engineers irrespective of whether such engineers have been previously employed to make preliminary inspections or reports with respect to the bridge; authorizing the state highway department to operate and maintain such bridge or to contribute thereto and enter into leases and agreements in connection therewith; exempting such bonds and the property of the authority from taxation; prohibiting



competing traffic facilities; authorizing the operation of ferries by the authority; providing for the construction and use of certain buildings; and making an appropriation,"

by amending the title and section 5 (MCL 254.315), the title as amended by 1992 PA 120 and section 5 as amended by 1983 PA 123, and by adding sections 14, 14a, 14b, 14c, 14d, and 14e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act authorizing the Mackinac bridge authority to acquire a bridge **AND A UTILITY TUNNEL** connecting the ~~upper and lower~~ **UPPER AND LOWER PENINSULAS** of Michigan, including causeways, tunnels, roads and all useful related equipment and facilities, including park, parking, recreation, lighting, and terminal facilities; extending the corporate existence of the authority; authorizing ~~such~~ **THE** authority to enjoy and carry out all powers incident to its corporate objects; authorizing the appropriation and use of state funds for the preliminary purposes of the authority; providing for the payment of the cost of ~~such~~ **THE** bridge and ~~in that connection~~ authorizing the authority to issue revenue bonds payable solely from the revenues of the bridge; granting the right of condemnation to the authority; granting the use of state land and property to the authority; making provisions for the payment and security of ~~such~~ bonds and granting certain rights and remedies to the holders ~~thereof~~; **OF BONDS**; authorizing banks and trust companies to perform certain acts in connection ~~therewith~~; **WITH THE PAYMENT AND SECURITY OF BONDS**; authorizing the imposition of tolls and charges; authorizing the authority to secure the consent of the United States government to the



1 construction of the bridge and to secure approval of plans,
 2 specifications, and location of ~~same~~; **THE BRIDGE**; authorizing
 3 employment of engineers ~~irrespective~~ **REGARDLESS** of whether such
 4 **THOSE** engineers have been previously employed to make preliminary
 5 inspections or reports with respect to the bridge; authorizing the
 6 state ~~highway~~ **TRANSPORTATION** department to operate and maintain
 7 such ~~THE~~ bridge or to contribute ~~thereto~~ **TO THE BRIDGE** and enter
 8 into leases and agreements in connection ~~therewith~~; **WITH THE**
 9 **BRIDGE**; exempting ~~such~~ bonds and the property of the authority from
 10 taxation; prohibiting competing traffic facilities; authorizing the
 11 operation of ferries by the authority; **AUTHORIZING THE CREATION OF**
 12 **THE MACKINAC STRAITS CORRIDOR AUTHORITY; AUTHORIZING THE OPERATION**
 13 **OF A UTILITY TUNNEL BY THE AUTHORITY OR THE MACKINAC STRAITS**
 14 **CORRIDOR AUTHORITY**; providing for the construction and use of
 15 certain buildings; and making an appropriation.

16 Sec. 5. (1) The authority ~~is hereby authorized~~ **MAY** by
 17 resolution ~~or resolutions~~ of the board ~~to~~ provide for the issuance
 18 of revenue bonds for the purpose of paying the cost of the bridge
 19 or for the purpose of refunding the bonds, including refunding
 20 bonds, or for any combination of ~~such~~ **THESE** purposes. ~~Such~~
 21 ~~refunding~~ **REFUNDING** bonds may be either sold at not less than par
 22 and accrued interest or may be delivered in exchange for the bonds
 23 to be refunded or may be sold in part and exchanged in part and if
 24 sold, the proceeds ~~thereof~~ **OF THE SALE OR EXCHANGE** when received,
 25 together with other properly available funds sufficient to pay the
 26 balance of the principal, interest, and redemption premiums ~~which~~
 27 **THAT** will be due on the bonds to be refunded, shall be deposited



1 with the paying agent for the bonds to be ~~so~~ refunded and used only
 2 for the purpose of making ~~said~~ **THOSE** payments. ~~Any such~~ **A** sale or
 3 exchange ~~shall be~~ **DESCRIBED IN THIS SUBSECTION IS** subject to the
 4 approval of the state administrative board. The board may enter
 5 into ~~such~~ contracts for fiscal agents' services in connection with
 6 the financing of the bridge as ~~may be~~ approved by the state
 7 administrative board, or the state treasurer may be used as fiscal
 8 agent.

