

Act No. 74  
Public Acts of 1995  
Approved by the Governor  
June 12, 1995  
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**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1995**

**Introduced by Reps. Bullard, Dalman, Horton, Jaye, Rocca, McManus, DeLange, Llewellyn, Voorhees,  
Ryan, Perricone, Hill, Crissman, Lowe, Kaza and Goschka**

# **ENROLLED HOUSE BILL No. 4077**

AN ACT to amend sections 7cc, 7ee, 34e, and 53b of Act No. 206 of the Public Acts of 1893, entitled as amended "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes thereon, and for the collection of taxes levied; making such taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection therewith; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts in anywise contravening any of the provisions of this act," sections 7cc and 34e as amended by Act No. 415 of the Public Acts of 1994 and section 7ee as added and section 53b as amended by Act No. 237 of the Public Acts of 1994, being sections 211.7cc, 211.7ee, 211.34e, and 211.53b of the Michigan Compiled Laws; and to add sections 53c and 120.

*The People of the State of Michigan enact:*

Section 1. Sections 7cc, 7ee, 34e, and 53b of Act No. 206 of the Public Acts of 1893, sections 7cc and 34e as amended by Act No. 415 of the Public Acts of 1994 and section 7ee as added and section 53b as amended by Act No. 237 of the Public Acts of 1994, being sections 211.7cc, 211.7ee, 211.34e, and 211.53b of the Michigan Compiled Laws, are amended and sections 53c and 120 are added to read as follows:

Sec. 7cc. (1) A homestead is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled Laws, if that owner claims an exemption as provided in this section. Notwithstanding the tax day provided in section 2, the status of property as a homestead shall be determined on the date an affidavit claiming an exemption is filed under subsection (2).

(2) An owner of property may claim an exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall state that the property is owned and occupied as a homestead by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. Beginning in 1995, 1 copy of the affidavit shall be retained by the owner, 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4). Beginning in 1995, the affidavit shall require the owner claiming the exemption to indicate if that owner has claimed another exemption on

property in this state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner's number is subject to the disclosure restrictions in Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws.

(3) A husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 homestead exemption.

(4) Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under subsection (6), the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of Act No. 451 of the Public Acts of 1976 as provided in subsection (1) through the 1998 tax year or until December 31 of the year in which the property is transferred or is no longer a homestead as defined in section 7dd. The local tax collecting unit shall forward copies of affidavits to the department of treasury according to a schedule prescribed by the department of treasury. An owner is required to file a new claim for exemption on the same property in 1999 and every 4 years after 1999.

(5) Not more than 90 days after exempted property is no longer used as a homestead by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. Beginning October 1, 1994, an owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under Act No. 122 of the Public Acts of 1941, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) If the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the homestead of the owner claiming the exemption, effective for taxes levied after 1994 the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the department of treasury within 35 days after the date of the notice. The denial shall be made on a form prescribed by the department of treasury. If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the homestead of the owner claiming the exemption, for taxes levied in 1994 the assessor may send a recommendation for denial for any affidavit that is forwarded to the department of treasury stating the reasons for the recommendation. If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the homestead of the owner claiming the exemption and has not denied the claim, for taxes levied after 1994 the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

(7) The department of treasury shall determine if the property is the homestead of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. If the department of treasury determines that the property is not the homestead of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An owner may appeal the denial of a claim of exemption to the department of treasury within 35 days of receipt of the notice of denial. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of Act No. 122 of the Public Acts of 1941, being section 205.21 of the Michigan Compiled Laws. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall issue a corrected tax bill for previously unpaid taxes with interest and penalties computed based on the interest and penalties that would have accrued from the date the taxes were originally levied if there had not been an exemption. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall prepare and submit a supplemental tax bill for any additional taxes, together with any interest and penalties. For taxes levied in 1994 only, the county treasurer shall waive any interest and penalties due if the owner pays the supplemental tax bill not more than 30 days after the owner receives the supplemental tax bill. Interest and penalties shall not be assessed for any period before February 14, 1995. However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the homestead property tax exemption for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under Act No. 122 of the Public Acts of 1941 and shall deposit any tax, interest, or penalty collected into the state school aid fund.

(8) An owner may appeal a final decision of the department of treasury to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision. An assessor may appeal a final decision of the department of treasury to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision if the assessor denied the exemption under subsection (6), or, for taxes levied in 1994 only, the assessor forwarded a recommendation for denial to the department of treasury under subsection (6). An owner is not required to pay the amount of tax in dispute in order to appeal a denial of a claim of exemption to the department of treasury or to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest and penalties except as provided in subsection (7), if any, shall accrue and be computed based on the interest and penalties that would have accrued from the date the taxes were originally levied as if there had not been an exemption.

