

Act No. 61
Public Acts of 2009
Approved by the Governor
July 1, 2009
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July 2, 2009
EFFECTIVE DATE: July 2, 2009

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2009**

Introduced by Senators Allen, Gilbert, Bishop and Cassis

ENROLLED SENATE BILL No. 587

AN ACT to amend 1985 PA 106, entitled "An act to impose a state excise tax on persons engaged in the business of providing rooms for dwelling, lodging, or sleeping purposes to transient guests in certain counties; to provide for the levy, assessment, and collection of the tax; to provide for the disposition and appropriation of the collections from the tax; to create a convention facility development fund; to authorize the distributions from the fund; to authorize the use of distributions from the tax as security for any bonds, obligations, or other evidences of indebtedness issued to finance convention facilities as provided by law; to prescribe certain other matters relating to bonds, obligations, or other evidences of indebtedness issued for such purposes," by amending sections 3, 4, 8, 9, 10, and 12 (MCL 207.623, 207.624, 207.628, 207.629, 207.630, and 207.632), sections 3, 8, 9, 10, and 12 as amended by 2008 PA 553.

The People of the State of Michigan enact:

Sec. 3. As used in this act:

(a) "Accommodations" means the room or other space provided to transient guests for dwelling, lodging, or sleeping, including furnishings and other accessories, in a facility that is not a campground, hospital, nursing home, emergency shelter, or community mental health or community substance abuse treatment facility. Accommodations do not include food or beverages.

(b) "Commissioner" means the state treasurer.

(c) "Convention facility" means 1 or more facilities owned or leased by a local governmental unit or metropolitan authority created under the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379, that are any combination of a convention hall, auditorium, meeting rooms, and exhibition areas that are separate and distinct and contiguous to each other, and related adjacent public areas generally available to members of the public for lease on a short-term basis for holding conventions, meetings, exhibits, and similar events and the necessary site or sites, together with appurtenant properties necessary and convenient for use in connection with the facility. Convention facility includes a qualified convention facility as defined under section 5 of the regional convention facility authority act, 2008 PA 554, MCL 141.1355.

(d) "Convention hotel" means a facility used in the business of providing accommodations that has more than 80 rooms for providing accommodations to transient guests and that complies with all of the following:

(i) Located within a county having a population according to the most recent decennial census of 700,000 or more.

(ii) Located within a county that is 1 or more of the following:

(A) A county that has a convention facility with 350,000 square feet or more of total exhibit space.

(B) A county that has 2,000 or more rooms to provide accommodations for transient guests.

(e) "Local governmental unit" means a county, township, city, village, or a metropolitan authority formed under the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379.

(f) "Person" means a natural person, partnership, limited partnership, fiduciary, association, corporation, limited liability company, or other entity.

(g) "Room charge" means the charge imposed for the use or occupancy of accommodations, excluding charges for food, beverages, telephone services, the use tax imposed under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, or like services paid in connection with the charge. Room charge does not include reimbursement of the assessment imposed by the community convention or tourism marketing act, 1980 PA 395, MCL 141.871 to 141.880, the convention and tourism marketing act, 1980 PA 383, MCL 141.881 to 141.889, or this act.

(h) "Transient guest" means a natural person staying less than 30 consecutive days.

Sec. 4. (1) There is hereby levied upon and there shall be collected from any person engaged in the business of providing accommodations to transient guests in a convention hotel, whether or not membership is required, an excise tax at the following rates:

(a) For a convention hotel located within a qualified local governmental unit under section 9(4), the following:

(i) A rate of 3% of the room charge for accommodations in a convention hotel with 81 to 160 rooms.

(ii) A rate of 6% of the room charge for accommodations in a convention hotel with more than 160 rooms.

(b) For all other convention hotels not subject to the tax rates imposed by subdivision (a), the following:

(i) A rate of 1.5% of the room charge for accommodations in a convention hotel with 81 to 160 rooms.

(ii) A rate of 5% of the room charge for accommodations in a convention hotel with more than 160 rooms.

(2) Beginning with the state fiscal year 1987, a person engaged in the business of providing accommodations to transient guests in a convention hotel is exempt from the tax imposed by this act for any state fiscal year in which appropriations of the tax collections pursuant to this act from that convention hotel have not been made for distributions pursuant to section 9 that would be received by a qualified local governmental unit from the collections of the tax under this act or section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, that the qualified local governmental unit is eligible to receive.