9 (2) Principal of and interest and redemption premiums on the
 10 bonds issued hereunder ~~shall be~~ **UNDER THIS SECTION ARE** payable
 11 solely from the revenues of the authority, except that ~~said~~
 12 payments may also be made from the proceeds of refunding bonds
 13 issued hereunder **UNDER THIS SECTION** and capitalized interest may be
 14 paid from the proceeds of the bonds. ~~Such~~ **THE** bonds may be either
 15 serial bonds, ~~or~~ term bonds, or ~~any~~ **A** combination thereof. ~~OF~~
 16 **SERIAL AND TERM BONDS.** Any serial bonds shall have annual or
 17 semiannual maturities, the first maturity of which shall be payable
 18 not more than 10 years from their date. ~~Any~~ **A** term bonds shall be
 19 **BOND IS** redeemable on any interest payment date at ~~such~~ **A** price ~~or~~
 20 ~~prices~~ and upon ~~such~~ terms and conditions as prescribed by the
 21 authorizing resolution of the board, and recited upon the face of
 22 the bonds. ~~The bonds~~ **BOND. A BOND** shall mature not more than 50
 23 years from ~~their~~ **ITS** date, shall be **A** coupon ~~bonds~~ **BOND** bearing
 24 interest at not more than 6% per annum, payable semiannually except
 25 as to the first coupon which may be for any number of months not
 26 exceeding 10, shall be payable in ~~such~~ **A** medium, shall be in ~~such~~ **A**
 27 form and executed in ~~such~~ **A** manner, shall have ~~such~~ **A** privilege of



1 registration as to principal or principal and interest, shall be
 2 payable at ~~such~~ **A** place ~~or places within~~ **INSIDE** or ~~without the~~
 3 **OUTSIDE THIS** state, and shall otherwise have ~~such~~ other details as
 4 ~~may be~~ fixed by resolution of the board. Serial bonds may be made
 5 redeemable prior to maturity at ~~such~~ **A** price ~~or prices~~ and under
 6 ~~such~~ terms and conditions ~~as may be~~ prescribed in the resolution of
 7 the board, and recited upon the face of the bonds.

8 (3) ~~All such bonds~~ **A BOND ISSUED UNDER THIS SECTION** shall
 9 contain a statement on ~~their~~ **ITS** face that neither the ~~bonds~~ **BOND**
 10 nor the ~~coupons~~ **COUPON** representing interest ~~thereon~~ **constitute ON**
 11 **THE BOND CONSTITUTES** an indebtedness of ~~the~~ **THIS** state ~~of Michigan~~
 12 within the meaning of any constitutional limitations or
 13 prohibitions and that neither the authority nor ~~the~~ **THIS** state is
 14 authorized to pay ~~such bonds~~ **THE BOND** or interest except from the
 15 revenues pledged ~~thereto~~ **TO THE BOND OR INTEREST** under ~~the~~
 16 ~~provisions of~~ this act. In case any official whose signature
 17 appears on ~~such bonds~~ **A BOND** or ~~coupons~~ shall ~~cease~~ **COUPON CEASES**
 18 to be ~~such~~ **AN** officer before the delivery of ~~such bonds,~~ ~~such~~ **THE**
 19 **BOND, HIS OR HER** signature shall nevertheless be valid and
 20 sufficient for all purposes ~~with like effect as though such person~~
 21 **HE OR SHE** had remained in office until delivery. ~~All such bonds are~~
 22 ~~hereby declared to be~~ **A BOND ISSUED UNDER THIS SECTION IS** fully
 23 negotiable and ~~to have~~ **HAS** all of the qualities incident to
 24 negotiable instruments under the uniform commercial code, subject
 25 only to the provisions for registration of the ~~bonds which may~~
 26 ~~appear therein.~~ ~~Such bonds shall be~~ **BOND THAT APPEARS IN THE BOND.**
 27 **A BOND ISSUED UNDER THIS SECTION IS** exempt from all taxation by the