(9) An affidavit filed by an owner for a homestead rescinds all previous exemptions filed by that owner for any other homestead. The department of treasury shall notify the assessor of the local tax collecting unit in which the property for which a previous exemption was claimed is located that the previous exemption is rescinded by the subsequent affidavit. Upon receipt of notice that an exemption is rescinded, the assessor of the local tax collecting unit shall remove the exemption effective December 31 of the year in which the property is transferred or is no longer a homestead as defined in section 7dd.

(10) If the homestead is part of a unit in a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, an owner shall claim an exemption for only that portion of the total taxable value of the property used as the homestead of that owner in a manner prescribed by the department of treasury. If a portion of a parcel for which the owner claims an exemption is used for a purpose other than as a homestead, the owner shall claim an exemption for only that portion of the taxable value of the property used as the homestead of that owner in a manner prescribed by the department of treasury.

(11) When a county register of deeds records a transfer of ownership of a property, he or she shall notify the local tax collecting unit in which the property is located of the transfer.

(12) The department of treasury shall make available the affidavit forms and the forms to rescind an exemption, which may be on the same form, to all city and township assessors, county equalization officers, county registers of deeds, and closing agents. A person who prepares a closing statement for the sale of property shall provide affidavit and rescission forms to the buyer and seller at the closing and, if requested by the buyer or seller after execution by the buyer or seller, shall file the forms with the local tax collecting unit in which the property is located. If a closing statement preparer fails to provide homestead exemption affidavit and rescission forms to the buyer and seller, or fails to file the affidavit and rescission forms with the local tax collecting unit if requested by the buyer or seller, the buyer may appeal to the department of treasury within 30 days of notice to the buyer that an exemption was not recorded. If the department of treasury determines that the buyer qualifies for the exemption, the department of treasury shall notify the assessor of the local tax collecting unit that the exemption is granted and the assessor of the local tax collecting unit or, if the tax roll is in the possession of the county treasurer, the county treasurer shall correct the tax roll to reflect the exemption. This subsection does not create a cause of action at law or in equity against a closing statement preparer who fails to provide homestead exemption affidavit and rescission forms to a buyer and seller or who fails to file the affidavit and rescission forms with the local tax collecting unit when requested to do so by the buyer or seller.

(13) An owner who owned and occupied a homestead on May 1 for which the exemption was not on the tax roll may file an appeal with the July board of review in the year for which the exemption was claimed or the immediately succeeding year or with the December board of review in the year for which the exemption was claimed or the immediately succeeding year. If an appeal of a denial of a claim for exemption is received not later than 5 days prior to the date of the December board of review, the local tax collecting unit shall convene a December board of review and consider the appeal pursuant to this section and section 53b.

(14) In 1994 only, an owner who owns and occupies a homestead after May 1 and before October 3 for which an affidavit was not filed in 1994 may file an affidavit as provided in subsection (2) not later than October 3, 1994. Upon receipt, the assessor shall exempt the property from 50% of the number of mills levied in 1994 under section 1211 of Act No. 451 of the Public Acts of 1976 from which homesteads are exempt, not to exceed 50% of the total number of mills from which homesteads are exempt in 1994, on the December tax roll. If there is not a December levy of the tax under section 1211 of Act No. 451 of the Public Acts of 1976, the owner may appear in person or by mail before the December board of review and obtain a rebate as provided in section 53b of 50% of the number of mills levied in 1994 under section 1211 of Act No. 451 of the Public Acts of 1976 from which homesteads are exempt, not to exceed 50% of the total number of mills from which homesteads are exempt in 1994. If an affidavit is not filed as provided in this subsection, the owner may appear in person or by mail before the July or December board of review in 1994 or the July or December board of review in 1995 and obtain a rebate of 50% of the number of mills levied in 1994 under section 1211 of Act No. 451 of the Public Acts of 1976 from which homesteads are exempt, not to exceed 50% of the total number of mills from which homesteads are exempt in 1994. This subsection does not apply unless the 1994 assessment of the property is based on the valuation of a homestead or a portion of a structure that has become a homestead. An affidavit filed under this subsection is subject to all the provisions of this section.

(15) If the assessor or treasurer of the local tax collecting unit believes that the department of treasury erroneously denied a claim for exemption, the assessor or treasurer may submit written information supporting the owner's claim for exemption to the department of treasury within 35 days of the owner's receipt of the notice denying the claim for exemption. If, after reviewing the information provided, the department of treasury determines that the claim for exemption was erroneously denied, the department of treasury shall grant the exemption and the tax roll shall be amended to reflect the exemption.

