

HOUSE BILL No. 5813

May 18, 2000, Introduced by Rep. Shackleton and referred to the Committee on Great Lakes and Tourism.

A bill to amend 1954 PA 99, entitled

"An act authorizing the international bridge authority of Michigan, created by Act No. 237 of the Public Acts of 1935, as amended, being sections 254.201 to 254.216, inclusive, of the Compiled Laws of 1948, to construct, maintain, repair and operate a bridge or tunnel project from the Upper Peninsula of Michigan to the province of Ontario, Canada, and providing for the acquisition and operation of the existing ferry system and buses in connection with such project; defining the powers and duties of the authority; granting to the authority power to acquire necessary real and personal property and to exercise the power of condemnation; providing for financing such project by the issuance of revenue bonds of the authority, payable solely from tolls and other revenues; providing that no debt of the state shall be incurred in the exercise of any such powers; providing for the collection of tolls and other revenues to pay such bonds and the interest thereon and the cost of maintenance, repair and operation of such project; exempting from taxes and assessments such project and such bonds and the income therefrom; authorizing the issuance of revenue refunding bonds; prescribing the rights and remedies of the holders of bonds issued under the provisions of this act; making an appropriation; and repealing certain acts and parts of acts,"

by amending the title and sections 1, 3, 4, 7, and 16

(MCL 254.221, 254.223, 254.224, 254.227, and 254.236), section 3

as amended by 1994 PA 44, and by adding section 3a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act authorizing the international bridge authority of

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Michigan ~~—, created by Act No. 237 of the Public Acts of 1935, as~~

4

~~amended, being sections 254.201 to 254.216, inclusive, of the~~

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~~Compiled Laws of 1948,~~ to construct, maintain, repair, and oper-

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ate a bridge or tunnel project from the Upper Peninsula of

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Michigan to the province of Ontario, Canada, and ~~providing~~ TO

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PROVIDE for the acquisition and operation of the existing ferry

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system and buses in connection with ~~such~~ THE project;

10

~~defining~~ TO PRESCRIBE the powers and duties of the authority ~~—~~

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~~granting to the authority~~ INCLUDING, BUT NOT LIMITED TO, THE

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power to acquire necessary real and personal property and to

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exercise the power of condemnation; ~~providing~~ TO PROVIDE for

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financing ~~such~~ THE project by the issuance of revenue bonds of

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the authority ~~—~~, payable solely from tolls and other revenues;

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~~providing~~ TO PROVIDE that no debt of the state shall be

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incurred in the exercise of any such powers; ~~providing~~ TO

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PROVIDE for the collection of tolls and other revenues to pay

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~~such~~ THE bonds, ~~and~~ the interest ~~thereon~~ ON THE BONDS, and

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the cost of maintenance, repair, and operation of ~~such~~ THE

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project; ~~exempting~~ TO EXEMPT from taxes and assessments ~~such~~

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THE project and ~~such~~ THE bonds and the income ~~therefrom~~ FROM

23

THE BONDS; ~~authorizing~~ TO AUTHORIZE the issuance of revenue

24

refunding bonds; ~~prescribing~~ TO PRESCRIBE the rights and

1 remedies of the holders of bonds issued under ~~the provisions of~~
2 this act; ~~making~~ TO MAKE an appropriation; TO PROVIDE FOR THE
3 STATE TRANSPORTATION DEPARTMENT TO ASSUME THE POWERS AND DUTIES
4 OF THE AUTHORITY UPON RETIREMENT OF THE OUTSTANDING BONDS INCLUD-
5 ING, BUT NOT LIMITED TO, THE POWER TO ENTER INTO INTERLOCAL
6 AGREEMENTS; and ~~repealing certain~~ TO REPEAL acts and parts of
7 acts.