1 ~~THIS~~ state or ~~any of its~~ **A** political subdivisions ~~SUBDIVISION OF~~
 2 **THIS STATE** and shall be sold at public sale after notice at least 5
 3 days before the sale in a publication approved by the department of
 4 treasury for the carrying of ~~such~~ **THE** notice, but no ~~such~~ sale
 5 shall be made at a price that will result in an interest cost of
 6 more than 6% per annum. However, all or any part of ~~such bonds~~ **A**
 7 **BOND ISSUED UNDER THIS SECTION** may be sold to the United States
 8 government or ~~any~~ **AN** agency thereof, ~~OF THE UNITED STATES~~
 9 **GOVERNMENT**, at private sale ~~without~~ public offering and the
 10 authority is authorized to enter into any agreements or contracts
 11 with the United States government or any of its agencies necessary
 12 to provide for the financing of the bridge in the manner
 13 contemplated by this act. ~~Such bonds~~ **A BOND ISSUED UNDER THIS**
 14 **SECTION** may be authorized and may be issued from time to time as
 15 needed and subsequent series or issues thereof shall enjoy ~~OF A~~
 16 **BOND ISSUED UNDER THIS SECTION HAVE** equal or subordinate status
 17 with respect to the pledge of revenues from which ~~they are~~ **THE BOND**
 18 **IS** payable as ~~may be~~ provided in the proceedings authorizing ~~their~~
 19 **ITS** issuance. Any public sale, or negotiated sale of ~~the bonds~~ **A**
 20 **BOND ISSUED UNDER THIS SECTION** with the United States government or
 21 any of its agencies, ~~shall be~~ **IS** subject to the approval of the
 22 state administrative board. Prior to the preparation of **A**
 23 definitive ~~bonds~~, **BOND**, the board may provide for the issuance of **A**
 24 temporary ~~bonds~~ **BOND** with or without ~~coupons~~, **A COUPON**,
 25 exchangeable for **A** definitive ~~bonds~~ **BOND** upon the issuance of the
 26 ~~latter~~. **TEMPORARY BOND**. The proceedings authorizing ~~the bonds~~ **A**
 27 **BOND ISSUED UNDER THIS SECTION** may provide that ~~such bonds~~ **THE BOND**



1 shall contain a recital that ~~they are~~ **IT IS** issued pursuant to
 2 **UNDER** this act and ~~such~~ **THE** recital shall be **IS** conclusive evidence
 3 of ~~their~~ **ITS** validity and the regularity of ~~their~~ **ITS** issuance.

4 (4) **THIS SECTION DOES NOT APPLY TO THE ACQUISITION,**
 5 **CONSTRUCTION, OPERATION, MAINTENANCE, IMPROVEMENT, REPAIR, OR**
 6 **MANAGEMENT OF A UTILITY TUNNEL. AS USED IN THIS SUBSECTION,**
 7 **"UTILITY TUNNEL" MEANS THAT TERM AS DEFINED IN SECTION 14.**

8 **SEC. 14. AS USED IN THIS SECTION AND SECTIONS 14A TO 14E:**

9 (A) **"CORRIDOR AUTHORITY BOARD" MEANS THE BOARD OF DIRECTORS OF**
 10 **THE MACKINAC STRAITS CORRIDOR AUTHORITY APPOINTED UNDER SECTION**
 11 **14B.**

12 (B) **"MACKINAC STRAITS CORRIDOR AUTHORITY" MEANS THE MACKINAC**
 13 **STRAITS CORRIDOR AUTHORITY CREATED IN SECTION 14B.**

14 (C) **"STRAITS PROTECTION FUND" MEANS THE FUND CREATED IN**
 15 **SECTION 14C.**

16 (D) **"TUNNEL AGREEMENT" MEANS AN AGREEMENT OR SERIES OF**
 17 **AGREEMENTS DESCRIBED IN SECTION 14D.**

18 (E) **"UTILITY TUNNEL" MEANS A TUNNEL JOINING AND CONNECTING THE**
 19 **UPPER AND LOWER PENINSULAS OF THIS STATE AT THE STRAITS OF MACKINAC**
 20 **FOR THE PURPOSE OF ACCOMMODATING UTILITY INFRASTRUCTURE, INCLUDING,**
 21 **BUT NOT LIMITED TO, PIPELINES, ELECTRIC TRANSMISSION LINES,**
 22 **FACILITIES FOR THE TRANSMISSION OF DATA AND TELECOMMUNICATIONS, ALL**
 23 **USEFUL AND RELATED FACILITIES, EQUIPMENT, AND STRUCTURES, AND ALL**
 24 **NECESSARY TANGIBLE OR INTANGIBLE REAL AND PERSONAL PROPERTY,**
 25 **LICENSES, FRANCHISES, EASEMENTS, AND RIGHTS-OF-WAY.**

26 **SEC. 14A. (1) THE AUTHORITY MAY ACQUIRE, CONSTRUCT, OPERATE,**
 27 **MAINTAIN, IMPROVE, REPAIR, AND MANAGE A UTILITY TUNNEL. THE**



1 AUTHORITY SHALL DETERMINE THE RATES CHARGED FOR THE SERVICES
2 OFFERED BY THE UTILITY TUNNEL. THE AUTHORITY MAY ENTER INTO
3 CONTRACTS OR AGREEMENTS NECESSARY TO PERFORM ITS DUTIES AND POWERS
4 UNDER THIS ACT, INCLUDING, BUT NOT LIMITED TO, LEASING THE RIGHT TO
5 USE A UTILITY TUNNEL ON TERMS AND FOR CONSIDERATION DETERMINED BY
6 THE AUTHORITY. THIS SUBSECTION DOES NOT AUTHORIZE THE AUTHORITY TO
7 INCUR OBLIGATIONS THAT WOULD CONSTITUTE AN INDEBTEDNESS OF THIS
8 STATE CONTRARY TO THE STATE CONSTITUTION OF 1963.