(16) If granting the exemption under this section results in an overpayment of the tax, a rebate, including any interest paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(17) If an exemption under this section is erroneously granted, an owner may request in writing that the department of treasury withdraw the exemption. If an owner requests that an exemption be withdrawn, the department of treasury shall issue an order notifying the local assessor that the exemption issued under this section has been denied based on the owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If an owner requests that an exemption under this section be withdrawn before that owner is contacted in writing by either the local assessor or the department of treasury regarding that owner's eligibility for the exemption and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

Sec. 7ee. (1) Qualified agricultural property is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled Laws, according to the provisions of this section.

(2) Qualified agricultural property that is classified as agricultural under section 34c is exempt under subsection (1) and the owner is not required to file an affidavit claiming an exemption with the local tax collecting unit unless requested by the assessor to determine whether the property includes structures that are not exempt under this section. To claim an exemption under subsection (1) for qualified agricultural property that is not classified as agricultural under section 34c, the owner shall file an affidavit claiming the exemption with the local tax collecting unit by May 1. However, if an affidavit claiming a homestead exemption on qualified agricultural property not classified as agricultural was not filed by May 1 in 1994, the owner shall file an affidavit under this section by June 1, 1994.

(3) The affidavit shall be on a form prescribed by the department of treasury.

(4) For property classified as agricultural, and upon receipt of an affidavit filed under subsection (2) for property not classified as agricultural, the assessor shall determine if the property is qualified agricultural property and if so shall exempt the property from the collection of the tax as provided in subsection (1) through the 1998 tax year or until December 31 of the year in which the property is no longer qualified agricultural property as defined in section 7dd. An owner is required to file a new claim for exemption on the same property in 1999 and every 4 years after 1999 for property not classified as agricultural or as requested by the assessor under subsection (2).

(5) Not more than 90 days after all or a portion of the exempted property is no longer qualified agricultural property, the owner shall rescind the exemption for the applicable portion of the property by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. Beginning October 1, 1994, an owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) An owner of property that is qualified agricultural property on May 1 for which an exemption was not on the tax roll may file an appeal with the July or December board of review in the year the exemption was claimed or the immediately succeeding year. An owner of property that is qualified agricultural property on May 1 for which an exemption was denied by the assessor in the year the affidavit was filed, may file an appeal with the July board of review for summer taxes or, if there is not a summer levy of school operating taxes, with the December board of review.

(7) If the assessor of the local tax collecting unit believes that the property for which an exemption has been granted is not qualified agricultural property, effective for taxes levied after 1994, the assessor may deny or modify an existing exemption by notifying the owner in writing at the time required for providing a notice under section 24c. A taxpayer

may appeal the assessor's determination to the board of review meeting under section 30. A decision of the board of review may be appealed to the residential and small claims division of the Michigan tax tribunal.

(8) If an exemption under this section is erroneously granted, an owner may request in writing that the local tax collecting unit withdraw the exemption. If an owner requests that an exemption be withdrawn, the local assessor shall notify the owner that the exemption issued under this section has been denied based on that owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If an owner requests that an exemption under this section be withdrawn before that owner is contacted in writing by the local assessor regarding that owner's eligibility for the exemption and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

Sec. 34e. (1) Notwithstanding section 34d, the limitation under section 34d on millage authorized by voters after March 30, 1994 for local school district operating purposes shall be calculated beginning with the millage reduction fraction for 1995.

(2) In 1994, the millage reduction fraction shall be applied to the local school district's millage authorized by the voters before April 1, 1994. In 1995, the millage reduction fraction shall be applied to the local school district's millage authorized by voters before June 1, 1995. In 1994, the reduction fraction shall be calculated using the local school district's state equalized valuation without regard to the exemption provided under section 1211 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled Laws, and the state equalized valuation of property exempt under section 1211 of Act No. 451 of the Public Acts of 1976 is not considered a loss. In 1995, the reduction fraction shall be calculated using the local school district's taxable value without regard to the exemption provided under section 1211 of Act No. 451 of the Public Acts of 1976, and the taxable value of property exempt under section 1211 of Act No. 451 of the Public Acts of 1976 is not considered a loss.