8 Sec. 1. As used in this act, the following words ~~and terms~~
9 ~~shall~~ have the following meanings, unless the context ~~shall~~
10 ~~indicate another or~~ INDICATES A different meaning or intent:

11 (a) ~~The word "authority" shall mean~~ "AUTHORITY" MEANS the
12 international bridge authority of Michigan ~~—~~ created by section
13 2 of ~~Act No. 237 of the Public Acts of 1935, being section~~
14 ~~254.202 of the Compiled Laws of 1948~~ 1935 PA 237, MCL 254.202,
15 or, if ~~said~~ THE authority ~~shall be~~ IS abolished, the board,
16 body, or commission succeeding to the principal functions
17 ~~thereof~~ or to whom the powers given by this act to the author-
18 ity ~~shall be~~ ARE given by law.

19 (b) ~~The word "project" shall include~~ "PROJECT" INCLUDES a
20 bridge or tunnel, overpasses, underpasses, entrance plazas, toll
21 houses, administration, storage and other buildings and
22 facilities, and all equipment therefor, and may include buses and
23 terminal facilities, the existing ferry system, and such
24 approaches and approach highways as may be determined by the
25 authority to be necessary to facilitate the flow of traffic or to
26 connect the project with the existing highway systems, together
27 with all property, rights, easements, and interests ~~which may~~

1 ~~be~~ acquired by the authority for the construction or operation
2 of the project.

3 (c) ~~The word "cost" as applied to the project shall~~
4 ~~embrace~~ "COST" INCLUDES the cost of construction or acquisition,
5 the cost of the acquisition of all land, rights-of-way, property,
6 rights, easements, and interests acquired by the authority for
7 ~~such~~ THE construction, the cost of demolishing or removing any
8 buildings or structures on land ~~so~~ acquired, including the cost
9 of acquiring any lands to which ~~such~~ buildings or structures
10 may be moved, the cost of acquiring the existing ferry system ~~,~~
11 or any portion ~~thereof~~ OF THAT FERRY SYSTEM, operating between
12 Sault Ste. Marie, Michigan, and Sault Ste. Marie in the province
13 of Ontario, Canada, the purchase price of any buses operated by
14 the authority, the cost of all machinery and equipment, financing
15 charges, interest ~~prior to~~ BEFORE and during construction and,
16 if ~~deemed~~ CONSIDERED advisable by the authority, for a period
17 not exceeding 1 year after completion of construction, cost of
18 traffic estimates and of engineering and legal services, plans,
19 specifications, surveys, estimates of cost and of revenues, other
20 expenses necessary or incident to determining the feasibility or
21 practicability of constructing, REPAIRING, OR IMPROVING the
22 project, administrative expense, and such other expense as may be
23 necessary or incident to the construction, REPAIR, OR IMPROVEMENT
24 of the project, the financing of such project, and the placing
25 AND MAINTAINING of the project in operation. Any ~~moneys~~ MONEY
26 paid or advanced to the authority with its approval for traffic
27 surveys, borings, preparation of plans and specifications, and

1 other engineering services in connection with the construction,
2 REPAIR, OR IMPROVEMENT of the project shall be regarded as a part
3 of the cost of the project and shall be reimbursed out of the
4 proceeds of the revenue bonds issued for the project as
5 ~~hereinafter~~ authorized IN THIS ACT. COST INCLUDES THE COST TO
6 OPERATE, MAINTAIN, REPAIR, OR IMPROVE THE PROJECT.

7 (d) ~~The word "bonds"~~ "BONDS" or ~~the words~~ "revenue
8 bonds" ~~shall mean~~ MEANS revenue bonds of the authority issued
9 under ~~the provisions of~~ this act.

10 (e) ~~The word "owner" shall include~~ "OWNER" INCLUDES all
11 individuals, copartnerships, associations, or corporations and
12 also municipalities, political subdivisions, and all public agen-
13 cies and instrumentalities having any title or interest in any
14 property, rights, easements, and interests authorized to be
15 acquired by this act.

16 Sec. 3. The authority is hereby authorized and empowered to
17 do the following:

18 (a) ~~To adopt by laws~~ ADOPT BYLAWS for the regulation of
19 its affairs and the conduct of its business.