9 (2) THE AUTHORITY MAY PURCHASE OR OTHERWISE ACQUIRE AT A FAIR
10 AND REASONABLE PRICE PROPERTY AND PROPERTY RIGHTS IN CONNECTION
11 WITH THE CONSTRUCTION OF A UTILITY TUNNEL, INCLUDING, BUT NOT
12 LIMITED TO, ROADS, STRUCTURES, RIGHTS-OF-WAY, FRANCHISES,
13 EASEMENTS, AND OTHER INTERESTS IN LAND, INCLUDING LAND UNDER WATER;
14 THE RIPARIAN RIGHTS OF ANY PERSON; AND THE RIGHT TO CUT OFF LIGHT,
15 AIR, AND ACCESS TO REAL PROPERTY.

16 (3) THE AUTHORITY MAY ENTER ON ANY PUBLIC LAND, WATER, OR
17 PREMISES TO MAKE A SURVEY, SOUNDING, OR EXAMINATION IN CONNECTION
18 WITH THE CONSTRUCTION OF A UTILITY TUNNEL. THE AUTHORITY HAS THE
19 RIGHT TO USE AND FULL EASEMENTS AND RIGHTS-OF-WAY THROUGH, ACROSS,
20 UNDER, AND OVER ANY LANDS OR PROPERTY OWNED BY THIS STATE OR IN
21 WHICH THIS STATE HAS ANY RIGHT, TITLE, OR INTEREST, WITHOUT
22 CONSIDERATION, THAT MAY BE NECESSARY OR CONVENIENT TO THE
23 CONSTRUCTION AND EFFICIENT OPERATION OF THE UTILITY TUNNEL.

24 (4) THE AUTHORITY MAY PERFORM ALL ACTS NECESSARY TO SECURE THE
25 CONSENT OF ANY DEPARTMENT, AGENCY, INSTRUMENTALITY, OR OFFICER OF
26 THE UNITED STATES GOVERNMENT OR THIS STATE TO THE CONSTRUCTION AND
27 OPERATION OF A UTILITY TUNNEL AND THE CHARGING OF FEES FOR ITS USE,



1 AND TO SECURE THE APPROVAL OF ANY DEPARTMENT, AGENCY,
2 INSTRUMENTALITY, OR OFFICER OF THE UNITED STATES GOVERNMENT OR THIS
3 STATE REQUIRED BY LAW TO APPROVE THE PLANS, SPECIFICATIONS, AND
4 LOCATION OF THE UTILITY TUNNEL OR THE FEES TO BE CHARGED FOR THE
5 USE OF THE UTILITY TUNNEL.

6 (5) THE CREATION OF THE AUTHORITY AND THE CARRYING OUT OF THE
7 AUTHORITY'S PURPOSES, INCLUDING A UTILITY TUNNEL, ARE FOR THE
8 BENEFIT OF THE PEOPLE OF THIS STATE AND CONSTITUTE A PUBLIC
9 PURPOSE, AND THE AUTHORITY IS PERFORMING AN ESSENTIAL GOVERNMENT
10 FUNCTION IN THE EXERCISE OF THE POWERS CONFERRED UPON IT BY THIS
11 ACT. ALL PROPERTY OWNED BY THE AUTHORITY RELATED TO A UTILITY
12 TUNNEL IS EXEMPT FROM ALL TAXES LEVIED BY THIS STATE AND ALL OF ITS
13 POLITICAL SUBDIVISIONS AND TAXING DISTRICTS, AND THE AUTHORITY IS
14 NOT REQUIRED TO PAY TAXES OR ASSESSMENTS UPON ITS ACTIVITIES OR
15 UPON ANY OF ITS REVENUES. IF A TAX OF ANY NATURE IS LEGALLY IMPOSED
16 ON ANY PROPERTY OR OBLIGATION OF THE AUTHORITY IN CONNECTION WITH A
17 UTILITY TUNNEL, AND THAT TAX IS DETERMINED TO BE VALID AND
18 EFFECTIVE, THE TAX SHALL BE PAID FROM THE REVENUES OF THE AUTHORITY
19 AS AN EXPENSE OF MAINTAINING AND OPERATING THE UTILITY TUNNEL.