Sec. 8. (1) The collections from the tax imposed by section 4 shall be deposited in the state treasury, to the credit of the convention facility development fund, which is hereby created within the state treasury. Collections from the additional tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, funds appropriated from the 21st century jobs trust fund under subsection (4), and amounts designated under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, shall also be deposited to the credit of the convention facility development fund.

(2) The convention facility development fund shall be distributed for certain state purposes and to local governmental units for use only for 1 or more of the following purposes:

(a) Acquiring, constructing, improving, enlarging, renewing, replacing, or leasing a convention facility.

(b) In conjunction with an activity listed in subdivision (a), repairing, furnishing, and equipping the convention facility.

(c) Refinancing an activity listed in subdivision (a) or (b).

(d) General fund expenditures.

(e) In the case of a local governmental unit that is a metropolitan authority, for any purpose authorized under the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379.

(3) A contract made by a local governmental unit for the purposes included in subsection (2)(a) or (b) concerning a convention facility funded by distributions pursuant to section 9 shall contain a fixed price or guaranteed maximum price for the total cost of activities conducted for these purposes pursuant to that contract.

(4) For the fiscal year ending September 30, 2010, \$9,000,000.00 is appropriated from the 21st century jobs trust fund described in section 2 of the Michigan trust fund act, 2000 PA 489, MCL 12.252, and transferred to and deposited in the convention facility development fund for purposes authorized under subsection (2)(e).

Sec. 9. (1) Except as provided in subsection (5) or (6), on or before the thirtieth day of each month, the state treasurer shall make a distribution from the convention facility development fund to a qualified local governmental unit. The distribution shall be an amount equal to the sum of the collections from the excise tax levied for accommodations under this act for the previous month from the convention hotels in the county in which the convention facility is or is to be located and in any county in which convention hotels are located that is contiguous to the county in which the convention facility is located, or is to be located, the additional tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, for the previous month received in the fund, and any distribution received under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, and from the 21st century jobs trust fund under section 8(4). However, distributions for any state fiscal year to any qualified local governmental unit under this section shall not exceed an amount equal to the amount pledged, assigned, or dedicated by the qualified

local governmental unit pursuant to section 11 for the payment during that state fiscal year of bonds, obligations, or other evidences of indebtedness incurred for the purposes specified in this act or the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379, plus operating deficit cost expenditures and other expenditures authorized under section 10, plus any amount necessary to maintain a fully funded debt reserve or other reserves intended to secure the principal and interest on the bonds, obligations, or other evidences of indebtedness as contained in the resolution or ordinance authorizing their issuance.

(2) Notwithstanding the distributions provided by subsection (1), if a local governmental unit becomes a qualified local governmental unit entitled to receive distributions from the tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, or from the tax imposed by this act in counties in which the convention facility is located or in a county in which a convention hotel is located that is contiguous to the county in which the convention facility is located, and from any distribution under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, no other qualified local governmental unit is entitled to distributions pursuant to this section for which that qualified local governmental unit has previously become entitled, until such time as that qualified local governmental unit ownership or leasehold interest described in subsection (3) is transferred to another local governmental unit. If that transfer renders the transferee a qualified local governmental unit, the transferee shall, immediately upon that transfer, be entitled to the distributions to a qualified local governmental unit provided in subsection (1) and the priority provided to a qualified local governmental unit in this subsection, notwithstanding that the amount of the distributions may increase as a result of that transfer. A transfer under this subsection includes a transfer that occurs on a transfer date under the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379.

(3) Notwithstanding the provisions of subsection (2), if the transfer and lease of a qualified convention facility to an authority is disapproved and the authority is dissolved under section 19(1) of the regional convention facility authority act, 2008 PA 554, MCL 141.1369, then a distribution from the convention facility development fund of proceeds received under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, shall be made to a building authority for a county having a population of not less than 1,000,000 and not more than 1,500,000 according to the most recent federal decennial census for the purpose of developing, leasing, or operating a convention facility as defined in this act and no other qualified local governmental unit is entitled to any distribution of proceeds received under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475.