20 (b) ~~To adopt~~ ADOPT an official seal and alter the same at
21 pleasure.

22 (c) ~~To maintain~~ MAINTAIN an office at ~~such~~ THE place or
23 places within the state as it may designate.

24 (d) ~~To sue~~ SUE and be sued in its own name, plead, and be
25 impleaded.

26 ~~(e) To elect 1 of the appointed members as~~
27 ~~vice-chairperson, a secretary-treasurer who need not be a member~~

1 ~~of the authority, and such other officers as it shall determine~~
2 ~~necessary, all of whom shall serve at the pleasure of the~~
3 ~~authority.~~

4 (E) ~~(f) To determine~~ DETERMINE the location of the
5 project, ~~to~~ determine, in its discretion and without reference
6 to any other provisions of this act or any other law, the design
7 standards and the materials of construction, and ~~to~~ construct,
8 maintain, repair, and operate the project.

9 (F) ~~(g) To issue~~ ISSUE revenue bonds of the authority for
10 any of its corporate purposes, payable solely from the tolls and
11 revenues pledged for their payment, and to refund its bonds, all
12 as provided in this act.

13 (G) ~~(h) To fix~~ FIX and revise from time to time and charge
14 and collect tolls and other charges for the use of the project.

15 (H) ~~(i) To establish~~ ESTABLISH rules and regulations for
16 the use of the project.

17 (I) ~~(j) To acquire~~ ACQUIRE, hold, and dispose of real and
18 personal property in the exercise of its powers and the per-
19 formance of its duties under this act.

20 (J) ~~(k) To acquire~~ ACQUIRE the existing ferry system, or
21 any portion of that system, operating between Sault Ste. Marie,
22 Michigan, and Sault Ste. Marie, in the province of Ontario,
23 Canada, and ~~to~~ maintain, repair, and operate this ferry system
24 or portion of this system until the project is opened for
25 traffic.

1 (K) ~~(I) To acquire~~ ACQUIRE, maintain, repair, and operate
2 buses between Sault Ste. Marie, Michigan, and Sault Ste. Marie in
3 the province of Ontario, Canada.

4 (l) ~~(m) To make~~ MAKE and enter into all contracts and
5 agreements necessary or incidental to the performance of its
6 duties and the execution of its powers under this act.

7 (M) ~~(n) To employ~~ EMPLOY consulting engineers, attorneys,
8 accountants, construction and financial experts, superintendents,
9 managers, and ~~such~~ other employees and agents as may be neces-
10 sary in its judgment and ~~to~~ fix their compensation.

11 (N) ~~(o) To receive~~ RECEIVE and accept from any federal
12 agency grants for or in aid of the construction, REPAIR, OR
13 IMPROVEMENT of the project, and ~~to~~ receive and accept aid or
14 contributions from any source of money, property, labor, or other
15 things of value, to be held, used, and applied only for the pur-
16 poses for which such grants and contributions may be made.

17 (O) ~~(p) To enter~~ ENTER into contracts and leases to pro-
18 vide for the development and use of any real property owned by
19 the authority in the United States or Canada for customs broker-
20 ing or for the sale of articles ~~which are~~ for export and con-
21 sumption outside the United States or Canada, respectively, to
22 the extent that ~~such~~ THIS use is not restricted by federal or
23 Canadian law. The authority shall obtain proposals before enter-
24 ing into any contracts or leases for the development and use of
25 its real property for the sale of articles ~~which are~~ for export
26 and consumption outside of the United States. The authority
27 shall advertise for proposals once each week for 2 successive

1 weeks in a newspaper of general circulation in this state. The
2 authority shall open and examine all proposals at a public meet-
3 ing of the authority. The authority may reject any or all pro-
4 posals, and shall readvertise, in the event of rejection of all
5 proposals, in the manner required by this section. The revenue
6 from these contracts or leases shall be deposited in the fund
7 created by section 7. This subdivision ~~shall~~ DOES not ~~be con-~~
8 ~~strued to~~ exempt a person from the payment of any motor fuel,
9 sales, or other taxes required to be paid under the laws of this
10 state on articles or fuel sold or brought into this state irre-
11 spective of whether the articles or fuel is for export or con-
12 sumption outside the United States or Canada.