20 SEC. 14B. (1) THE MACKINAC STRAITS CORRIDOR AUTHORITY IS
21 CREATED WITHIN THE STATE TRANSPORTATION DEPARTMENT. THE MACKINAC
22 STRAITS CORRIDOR AUTHORITY IS A STATE INSTITUTION WITHIN THE
23 MEANING OF SECTION 9 OF ARTICLE II OF THE STATE CONSTITUTION OF
24 1963, AND AN INSTRUMENTALITY OF THIS STATE EXERCISING PUBLIC AND
25 ESSENTIAL GOVERNMENTAL FUNCTIONS. THE CREATION OF THE MACKINAC
26 STRAITS CORRIDOR AUTHORITY AND THE CARRYING OUT OF THE MACKINAC
27 STRAITS CORRIDOR AUTHORITY'S AUTHORIZED PURPOSES ARE PUBLIC AND



1 ESSENTIAL GOVERNMENTAL PURPOSES FOR THE BENEFIT OF THE PEOPLE OF
2 THIS STATE AND FOR THE IMPROVEMENT OF THE HEALTH, SAFETY, WELFARE,
3 COMFORT, AND SECURITY OF THE PEOPLE OF THIS STATE, AND THESE
4 PURPOSES ARE PUBLIC PURPOSES. THE MACKINAC STRAITS CORRIDOR
5 AUTHORITY WILL BE PERFORMING AN ESSENTIAL GOVERNMENTAL FUNCTION IN
6 THE EXERCISE OF THE POWERS CONFERRED UPON IT BY THIS ACT.

7 (2) THE MACKINAC STRAITS CORRIDOR AUTHORITY SHALL EXERCISE ITS
8 DUTIES THROUGH THE CORRIDOR AUTHORITY BOARD. THE CORRIDOR AUTHORITY
9 BOARD SHALL CONSIST OF 3 MEMBERS APPOINTED BY THE GOVERNOR WITH THE
10 ADVICE AND CONSENT OF THE SENATE. NO MORE THAN 2 OF THE CORRIDOR
11 AUTHORITY BOARD MEMBERS SHALL BE MEMBERS OF THE SAME POLITICAL
12 PARTY. MEMBERS OF THE CORRIDOR AUTHORITY BOARD SHALL SERVE FOR
13 TERMS OF 6 YEARS OR UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIED,
14 WHICHEVER IS LATER.

15 (3) IF A VACANCY OCCURS ON THE CORRIDOR AUTHORITY BOARD, THE
16 GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, SHALL MAKE AN
17 APPOINTMENT FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE
18 ORIGINAL APPOINTMENT.

19 (4) AT THE FIRST MEETING OF THE CORRIDOR AUTHORITY BOARD, THE
20 CORRIDOR AUTHORITY BOARD SHALL ELECT FROM AMONG ITS MEMBERS A
21 CHAIRPERSON. AFTER THE FIRST MEETING, THE CORRIDOR AUTHORITY BOARD
22 SHALL MEET AT THE CALL OF THE CHAIRPERSON OR IF REQUESTED BY A
23 MAJORITY OF THE MEMBERS.

24 (5) A MAJORITY OF THE MEMBERS OF THE CORRIDOR AUTHORITY BOARD
25 CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF
26 THE BOARD. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE
27 REQUIRED FOR OFFICIAL ACTION OF THE CORRIDOR AUTHORITY BOARD.



1 (6) MEMBERS OF THE CORRIDOR AUTHORITY BOARD SHALL SERVE
2 WITHOUT COMPENSATION. HOWEVER, MEMBERS OF THE CORRIDOR AUTHORITY
3 BOARD SHALL BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES
4 INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF
5 THE CORRIDOR AUTHORITY BOARD, UNLESS THEY DECLINE TO ACCEPT
6 REIMBURSEMENT.

7 (7) THE MEMBERS OF THE CORRIDOR AUTHORITY BOARD AND ANY AGENT
8 OF THE MACKINAC STRAITS CORRIDOR AUTHORITY ARE SUBJECT TO 1968 PA
9 317, MCL 15.321 TO 15.330, AND 1968 PA 318, MCL 15.301 TO 15.310.

10 (8) THE BUSINESS THAT THE CORRIDOR AUTHORITY BOARD MAY PERFORM
11 SHALL BE CONDUCTED AT A PUBLIC MEETING OF THE CORRIDOR AUTHORITY
12 BOARD HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267,
13 MCL 15.261 TO 15.275.

14 (9) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
15 RETAINED BY THE CORRIDOR AUTHORITY BOARD IN THE PERFORMANCE OF AN
16 OFFICIAL FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT,
17 1976 PA 442, MCL 15.231 TO 15.246.

18 (10) THE MACKINAC STRAITS CORRIDOR AUTHORITY DOES NOT POSSESS
19 ANY POWERS NOT EXPLICITLY GRANTED TO IT UNDER THIS ACT, INCLUDING,
20 BUT NOT LIMITED TO, THE POWER OF EMINENT DOMAIN.