(4) As used in this act, “qualified local governmental unit” means, except as otherwise provided in this subsection, a city, village, township, county, or authority that is located in, or includes within its territory or jurisdiction, a county in which convention hotels are located and that either is the owner or lessee of a convention facility with 350,000 square feet or more of total exhibit space on July 30, 1985 or, if such a convention facility does not exist, will be the owner or lessee of a convention facility with 350,000 square feet or more of total exhibit space through the application of distributions under this section to the purchase or lease of a convention facility. Qualified local governmental unit includes a metropolitan authority that leases, develops, operates, and maintains a qualified convention facility under the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379. If the transfer and lease of a qualified convention facility to an authority is disapproved and the authority is dissolved under section 19(1) of the regional convention facility authority act, 2008 PA 554, MCL 141.1369, then for purposes of any distribution from the convention facility development of proceeds under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, qualified local governmental unit means a building authority for a county having a population of not less than 1,000,000 and not more than 1,500,000 according to the most recent federal decennial census.

(5) Before the 2015-2016 fiscal year, collections from the excise tax levied for accommodations under this act and collections from the tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, shall not be paid to a qualified local governmental unit for the repayment of bonds, obligations, or other evidences of indebtedness incurred after 2007.

(6) Beginning in fiscal year 2015-2016, and each fiscal year thereafter, if a transfer and a lease of a qualified convention facility is disapproved and an authority is dissolved under section 19(1) of the regional convention facility authority act, 2008 PA 554, MCL 141.1369, then the collections from the excise tax levied for accommodations under this act shall be distributed to each county in which it was levied based on the amount collected in that county. However, if an excise tax for accommodations is levied in a qualified city at a rate greater than the rate levied in that portion of the county in which the qualified city is not located, the qualified city shall receive the collections of the excise tax for accommodations in an amount equal to the difference between the rate levied in the qualified city and the rate levied in that portion of the county in which the qualified city is not located. The funds described in this subsection are not available for a distribution of subsection (1). As used in this subsection, “qualified city” means that term as defined in section 5 of the regional convention facility authority act, 2008 PA 554, MCL 141.1355.

(7) If a building authority becomes a qualified local governmental unit under subsection (4), collections from distributions under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, shall be paid by the state treasurer on or before the thirtieth day of each month to that building authority.

Sec. 10. (1) Any money remaining in the convention facility development fund that is not used for the bonds, obligations, or other evidences of indebtedness or other purposes as described in section 9 shall be distributed pursuant to subsection (2).

(2) Money in the convention facility development fund shall be distributed as provided in subsection (4) in the following order of priority in the following amounts:

(a) For each of the following fiscal years, the following amounts shall be distributed to a metropolitan authority created under the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379, for the operational deficit costs of a qualified convention facility operated by the authority under that act for purposes authorized under that act:

- (i) \$11,000,000.00 each fiscal year for the fiscal years ending September 30, 2010 and September 30, 2011.
- (ii) \$9,000,000.00 each fiscal year for the fiscal years ending September 30, 2012 and September 30, 2013.
- (iii) \$8,000,000.00 each fiscal year for the fiscal years ending September 30, 2014 and September 30, 2015.
- (iv) \$7,000,000.00 for the fiscal year ending September 30, 2016.
- (v) \$6,000,000.00 for the fiscal year ending September 30, 2017.
- (vi) \$5,000,000.00 each fiscal year for the fiscal years ending September 30, 2018 and September 30, 2019.
- (vii) \$5,000,000.00 for the fiscal year ending September 30, 2020.
- (viii) \$5,000,000.00 for the fiscal year ending September 30, 2021.
- (ix) \$5,000,000.00 for the fiscal year ending September 30, 2022.
- (x) \$5,000,000.00 for the fiscal year ending September 30, 2023.

(b) For fiscal years ending before October 1, 2009, an amount equal to the difference, if any, between the tax imposed under this act in the preceding state fiscal year that is designated under section 9 to a qualified local governmental unit and the tax imposed under this act that is designated under section 9 in the state fiscal year immediately preceding the preceding state fiscal year for the same local governmental unit shall be distributed to that local governmental unit. This subdivision does not apply unless a tax has been imposed under this act in the entire 2 state fiscal years immediately preceding the state fiscal year in which a distribution under this subdivision is made. Any amount distributed under this subdivision shall be used by the local governmental unit only for the retirement of outstanding bonds, obligations, or other evidences of indebtedness incurred for which distributions under section 9 are pledged. A distribution under this subdivision shall not be made to the extent that the obligations, bonds, or other evidences of indebtedness cannot be retired or are not outstanding.