13 (P) ENTER INTO AN INTERLOCAL AGREEMENT WITH THE OWNER OF THE
14 CANADIAN PORTION OF THE PROJECT OR ITS AUTHORIZED AGENT UNDER
15 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512, TO PROVIDE FOR JOINT
16 OPERATIONAL AND POLICY OVERSIGHT AND FOR OPERATION, MAINTENANCE,
17 REPAIR, AND IMPROVEMENT OF THE PROJECT IN THE UNITED STATES AND
18 CANADA BY AN ADMINISTRATIVE UNIT WITHIN THE STATE TRANSPORTATION
19 DEPARTMENT. THE GOVERNOR SHALL APPOINT THE MEMBERS OF A SEPARATE
20 JOINT UNITED STATES-CANADIAN BODY CREATED UNDER THE INTERLOCAL
21 AGREEMENT TO PROVIDE JOINT OPERATIONAL AND POLICY OVERSIGHT OF
22 THE PROJECT. AN EMPLOYEE OF THE STATE TRANSPORTATION DEPARTMENT
23 IS NOT ELIGIBLE FOR APPOINTMENT TO THIS BODY.

24 (q) ~~To do~~ DO all acts and things necessary or convenient
25 to carry out the powers expressly granted in this act.

26 SEC. 3A. IF TAXES OR ASSESSMENTS ARE IMPOSED BY LAW IN
27 CANADA ON THE CANADIAN PORTION OF THE PROJECT TO BE PAID FROM

1 BRIDGE REVENUE UNDER AN INTERLOCAL AGREEMENT ENTERED INTO
2 PURSUANT TO SECTION 3(P), AN EQUAL SUM MAY BE EXPENDED IN
3 MICHIGAN FROM BRIDGE REVENUE FOR PURPOSES SIMILAR TO THOSE OF THE
4 TAXES OR ASSESSMENTS, FOR REASONABLE APPURTENANCES, OR FOR THE
5 MAINTENANCE OR IMPROVEMENT OF ACCESS TO THE BRIDGE. IF TAXES OR
6 ASSESSMENTS ARE PAID DIRECTLY TO A CANADIAN LOCAL UNIT OF GOVERN-
7 MENT, AN EQUAL SUM SHALL BE PAID DIRECTLY TO A MICHIGAN LOCAL
8 UNIT OF GOVERNMENT.

9 Sec. 4. (1) The authority is hereby authorized and empow-
10 ered to acquire by purchase, whenever it ~~shall deem~~ CONSIDERS
11 such purchase expedient, solely from funds provided under the
12 authority of this act, such lands, structures, property, rights,
13 rights-of-way, franchises, easements, and other interests in
14 lands, including lands lying under water and riparian rights,
15 which are located within or without the state, as it ~~may deem~~
16 CONSIDERS necessary or convenient for the construction, REPAIR,
17 IMPROVEMENT, and operation of the project, upon such terms and at
18 such prices as ~~may be considered by~~ it CONSIDERS to be reason-
19 able and THAT can be agreed upon between it and the owner there-
20 of, and to take title thereto in the name of the authority.

21 (2) Notwithstanding any contrary provision of law, the city
22 of Sault Ste. Marie is ~~hereby~~ authorized and empowered to
23 lease, lend, grant, or convey to the authority at its request
24 upon such terms and conditions as the city ~~may deem~~ CONSIDERS
25 reasonable and fair and without the necessity for any advertise-
26 ment, order of court, or other action of formality, other than
27 the regular and formal action of the governing body of the city,

1 any real property which may be necessary or convenient to the
2 effectuation of the authorized purposes of the authority, includ-
3 ing public highways and other real property already devoted to
4 public use.

5 (3) ~~Whenever~~ IF a reasonable price cannot be agreed upon,
6 or ~~whenever~~ IF the owner is legally incapacitated, ~~or is~~
7 absent, unknown, or unable to convey valid title, the authority
8 is hereby authorized and empowered to acquire by condemnation or
9 by the exercise of the power of eminent domain any lands, proper-
10 ty, rights, rights-of-way, franchises, easements, and other prop-
11 erty, including public lands, parks, playgrounds, reservations,
12 highways, or parkways, or parts thereof or rights therein, of any
13 person, copartnership, association, railroad, public service,
14 public utility or other corporation, municipality or political
15 subdivision ~~deemed~~ CONSIDERED necessary or convenient for the
16 construction, REPAIR, OR IMPROVEMENT or the efficient operation
17 of the project or necessary in restoration of public or private
18 property damaged or destroyed. Any such proceedings shall be
19 conducted in accordance with and subject to the ~~provisions of~~
20 ~~any and all laws applicable to condemnation of property in the~~
21 ~~name of the state highway commissioner under the laws of the~~
22 ~~state of Michigan, including but not limited to the provisions of~~
23 ~~Act No. 149 of the Public Acts of 1911, as amended, being sec-~~
24 ~~tions 213.21 to 213.41, inclusive, of the Compiled Laws of 1948;~~
25 ~~Act No. 215 of the Public Acts of 1925, being sections 213.151 to~~
26 ~~213.153, inclusive, of the Compiled Laws of 1948; and Act No. 352~~
27 ~~of the Public Acts of 1925, as amended, being sections 213.171 to~~

1 ~~213.199, inclusive, of the Compiled Laws of 1948~~ UNIFORM
2 CONDEMNATION PROCEDURES ACT, 1980 PA 87, MCL 213.51 TO 213.75.
3 Title to any property acquired by the authority shall be taken in
4 the name of the authority.

5 (4) If the owner, lessee, or occupier of any property to be
6 condemned ~~shall refuse~~ REFUSES to remove his OR HER personal
7 property ~~therefrom~~ FROM THE PROPERTY or give up possession
8 ~~thereof~~ OF THE PROPERTY, the authority may proceed to obtain
9 possession in any manner now or hereafter provided by law.

10 Sec. 7. The authority is hereby authorized to fix, revise,
11 charge, and collect tolls for the use of the project, and to con-
12 tract with any person, partnership, association, or corporation
13 ~~desiring the use of any part thereof,~~ for THE placing ~~thereon~~
14 OF telephone, telegraph, pipelines, and electric light or power
15 lines, or for any other purpose, and to fix the terms, condi-
16 tions, rents, and rates of charges for such use. ~~Such~~ THE
17 tolls shall be ~~so~~ fixed and adjusted ~~in respect of the aggre-~~
18 ~~gate of tolls from the project~~ SO as to provide a fund suffi-
19 cient with other revenues, if any, to pay ~~(a)~~ the cost of main-
20 taining, repairing, and operating ~~such~~ THE project and ~~(b)~~
21 the principal of and the interest on ~~such~~ THE bonds as ~~the~~
22 ~~same shall~~ THEY become due and payable, and to create reserves
23 for ~~such~~ THESE purposes. ~~Such~~ REVENUE COLLECTED FROM THE USE
24 OR DISPOSITION OF THE PROJECT IS APPROPRIATED EXCLUSIVELY FOR
25 THOSE PURPOSES. THE tolls shall not be subject to supervision or
26 regulation by any other commission, board, bureau, or agency of
27 the state. The tolls and all other revenues derived from the

1 project, except ~~such~~ THAT part ~~thereof as may be~~ necessary to
2 pay ~~such~~ THE cost of maintenance, repair, and operation and to
3 provide ~~such~~ reserves ~~therefor~~ as may be provided for in the
4 resolution authorizing the issuance of ~~such~~ bonds or in the
5 trust agreement securing the same, shall be set aside at such
6 regular intervals as may be provided in ~~such~~ THE resolution or
7 ~~such~~ trust agreement in a sinking fund ~~which~~ THAT is hereby
8 pledged to, and charged with, the payment of the principal of and
9 the interest on ~~such~~ THOSE bonds as ~~the same shall~~ THEY
10 become due, and the redemption price or the purchase price of
11 bonds retired by call or purchase as ~~therein~~ provided IN THE
12 RESOLUTION OR TRUST AGREEMENT. ~~Such~~ THE pledge ~~shall be~~ IS
13 valid and binding from the time when the pledge is made. ~~the~~
14 THE tolls and other revenues or other ~~moneys~~ MONEY so pledged
15 and thereafter received by the authority shall immediately be
16 subject to the lien of ~~such~~ THE pledge without any physical
17 delivery ~~thereof~~ or further act, and the lien of ~~any such~~ THE
18 pledge ~~shall be~~ IS valid and binding ~~as~~ against all parties
19 having claims of any kind in tort, contract, or otherwise against
20 the authority, irrespective of whether ~~such~~ THE parties have
21 notice ~~thereof~~ OF THE LIEN. ~~Neither the~~ THE resolution ~~nor~~
22 ~~any~~ OR trust agreement by which a pledge is created need NOT be
23 filed or recorded except in the records of the authority. The
24 use and disposition of ~~moneys~~ MONEY to the credit of ~~such~~ THE
25 sinking fund ~~shall be~~ ARE subject to ~~the provisions of~~ the
26 resolution authorizing the issuance of ~~such~~ THE bonds or ~~of~~
27 ~~such~~ THE trust agreement. Except as may otherwise be provided

1 in ~~such~~ THE resolution or ~~such~~ trust agreement, ~~such~~ THE
2 sinking fund ~~shall be~~ IS a fund for all ~~such~~ THE bonds with-
3 out distinction or priority of one over another.

4 Sec. 16. (1) When all bonds issued under ~~the provisions~~
5 of this act in connection with the project and the interest
6 ~~thereon shall have been~~ ON THOSE BONDS IS paid or a sufficient
7 amount for the payment of ~~all such~~ THE bonds and the interest
8 ~~thereon~~ ON THE BONDS to ~~the~~ THEIR maturity ~~thereof shall~~
9 ~~have been~~ IS set aside in trust for the benefit of the bondhold-
10 ers, that portion of the project in Michigan, if then in good
11 condition and repair, shall be conveyed by the authority to the
12 state TRANSPORTATION DEPARTMENT and that portion of the project
13 in Canada shall be disposed of as directed by the proper authori-
14 ties in Canada. Thereupon, the authority shall be dissolved and
15 all funds of the authority not required for the payment of the
16 bonds and the interest thereon shall be paid to the state
17 TRANSPORTATION DEPARTMENT and all machinery, equipment, and other
18 property belonging to the authority shall be delivered to the
19 state ~~, and the bridge shall become a free bridge without any~~
20 ~~tolls or charges for its use by the public~~ TRANSPORTATION
21 DEPARTMENT WHICH SHALL ASSUME ALL OF THE POWERS AND RESPONSIBILI-
22 TIES OF THE AUTHORITY UNDER THIS ACT AND SHALL USE THAT PROPERTY
23 AND FUNDS FOR THE PROJECT.

24 (2) The authority is hereby authorized and directed to make
25 ~~such~~ surveys and studies of the project as may be necessary to
26 effect the financing authorized by this act at the earliest
27 practicable time, and for this purpose to employ ~~such~~

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1 consulting engineers, traffic engineers, legal and financial
2 experts, and ~~such~~ other employees and agents as it ~~may deem~~
3 CONSIDERS necessary. To effect the purpose of this act, the
4 state ~~highway~~ TRANSPORTATION department shall make available to
5 the authority all data in its possession which may be useful to
6 the authority in making such surveys and studies.

7 Enacting section 1. (1) Section 2 of 1935 PA 237,
8 MCL 254.202, is repealed, effective September 2, 2000.

9 (2) Section 19 of 1954 PA 99, MCL 254.239, is repealed.