21 SEC. 14C. (1) THE STRAITS PROTECTION FUND IS CREATED WITHIN
22 THE STATE TREASURY.

23 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
24 ANY SOURCE FOR DEPOSIT INTO THE STRAITS PROTECTION FUND. THE STATE
25 TREASURER SHALL DIRECT THE INVESTMENT OF THE STRAITS PROTECTION
26 FUND. THE STATE TREASURER SHALL CREDIT TO THE STRAITS PROTECTION
27 FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.



1 (3) MONEY IN THE STRAITS PROTECTION FUND AT THE CLOSE OF THE
2 FISCAL YEAR SHALL REMAIN IN THE STRAITS PROTECTION FUND AND SHALL
3 NOT LAPSE TO THE GENERAL FUND.

4 (4) THE STATE TRANSPORTATION DEPARTMENT SHALL BE THE
5 ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.

6 SEC. 14D. (1) ALL DUTIES, RESPONSIBILITIES, AUTHORITIES, AND
7 POWERS RELATED TO A UTILITY TUNNEL AS PROVIDED IN SECTION 14A AND
8 ANY MONEY IN THE STRAITS PROTECTION FUND SHALL TRANSFER TO THE
9 CORRIDOR AUTHORITY BOARD UPON THE APPOINTMENT OF THE MEMBERS OF THE
10 CORRIDOR AUTHORITY BOARD UNDER SECTION 14B(2). THE TRANSFER OF
11 DUTIES, RESPONSIBILITIES, AUTHORITIES, POWERS, AND MONEY DESCRIBED
12 IN THIS SUBSECTION DOES NOT REQUIRE ANY ACTION BY THE AUTHORITY OR
13 ANY OTHER ENTITY. THE CORRIDOR AUTHORITY BOARD SHALL EXERCISE ITS
14 DUTIES INDEPENDENTLY OF THE STATE TRANSPORTATION DEPARTMENT AND THE
15 AUTHORITY.

16 (2) THE CORRIDOR AUTHORITY BOARD SHALL PROVIDE A REPORT TO THE
17 AUTHORITY AT LEAST 1 TIME PER YEAR REGARDING ASPECTS OF THE UTILITY
18 TUNNEL THAT COULD AFFECT THE AUTHORITY, INCLUDING, BUT NOT LIMITED
19 TO, THE PROGRESS OF CONSTRUCTION AND UTILITY LEASING.

20 (3) THE OPERATION OF A UTILITY TUNNEL, INCLUDING, BUT NOT
21 LIMITED TO, THE LEASING OF SPACE IN THE UTILITY TUNNEL TO A
22 UTILITY, IS NOT COMPETITION WITH THE BRIDGE.

23 (4) EXCEPT AS PROVIDED IN SUBDIVISION (A), NO LATER THAN
24 DECEMBER 31, 2018, THE MACKINAC STRAITS CORRIDOR AUTHORITY SHALL
25 ENTER INTO AN AGREEMENT OR A SERIES OF AGREEMENTS FOR THE
26 CONSTRUCTION, MAINTENANCE, OPERATION, AND DECOMMISSIONING OF A
27 UTILITY TUNNEL, IF THE MACKINAC STRAITS CORRIDOR AUTHORITY FINDS



1 ALL OF THE FOLLOWING:

2 (A) THAT THE GOVERNOR HAS SUPPLIED A PROPOSED TUNNEL AGREEMENT
3 TO THE MACKINAC STRAITS CORRIDOR AUTHORITY ON OR BEFORE DECEMBER
4 21, 2018. IF THE GOVERNOR HAS NOT SUPPLIED A PROPOSED TUNNEL
5 AGREEMENT TO THE MACKINAC STRAITS CORRIDOR AUTHORITY ON OR BEFORE
6 DECEMBER 21, 2018, THE MACKINAC STRAITS CORRIDOR AUTHORITY SHALL
7 ACT ON THE PROPOSED TUNNEL AGREEMENT NO LATER THAN 45 DAYS AFTER
8 THE DATE THE PROPOSED AGREEMENT IS PRESENTED.

9 (B) THAT THE PROPOSED TUNNEL AGREEMENT ALLOWS FOR THE USE OF
10 THE UTILITY TUNNEL BY MULTIPLE UTILITIES, PROVIDES AN OPTION TO
11 BETTER CONNECT THE UPPER AND LOWER PENINSULAS OF THIS STATE, AND
12 PROVIDES A ROUTE TO ALLOW UTILITIES TO BE LAID WITHOUT FUTURE
13 DISTURBANCE TO THE BOTTOMLANDS OF THE STRAITS OF MACKINAC.