(c) For fiscal years ending before October 1, 2015, an amount equal to that portion of the liquor tax collected under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, from licensees in counties in which convention hotels are not located shall be distributed to those counties in which convention hotels are not located in the same proportion that the amount of tax collected under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from the licensees in a county bears to the total tax collections under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from all counties in which convention hotels are not located.

(d) For fiscal years ending before October 1, 2015, and for fiscal years ending after October 1, 2015 if the transfer and lease of a qualified convention facility to an authority is disapproved and the authority is dissolved under section 19(1) of the regional convention facility authority act, 2008 PA 554, MCL 141.1369, the remaining money available after distributions under subdivisions (a), (b), and (c) shall be distributed to each county in the following amounts:

(i) The amount of money available to be distributed under this subdivision multiplied by the percentage of collections in the preceding state fiscal year under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, from licensees in counties in which convention hotels are not located shall be distributed to each county in which convention hotels are not located in the same proportion that the amount of tax collected pursuant to section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from licensees in that county bears to the total tax collections from section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from all counties in which convention hotels are not located.

(ii) The amount of money available to be distributed under this subdivision multiplied by the percentage of collections in the preceding state fiscal year under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, from licensees in counties in which convention hotels are located shall be distributed to each county in which convention hotels are located in the same proportion that the amount of tax collected pursuant to section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from licensees in that county bears to the total tax collections from section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from all counties in which convention hotels are located. However, in the calculation of the proportion represented by a county's share of distributions under this subparagraph, the amount

of the tax collected from licensees in the qualified local governmental unit that received distributions under section 9 in fiscal year 2007-2008 shall not be included.

(e) For the fiscal year ending September 30, 2016, an amount equal to the product of the total amount of tax collected under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, and distributed to all counties in the 2014-2015 fiscal year multiplied by 1.01 shall be distributed to all counties as provided in this subdivision. For fiscal years beginning after September 30, 2016, an amount equal to the product of the amount of liquor tax distributions in the immediately preceding fiscal year multiplied by 1.01, not to exceed the total amount of tax collected under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, shall be distributed to counties. This subdivision does not apply if the transfer and lease of a qualified convention facility to an authority is disapproved and the authority is dissolved under section 19(1) of the regional convention facility authority act, 2008 PA 554, MCL 141.1369. Distributions to each county under this subdivision shall be calculated as follows:

(i) The amount of money available to be distributed under this subdivision multiplied by the percentage of collections in the immediately preceding state fiscal year under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, from licensees in counties in which convention hotels are not located shall be distributed to each county in which convention hotels are not located in the same proportion that the amount of tax collected pursuant to section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the immediately preceding state fiscal year from licensees in that county bears to the total tax collections from section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the immediately preceding state fiscal year from all counties in which convention hotels are not located.

(ii) The amount of money available to be distributed under this subdivision multiplied by the percentage of collections in the immediately preceding state fiscal year under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, from licensees in counties in which convention hotels are located shall be distributed to each county in which convention hotels are located in the same proportion that the amount of tax collected pursuant to section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the immediately preceding state fiscal year from licensees in that county bears to the total tax collections from section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the immediately preceding state fiscal year from all counties in which convention hotels are located. However, in the calculation of the proportion represented by a county's share of distributions under this subparagraph, the amount of the tax collected from licensees in the qualified local governmental unit that received distributions under section 9 in the 2007-2008 state fiscal year shall not be included.

(f) Beginning with the fiscal year ending on September 30, 2016, and each fiscal year thereafter, if the revenue in the convention facility development fund exceeds the amounts distributed under section 9 and the distributions under subdivision (e), the excess shall be distributed to a qualified local governmental unit that is a metropolitan authority to be used by that qualified local governmental unit only for the retirement of outstanding bonds, obligations, or other evidences of indebtedness incurred for which distributions under section 9 are pledged and for a qualified governmental unit that is a metropolitan authority or next for the payment of any unfunded operational deficit costs incurred during the prior fiscal year by a metropolitan authority created under the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379, for the operation of a qualified convention facility under that act.

(g) Except as otherwise provided in subdivision (h), for the fiscal year ending September 30, 2009, \$9,400,000.00 shall be distributed to a metropolitan authority created under the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379, for the costs incurred by the authority for the implementation of that act, creation of the authority, and transfer or lease of a qualified convention facility to the authority, and other costs relating to the management, operation, and development of a qualified convention facility.