Sec. 53b. (1) If there has been a clerical error or a mutual mistake of fact relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes, the error or mutual mistake shall be verified by the local assessing officer and approved by the board of review at a meeting held for the purposes of this section on Tuesday following the second Monday in December, and for summer property taxes, on Tuesday following the third Monday in July. If approved, the board of review shall file an affidavit within 30 days relative to the errors or mutual mistake with the proper officials who are involved with the assessment figures, rate of taxation, or mathematical computation and all affected official records shall be corrected. If the error or mutual mistake results in an overpayment or underpayment, the rebate, including any interest paid, shall be made to the taxpayer or the taxpayer shall be notified and payment made within 30 days of the notice. A rebate shall be without interest. The county treasurer may deduct the rebate from the appropriate tax collecting unit's subsequent distribution of taxes. The county treasurer shall bill to the appropriate tax collecting unit the tax collecting unit's share of taxes rebated. A correction under this subsection may be made in the year in which the error was made or in the following year only.

(2) Action pursuant to this section may be initiated by the taxpayer or the assessing officer.

(3) The board of review meeting in July and December shall meet only for the purpose described in subsection (1) and to hear appeals provided for in sections 7u, 7cc, and 7ee. If an exemption under section 7u is approved, the board of review shall file an affidavit with the proper officials involved in the assessment and collection of taxes and all affected official records shall be corrected. If an appeal under section 7cc or 7ee results in a determination that an overpayment has been made, the board of review shall file an affidavit and a rebate shall be made at the times and in the manner provided in subsection (1). Except as otherwise provided in sections 7cc and 7ee, a correction under this subsection shall be made for the year in which the appeal is made only. If the board of review grants an exemption or provides a rebate for property under section 7cc or 7ee as provided in this subsection, the board of review shall require the owner to execute the affidavit provided for in section 7cc or 7ee and shall forward a copy of any section 7cc affidavits to the department of treasury.

(4) If an exemption under section 7cc is granted by the board of review under this section, the provisions of section 7cc(6) through (8) apply. If an exemption under section 7cc is not granted by the board of review under this section, the owner may appeal that decision in writing to the department of treasury within 35 days of the board of review's denial and the appeal shall be conducted as provided in section 7cc(7).

(5) An owner or assessor may appeal a decision of the board of review under this section regarding an exemption under section 7ee to the residential and small claims division of the Michigan tax tribunal. An owner is not required to pay the amount of tax in dispute in order to receive a final determination of the residential and small claims division of

the Michigan tax tribunal. However, interest and penalties, if any, shall accrue and be computed based on interest and penalties that would have accrued from the date the taxes were originally levied as if there had not been an exemption.

Sec. 53c. If the July or December board of review denies a claim for exemption under section 7u, the person claiming the exemption may appeal that decision to the Michigan tax tribunal within 30 days of the denial.

Sec. 120. (1) A person claiming an exemption under section 7cc shall not do any of the following:

(a) Make a false or fraudulent affidavit claiming an exemption or a false statement on an affidavit claiming an exemption.

(b) Aid, abet, or assist another in an attempt to wrongfully obtain an exemption.

(c) Make or permit to be made for himself or herself or for any other person a false affidavit claiming an exemption or a false statement on an affidavit claiming an exemption, either in whole or in part.

(d) Fail to rescind an exemption after the property subject to that exemption is no longer a homestead as defined in section 7dd.

(2) A person who violates a provision of subsection (1) with the intent to wrongfully obtain or attempt to obtain an exemption under section 7cc is guilty of a misdemeanor punishable by imprisonment of not more than 1 year and punishable by a fine of not more than \$5,000.00 or public service of not more than 1,500 hours, or both.

(3) In addition to the penalties provided in subsection (2), a person who knowingly swears to or verifies an affidavit claiming an exemption under section 7cc, or an affidavit claiming any exemption under section 7cc that contains a false or fraudulent statement, with the intent to aid, abet, or assist in defrauding this state or a political subdivision of this state, is guilty of perjury, a misdemeanor punishable by imprisonment of not more than 1 year and punishable by a fine of not more than \$5,000.00 or public service of not more than 1,500 hours, or both.

(4) A person who does not violate a provision of subsection (1), but who knowingly violates any other provision of this act with the intent to defraud this state or a political subdivision of this state, is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or public service of not more than 500 hours, or both.

(5) The attorney general and the prosecuting attorney of each county of this state have concurrent power to enforce this act.

(6) The penalty provisions set forth in subsections (2), (3), and (4) do not apply to a violation of subsection (1) or any other provision of this act occurring before December 31, 1995.

Section 2. This amendatory act is retroactive and shall take effect December 31, 1994.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved \_\_\_\_\_

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Governor.