14 (C) THAT THE PROPOSED TUNNEL AGREEMENT REQUIRES GATHERING OF
15 GEOTECHNICAL INFORMATION BEFORE CONSTRUCTION TO ENSURE THAT
16 CONSTRUCTION OF A UTILITY TUNNEL IS FEASIBLE.

17 (D) THAT THE PROPOSED TUNNEL AGREEMENT PROVIDES THE MACKINAC
18 STRAITS CORRIDOR AUTHORITY WITH A MECHANISM TO ENSURE THAT A
19 UTILITY TUNNEL IS BUILT TO SUFFICIENT TECHNICAL SPECIFICATIONS AND
20 MAINTAINED PROPERLY TO ENSURE A LONG ASSET LIFE AND SECONDARY
21 CONTAINMENT FOR ANY LEAK OR POLLUTION FROM UTILITIES USING THE
22 TUNNEL.

23 (E) THAT THE PROPOSED TUNNEL AGREEMENT DOES NOT REQUIRE ANY
24 OBLIGATION OF FUNDS THAT IS INCONSISTENT WITH THIS ACT, AND THAT
25 THE PROPOSED TUNNEL AGREEMENT PROVIDES A MECHANISM UNDER WHICH ALL
26 COSTS OF CONSTRUCTION, MAINTENANCE, OPERATION, AND DECOMMISSIONING
27 OF THE UTILITY TUNNEL ARE BORNE BY A PRIVATE PARTY AND NOT BY THE



1 MACKINAC STRAITS CORRIDOR AUTHORITY, ITS PREDECESSOR, OR A
2 SUCCESSOR. THIS SUBDIVISION DOES NOT PREVENT THE EXPENDITURE OF
3 MONEY FROM THE STRAITS PROTECTION FUND FOR THE COST OF INDEPENDENT
4 OVERSIGHT OF THE UTILITY TUNNEL OR THE LEASING OF SPACE IN THE
5 UTILITY TUNNEL TO PUBLICLY-OWNED ENTITIES.

6 (F) THAT THE PROPOSED TUNNEL AGREEMENT DOES NOT REQUIRE THE
7 USE OF THE POWER OF EMINENT DOMAIN.

8 (G) THAT THE PROPOSED TUNNEL AGREEMENT DOES NOT EXEMPT ANY
9 ENTITY THAT CONSTRUCTS OR USES THE UTILITY TUNNEL FROM THE
10 OBLIGATION TO OBTAIN ANY REQUIRED GOVERNMENTAL PERMITS OR APPROVALS
11 FOR THE CONSTRUCTION OR USE OF THE UTILITY TUNNEL.

12 (H) THAT THE PROPOSED TUNNEL AGREEMENT DOES NOT EXEMPT AN
13 ENTITY USING THE UTILITY TUNNEL FROM THE PAYMENT OF A TAX OR
14 SIMILAR OBLIGATION.

15 (I) THAT THE PROPOSED TUNNEL AGREEMENT DOES NOT REQUIRE THE
16 MACKINAC STRAITS CORRIDOR AUTHORITY TO BRING OR DEFEND A LEGAL
17 CLAIM FOR WHICH THE ATTORNEY GENERAL IS NOT REQUIRED TO PROVIDE
18 COUNSEL.

19 (5) IF THE ATTORNEY GENERAL DECLINES TO REPRESENT THE
20 AUTHORITY OR THE MACKINAC STRAITS CORRIDOR AUTHORITY IN A MATTER
21 RELATED TO THE UTILITY TUNNEL, THE ATTORNEY GENERAL SHALL PROVIDE
22 FOR THE COSTS OF REPRESENTATION BY AN ATTORNEY LICENSED TO PRACTICE
23 IN THIS STATE CHOSEN BY THE AUTHORITY OR THE MACKINAC STRAITS
24 CORRIDOR AUTHORITY, AS APPLICABLE. AS USED IN THIS SUBSECTION,
25 "MATTER RELATED TO THE UTILITY TUNNEL" INCLUDES, BUT IS NOT LIMITED
26 TO, 1 OR MORE OF THE FOLLOWING:

27 (A) A CLAIM SEEKING A JUDICIAL DETERMINATION THAT THE TUNNEL



1 AGREEMENT IS LEGALLY INVALID.

2 (B) A CLAIM SEEKING TO ENJOIN PERFORMANCE UNDER THE TUNNEL
3 AGREEMENT.

4 (C) A CLAIM CHALLENGING THE VALIDITY OF ANY GOVERNMENTAL
5 APPROVAL OR PERMIT GRANTED BASED UPON AN APPLICATION SUBMITTED
6 SINGLY OR JOINTLY BY THE MACKINAC STRAITS CORRIDOR AUTHORITY.

7 (D) A CLAIM CHALLENGING A GOVERNMENTAL ENTITY'S DENIAL OF A
8 GOVERNMENTAL APPROVAL OR PERMIT SUBMITTED SINGLY OR JOINTLY BY THE
9 MACKINAC STRAITS UTILITY TUNNEL AUTHORITY.

10 (E) A CLAIM CHALLENGING THE RIGHT TO USE ANY LAND OF THIS
11 STATE FOR WHICH THE AUTHORITY OR THE MACKINAC STRAITS CORRIDOR
12 AUTHORITY WAS GRANTED THE RIGHT TO USE.

13 (F) A CLAIM ALLEGING A FAILURE TO PERFORM UNDER THE TUNNEL
14 AGREEMENT THAT LIMITS 1 OF THE FOLLOWING:

15 (i) THE USE OF THE UTILITY TUNNEL.

16 (ii) THE ABILITY TO OPERATE THE UTILITY INFRASTRUCTURE WITHIN
17 THE UTILITY TUNNEL, IF THE UTILITY IS IN FULL COMPLIANCE WITH THE
18 TERMS OF A LEASE GRANTED BY THE MACKINAC STRAITS CORRIDOR
19 AUTHORITY.

20 (G) A CLAIM CHALLENGING THE VALIDITY OF OR SEEKING TO ENJOIN
21 THE ISSUANCE OF ANY APPROVAL REGARDING THE UTILITY TUNNEL.

22 (6) ANY ADMINISTRATIVE FUNCTIONS OF THE MACKINAC STRAITS
23 CORRIDOR AUTHORITY SHALL BE PERFORMED UNDER THE DIRECTION AND
24 SUPERVISION OF THE STATE TRANSPORTATION DEPARTMENT.

25 SEC. 14E. (1) NEITHER THE AUTHORITY NOR THE MACKINAC STRAITS
26 CORRIDOR AUTHORITY MAY PAY OR OBLIGATE ANY MONEY OR ASSETS RELATED
27 TO THE UTILITY TUNNEL EXCEPT MONEY THAT IS DEPOSITED INTO THE



1 STRAITS PROTECTION FUND OR ANY ESCROW OR RESERVE FUND CREATED UNDER
2 THE TUNNEL AGREEMENT. THIS STATE, A STATE OFFICIAL, A STATE-RELATED
3 ENTITY, THE AUTHORITY OR AN AGENT OF THE AUTHORITY, THE MACKINAC
4 STRAITS CORRIDOR AUTHORITY OR AN AGENT OF THE MACKINAC STRAITS
5 CORRIDOR AUTHORITY, OR ANY OTHER LEGAL, FINANCIAL, OR OTHER EXPERT
6 PROVIDING ADVICE TO THE AUTHORITY OR THE MACKINAC STRAITS CORRIDOR
7 AUTHORITY SHALL NOT ENTER INTO AN AGREEMENT FOR THE PAYMENT OF
8 MONEY FROM ANY SOURCE OTHER THAN THE STRAITS PROTECTION FUND OR ANY
9 ESCROW OR RESERVE FUND CREATED UNDER THE TUNNEL AGREEMENT. THIS
10 SUBSECTION DOES NOT RESTRICT THE RIGHT OF THE AUTHORITY OR THE
11 MACKINAC STRAITS CORRIDOR AUTHORITY TO UTILIZE ANY PROPERTY RIGHTS
12 GRANTED TO THE AUTHORITY OR THE MACKINAC STRAITS CORRIDOR AUTHORITY
13 BY THIS STATE OR A PRIVATE PROPERTY OWNER.

14 (2) THIS STATE, A STATE OFFICIAL, A STATE-RELATED ENTITY, THE
15 AUTHORITY OR AN AGENT OF THE AUTHORITY, THE MACKINAC STRAITS
16 CORRIDOR AUTHORITY OR AN AGENT OF THE MACKINAC STRAITS CORRIDOR
17 AUTHORITY, OR ANY OTHER LEGAL, FINANCIAL, OR OTHER EXPERT PROVIDING
18 ADVICE TO THE AUTHORITY OR THE MACKINAC STRAITS CORRIDOR AUTHORITY
19 SHALL NOT ENTER INTO AN AGREEMENT TO ACCEPT ANY LIABILITY FOR OR
20 RESULTING FROM THE INSTALLATION, MAINTENANCE, OPERATION, OR
21 DECOMMISSIONING OF ANY UTILITY EQUIPMENT OWNED BY THE USER OF A
22 UTILITY TUNNEL, INCLUDING, BUT NOT LIMITED TO, A PIPELINE,
23 ELECTRICAL TRANSMISSION LINE, OR BROADBAND CABLE WITHIN THE UTILITY
24 TUNNEL.