(h) If the transfer and lease of a qualified convention facility to an authority is disapproved and the authority is dissolved under section 19(1) of the regional convention facility authority act, 2008 PA 554, MCL 141.1369, then for the fiscal year ending September 30, 2009, \$9,400,000.00 shall be distributed to a building authority for a county having a population of not less than 1,000,000 and not more than 1,500,000 according to the most recent federal decennial census for costs relating to the management, operation, and development of a convention facility.

(3) A distribution to a county pursuant to this section shall be included for purposes of the calculations required to be made by section 24e of the general property tax act, 1893 PA 206, MCL 211.24e. If the governing body of a taxing unit approves the additional millage rate under section 24e of the general property tax act, 1893 PA 206, MCL 211.24e, which is due to distributions pursuant to this section, then an amount equal to 50% of the distribution under this section shall be used for substance abuse treatment within the taxing unit.

(4) Beginning October 1, 2007 and each year thereafter, from the revenue collected during the previous quarter, after distributing the monthly payments under section 9(1), the state treasurer shall make quarterly distributions under subsection (2)(b) and (c) or under subsection (2)(e). From the revenue collected in the last quarter of the state fiscal year, the state treasurer shall make the distribution under subsection (2)(a) prior to any distributions under subsection (2)(b) and (c) or (e).

Sec. 12. (1) Subject to approval pursuant to section 11, a local governmental unit may assign or pledge all or a portion of the distribution of taxes that the local governmental unit is eligible to receive under this act for payment of bonds, obligations, or other evidences of indebtedness for the purposes specified in section 8(2). If a local governmental unit assigns, pledges, or, pursuant to section 11(3), dedicates all or a portion of the distribution of taxes that the local governmental unit is eligible to receive under this act for payment of bonds, obligations, or other evidences of indebtedness incurred for the purposes specified in this act, the state treasurer may transmit to the duly appointed trustee or trustees for the bonds, obligations, or other evidences of indebtedness, if any, the payment of the distribution assigned, pledged, or dedicated by the local governmental unit.

(2) A local governmental unit that becomes a qualified local governmental unit before May 1, 2008 shall not issue bonds, obligations, or other evidences of indebtedness to which distributions under section 9 are pledged in a principal amount greater than \$180,000,000.00. This limit does not apply to refunding bonds, obligations, or other evidences of indebtedness issued pursuant to section 11(2) or to bonds, obligations, or other evidences of indebtedness to which distributions of taxes from the convention facility development fund are dedicated under section 11(3). A metropolitan authority that becomes a qualified local governmental unit after December 1, 2008 shall not issue bonds, obligations, or other evidences of indebtedness to which distributions under section 9 are pledged in order to finance a total cost for all projects undertaken by the qualified local governmental unit that exceeds \$299,000,000.00. A building authority that becomes a qualified local governmental unit after May 1, 2009 shall not issue bonds, obligations, or other evidences of indebtedness to which distributions under section 9 are pledged in order to finance a total cost for all projects undertaken by the qualified local governmental unit that exceeds \$154,000,000.00. The cost of a project in addition to construction and acquisition costs may include an allowance for legal, engineering, architectural, and consulting services. The following shall not be considered costs of a project and may be financed with the proceeds of bonds, obligations, or other evidences of indebtedness for which section 9 distributions are pledged:

(a) Interest on revenue obligations issued to finance the project becoming due before the collection of the first revenues available for the payment of those revenue obligations.

(b) A reserve for the payment of principal, interest, and redemption premiums on the revenue obligations of the qualified local governmental unit, and other necessary incidental expenses including, but not limited to, placement fees, fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, or commitments to purchase obligations issued pursuant to this act.

(c) Fees or charges associated with an agreement to manage payment, revenue, or interest rate exposure.

(d) Any other fees or charges for any other security provided to assure timely payment of the obligations.

(e) Refunding bonds.

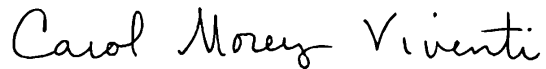
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

(a) House Bill No. 4998.

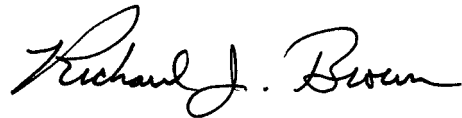
(b) Senate Bill No. 586.

(c) Senate Bill No. 588.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor