

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)  
CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 1349

By: Williams of the Senate

and

Boyd (Betty) and Webb of  
the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 1991, Section 3-116, as last amended by Section 1, Chapter 191, O.S.L. 1997 (70 O.S. Supp. 1997, Section 3-116), which relates to the Education Oversight Board; modifying residency requirements for Education Oversight Board members; amending 51 O.S. 1991, Section 154, as amended by Section 1, Chapter 283, O.S.L. 1994 (51 O.S. Supp. 1997, Section 154), which relates to the Governmental Tort Claims Act; modifying name of the Oklahoma College of Osteopathic Medicine and Surgery; clarifying statutory reference; amending 70 O.S. 1991, Sections 697.3, 697.5, 697.7, 697.9, 697.11 and 3423, which relate to higher education; modifying name of the Oklahoma College of Osteopathic Medicine and Surgery; deleting gender references; amending Section 5, Chapter 353, O.S.L. 1992, as last amended by Section 2, Chapter 74, O.S.L. 1997 (70 O.S. Supp. 1997, Section 2605), which relates to the Oklahoma Higher Learning Access Program; authorizing the registration of eighth grade students in the Oklahoma Higher Learning Access Program who meet certain qualifications; clarifying language; deleting obsolete language; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 1991, Section 3-116, as last amended by Section 1, Chapter 191, O.S.L. 1997 (70 O.S. Supp. 1997, Section 3-116), is amended to read as follows:

Section 3-116. A. There is hereby created the Education Oversight Board. The membership of the Education Oversight Board shall consist of:

1. The Chairperson of the Education Committee of the Oklahoma House of Representatives;
2. The Chairperson of the Education Committee of the Senate;
3. Two members, who are not legislators, appointed by the Governor;
4. Two members, who are not legislators, appointed by the Speaker of the House of Representatives;
5. Two members, who are not legislators, appointed by the President Pro Tempore of the Senate; and
6. One member, who is not a legislator, appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

The two Education Committee Chairpersons shall serve as nonvoting members of the Board as long as each holds that position in such chairperson's respective house. The terms of the appointed members shall be staggered. The initial term of the first member appointed by the Governor shall expire on June 30, 1996. The initial term of the first member appointed by the President Pro Tempore of the Senate shall expire on June 30, 1995. The initial term of the first member appointed by the Speaker of the House of Representatives shall expire on June 30, 1994. The initial term of the second member appointed by the Governor shall expire on June 30, 2002. The initial term of the second member appointed by the President Pro Tempore of the Senate shall expire on June 30, 2001. The initial term of the second member appointed by the Speaker of the House of Representatives shall expire on June 30, 2000. The initial term of the member appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall expire on June 30, 1999. The terms of the seven appointed members shall begin on July 1 of the year the preceding term expires. All terms scheduled to begin on or before June 30, 1997, shall be for three (3) years. Except for the initial terms of the second members appointed by the Governor,

Req. No. 3363Page 2

Speaker of the House of Representatives, and the President Pro Tempore of the Senate and the member appointed jointly, all terms scheduled to begin on or after July 1, 1997, shall be for five (5) years. ~~No more than~~ At least one appointed member ~~may~~ must reside in ~~any one~~ each Congressional District, ~~county, city or town~~. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

B. A chairperson and vice-chairperson shall be elected annually from the membership of the Board. A quorum, which shall consist of four voting members, must be present for the transaction of any business. Members shall be reimbursed for travel in the performance of their official duties in accordance with the State Travel Reimbursement Act.

C. The Education Oversight Board shall have oversight over implementation of:

1. The provisions of Enrolled House Bill No. 1017 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature; and

2. The provisions of the Oklahoma Teacher Preparation Act.

D. The Education Oversight Board shall govern the operation of the Office of Accountability created in Section 3-117 of this title. The Secretary of Education shall be the chief executive officer of the Office of Accountability.

E. Legislators who serve on the Education Oversight Board shall be exempt from the dual office holding prohibitions of Section 6 of Title 51 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 3423, is amended to read as follows:

Section 3423. The institution located in Tulsa County and known as the Oklahoma College of Osteopathic Medicine and Surgery is hereby merged with and made an agency and an integral part of Oklahoma State University. The location of the college shall remain in Tulsa County and its official name shall be the Oklahoma State University College of Osteopathic Medicine. The Board of Regents for the Oklahoma Agricultural and Mechanical Colleges shall have the supervision, management, and governmental control of the college, which shall be administered by Oklahoma State

University. At least one of the two highest-ranking administrative officers of the college shall be a doctor of osteopathic medicine.

SECTION 3. AMENDATORY 51 O.S. 1991, Section 154, as amended by Section 1, Chapter 283, O.S.L. 1994 (51 O.S. Supp. 1997, Section 154), is amended to read as follows:

Section 154. A. The total liability of the state and its political subdivisions on claims within the scope of this act, Section 151 et seq. of this title, arising out of an accident or occurrence happening after the effective date of this act, Section 151 et seq. of this title, shall not exceed:

1. Twenty-five Thousand Dollars (\$25,000.00) for any claim or to any claimant who has more than one claim for loss of property arising out of a single act, accident, or occurrence;

2. One Hundred Thousand Dollars (\$100,000.00) to any claimant for his claim for any other loss arising out of a single act, accident, or occurrence. Except however, the limits of said liability for the University Hospitals and State Mental Health Hospitals operated by the Department of Mental Health and Substance Abuse Services for claims arising from medical negligence shall be Two Hundred Thousand Dollars (\$200,000.00). For claims arising from medical negligence by any licensed physician, osteopathic physician or certified nurse-midwife rendering prenatal, delivery or infant care services from September 1, 1991, through June 30, 1996, pursuant to a contract authorized by subsection (b) of Section 1-106 of Title 63 of the Oklahoma Statutes and in conformity with the requirements of Section ~~3~~ 1-233 of ~~this act~~ Title 63 of the Oklahoma Statutes, the limits of said liability shall be Two Hundred Thousand Dollars (\$200,000.00); or

3. One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single occurrence or accident.

B. No award for damages in an action or any claim against the state or a political subdivision shall include punitive or exemplary damages.

C. When the amount awarded to or settled upon multiple claimants exceeds the limitations of this section, any party may apply to the district court which has jurisdiction of the cause to apportion to each claimant his proper share of the total amount as limited herein. The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement made to him bears to the aggregate awards and settlements for all claims against the state or its political subdivisions arising out of the occurrence. When the amount of the aggregate losses presented by a single claimant exceeds the limits of paragraphs 1 or 2 of subsection A of this section, each person suffering a loss shall be entitled to his proportionate share.

D. The total liability of resident physicians and interns while participating in a graduate medical education program of the University of Oklahoma College of Medicine, its affiliated institutions and the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine shall not exceed One Hundred Thousand Dollars (\$100,000.00).

E. The state or a political subdivision may petition the court that all parties and actions arising out of a single accident or occurrence shall be joined as provided by law, and upon order of the court the proceedings upon good cause shown shall be continued for a reasonable time or until such joinder has been completed. The state or political subdivision shall be allowed to interplead in any action which may impose on it any duty or liability pursuant to this act.

F. The liability of the state or political subdivision under this act shall be several from that of any other person or entity, and the state or political subdivision shall only be liable for that percentage of total damages that corresponds to its percentage of total negligence. Nothing in this section shall be construed as increasing the liability limits imposed on the state or political subdivision under this act.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 697.3, is amended to read as follows:

Section 697.3 The Physician Manpower Training Commission shall be composed of seven (7) members appointed by the Governor with the advice and consent of the Senate, three of whom shall be practicing allopathic physicians and two of whom shall be osteopathic physicians, and said physician members shall be from throughout the state. Three members of the Commission shall be appointed for one-year terms, two members shall be appointed for three-year terms and two members shall be appointed for five-year terms, and at the expiration of the initial terms, succeeding terms of office shall be five (5) years in duration. There shall be also fourteen (14) additional nonvoting ex officio members of the Commission who shall serve in an advisory capacity only and include the Dean of the University of Oklahoma College of Medicine, or ~~his~~ designee; the Dean of the University of Oklahoma College of Medicine - Tulsa, or ~~his~~ designee; the Chairman of the Department of Family Medicine of the University of Oklahoma Health Sciences Center, or ~~his~~ designee; the Chairman of the Department of Family Practice of the University of Oklahoma College of Medicine - Tulsa, or ~~his~~ designee; the Chairman of the Department of General Practice of the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine, or ~~his~~ designee; the President of the Oklahoma Academy of Family Physicians, or ~~his~~ designee; the President of the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine, or ~~his~~ designee; the President of the Oklahoma State Medical Association, or ~~his~~ designee; the President of the Oklahoma State Osteopathic Association, or ~~his~~ designee; the President of the Oklahoma Hospital Association, or ~~his~~ designee; the Chairman of the State Board of Health, or ~~his~~ designee; the Provost of the University of Oklahoma Health Sciences Center, or ~~his~~ designee; the Dean of the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine, or ~~his~~ designee; and the Executive Chief of Staff, State of Oklahoma Medical Center, or ~~his~~ designee. Members of the Commission shall serve without salary, but may be reimbursed for

travel expenses in attending meetings and performing their duties pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 70 O.S. 1991, Section 697.5, is amended to read as follows:

Section 697.5 The Physician Manpower Training Commission, in order to perform its official function in establishing and administering physician training programs, shall have the following specific powers, duties and responsibilities:

1. To review all available data on physician manpower in Oklahoma in order to determine the current and projected distribution of physicians by geographic location and by type of practice, and, to accomplish this review, the Commission shall obtain information from and work in conjunction with the State Department of Health and all other agencies which gather data and evaluate health manpower needs;

2. To review data and information on accredited physician internship and residency programs currently operated by Oklahoma hospitals and other approved clinical situations, in order to ascertain the number and distribution by physician specialty training and by geographic location of available internship and residency positions and to evaluate the impact of internship and residency placement on the establishment of practices by physicians in that geographic area or similar areas within the state where their services are urgently needed;

3. To serve as an agent to advise hospitals, clinics, and communities on setting up and planning internship and residency programs which emphasize the provision of additional primary care physicians to service the rural areas of Oklahoma with primary care specialties to be defined to include training in the area of internal medicine, obstetrics and gynecology, pediatrics, emergency trauma, and family practice;

4. To provide general counsel and advice in the development, operation and evaluation of physician internship and residency programs throughout the State of Oklahoma in cooperation with the efforts of the Oklahoma State Regents for Higher Education and the

Req. No. 3363Page 7

state's physician training institutions such as the Oklahoma University College of Medicine, Oklahoma City and Tulsa campuses, and the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine, and subject to accreditation by official and appropriate accrediting agencies;

5. To develop the criteria for determining the physician training cost component or associated clinical and hospital training costs which are or may be nonreimbursable by third party payers in programs proposed by accredited hospitals, clinical situations, or hospital and clinical programs affiliated with and administered by the College of Medicine, College of Medicine - Tulsa or ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine in order to determine the share for the state in supporting the salary, benefits, training and program administration costs incurred by hospitals in supporting of the interns and residents;

6. To develop the criteria and procedure by which state matching funds will be awarded to hospitals, accredited clinical situations, in cooperation with the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa, and the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine which shall administer programs in hospital and clinical situations in the state to be used to underwrite the salaries, benefits and associated training and administration costs provided for the physician interns and residents during their period of training in such a way as to create an incentive for the development and establishment of residency and internship positions by hospitals, clinical establishments or by affiliation agreement with the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa and the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine by providing funds to cover and to supplement the nonreimbursable or additional costs incurred in hospitals for training activities or for delivery of service in

Req. No. 3363Page 8

outreach and ambulatory clinical situations which are outside but associated with the hospitals and clinical establishments participating in the program;

7. To review and to approve for inclusion in the programs funded the applications for funds submitted by accredited hospitals and clinical situations participating in physician training programs in cooperation with the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa and the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine for the costs of supplying residents and interns in programs which they administer by affiliation agreements with hospitals and clinical situations throughout the state in which the interns and residents are supervised and funded by the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa and the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine and the hospitals and clinical establishments pay for the patient care services rendered in their institutions by these residents and interns during the period of training;

8. To determine the specific level of funding and the priorities used for granting state support to approved hospitals and clinical situations, in cooperation with the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa and the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine for approved hospital physician training programs for interns and residents and to recommend to the Governor and the Oklahoma Legislature the total funds needed to carry out the purpose of this program;

9. To employ a director and any staff personnel required to administer the funding of approved physician training programs and to contract with other state agencies and institutions to conduct and to perform specified services, functions and aspects in administering state funds on the specified cost-sharing basis determined by the Commission or for developing programs and

community and institutional participation in these training programs;

10. To ensure that hospitals or clinical situations that can qualify in all sections of Oklahoma be utilized, and to take all steps necessary to assist such hospitals or clinics in obtaining necessary recognition or status, or in meeting standards for accreditation or affiliation so that they may participate in these physician training programs;

11. To ensure that in programs administered and operated by the University of Oklahoma College of Medicine, University of Oklahoma College of Medicine - Tulsa and the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine in hospitals and clinical situations throughout the state that funds allocated to the colleges are paid by the hospitals and clinical situations in which the patient care services are rendered, the funds are expended for such purposes in funding residents and interns in the physician training programs that the colleges have established with the approved hospitals and clinical situations which programs are designed to provide primary health care services to the rural and medically underserved parts of the state;

12. To conduct and to administer a program of physician and health manpower placement services throughout the State of Oklahoma. Placement services shall be made available to communities, hospitals, health care facilities, physician and health professional training institutions, health professional associations and organizations, individual physicians, health professionals, students in physician and health professional training institutions and schools, and other interested parties in such a way so as to further the purposes of improving the distribution of physicians and health professionals practicing or available for practice in the state and improving in the availability of health care services to the people of the state. Said placement service shall include but not be limited to assisting communities in matching with, contacting and recruiting physicians and health professionals to practice in communities in

Req. No. 3363Page 10

the state. The Commission shall develop criteria and procedures for the conduct and performance of placement services and employ any staff, contract for services with any private agency, nonprofit corporation or institution to facilitate the performance of placement services.

SECTION 6. AMENDATORY 70 O.S. 1991, Section 697.7, is amended to read as follows:

Section 697.7 The Physician Manpower Training Commission is hereby authorized to enter into contractual arrangements with any qualified hospital in any city or town in Oklahoma whereby the hospital would accommodate a resident physician to practice in the hospital during a six-month elective phase of the residency training program which is conducted in an accredited free-standing-teaching hospital in cooperation with the University of Oklahoma College of Medicine, University of Oklahoma-Tulsa Medical College, and the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine. The hospital accommodating said resident physician shall pay to the Commission such monies as may be required to cover the agreed amount to pay the cost of the salary stipend and expenses of the resident physician for the period of time spent in practice at said hospital. Monies received by the Commission from the participating hospital under the provisions of this section shall be deposited to, and disbursed from, the "Hospital Residency Revolving Fund" hereby created in the State Treasury. The fund shall be a continuing fund not subject to legislative appropriation or fiscal year limitations. Expenditures from said fund shall be made on warrants issued by the State Treasurer against claims filed by the Commission with the Director of State Finance for approval and payment.

SECTION 7. AMENDATORY 70 O.S. 1991, Section 697.9, is amended to read as follows:

Section 697.9 There is hereby created and established the Community Preceptor Physician Training and Work Experience Scholarship Fund which fund shall be administered by the Physician Manpower Training Commission for the purpose of providing state

matching funds assistance and encouraging the development of a program whereby the state in conjunction with given communities, hospitals or clinical training situations funds the stipends and living expenses for medical students who agree to work in these given communities during the vacation times during the course of their education in the University of Oklahoma College of Medicine or the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine. The Commission shall develop procedures for determining the matching funds participation of communities and of the state for a given student and coordinate with the physician training institutions in the state for the selection of students to participate in the program and the selection of physicians who will supervise students and hospitals and clinical situations in which the training and experience occurs in the delivery of primary health care to rural and medically underserved areas with the purpose of providing medical and osteopathic students an opportunity to develop relationships with communities and encourage them to locate their practices in areas of medical need.

SECTION 8. AMENDATORY 70 O.S. 1991, Section 697.11, is amended to read as follows:

Section 697.11 In addition to internship and residency programs previously established and funded, it is the intent of the Legislature that the Commission, through cooperation with the University of Oklahoma College of Medicine, University of Oklahoma-Tulsa Medical College and the ~~Oklahoma College of Osteopathic Medicine and Surgery~~ Oklahoma State University College of Osteopathic Medicine, establish and fund additional residency and internship positions as follows: fiscal year 1981, 56 positions; fiscal year 1982, a maximum of 60 positions; fiscal year 1983, a maximum of 30 positions; fiscal year 1984, a maximum of 10 positions.

SECTION 9. AMENDATORY Section 5, Chapter 353, O.S.L. 1992, as last amended by Section 2, Chapter 74, O.S.L. 1997 (70 O.S. Supp. 1997, Section 2605), is amended to read as follows:

Section 2605. A. Each school year, every fifth- through ninth-grade student in the public schools of this state shall be apprised, together with the student's parent, custodial parent, or guardian, of the student's opportunity for access to higher learning under the Oklahoma Higher Learning Access Program. The Oklahoma State Regents for Higher Education and the State Board of Education shall develop, promote, and coordinate a public awareness program to be utilized in making students and parents aware of the Oklahoma Higher Learning Access Program. Students in public schools in the state may be registered to participate in the Oklahoma Higher Learning Access Program in eighth and ninth grades, and as otherwise provided in subsection F of this section.

B. On a form provided by the Oklahoma State Regents for Higher Education, every public school district shall designate at least one Oklahoma Higher Learning Access Program contact person, who shall be a counselor or teacher, at each public school site in this state in which ninth- or tenth-grade classes are taught. When requested by the State Regents, the State Board of Education shall assist the State Regents to ensure the designation of contact persons.

C. ~~Ninth-grade~~ Eighth and ninth-grade students who qualify on the basis of financial need according to the standards and provisions promulgated by the Oklahoma State Regents for Higher Education shall be given the opportunity throughout the ninth-grade year to enter into participation in the program by agreeing to, throughout the remainder of their school years:

1. Attend school regularly and do homework regularly;
2. Refrain from substance abuse;
3. Refrain from commission of crimes or delinquent acts;
4. Have school work and school records reviewed by mentors designated pursuant to the program;
5. Provide information requested by the Oklahoma State Regents for Higher Education or the State Board of Education; and
6. Participate in program activities.

The contact person at the school shall maintain the agreements, which shall be executed on forms provided by the Oklahoma State

Regents for Higher Education and managed according to regulations promulgated by the Oklahoma State Regents for Higher Education, and the contact person shall monitor the student's compliance with the terms of the agreement. The Oklahoma State Regents for Higher Education are authorized to process student agreements and verify compliance with the agreements. Students failing to comply with the terms of the agreement shall not be eligible for the awards provided in Section 2604 of this title.

D. A student shall not be found to be in financial need for purposes of the Oklahoma Higher Learning Access Program if the student's family income from taxable and nontaxable sources exceeds Twenty-four Thousand Dollars (\$24,000.00) per year. The student's financial qualification shall be certified by the contact person at the school or by the Oklahoma State Regents for Higher Education on the agreement form provided by the Oklahoma State Regents for Higher Education; the form shall be retained in the student's permanent record and a copy forwarded to the Oklahoma State Regents for Higher Education.

E. Agreements shall be witnessed by the student's parent, custodial parent, or guardian, who shall further agree to:

1. Assist the student in achieving compliance with the agreements;
2. Confer, when requested to do so, with the school contact person, other school personnel, and program mentors;
3. Provide information requested by the Oklahoma State Regents for Higher Education or the State Board of Education; and
4. Assist the student in completing forms and reports required for program participation, making applications to institutions and schools of higher learning, and filing applications for student grants and scholarships.

F. Tenth-grade students who ~~failed to enter into participation~~ did not participate in the program during their ninth-grade year shall be allowed to enter into participation in the program by entering into agreements as set forth in subsections C and D of this section. ~~Students who are in the tenth grade during the 1993-94 school year and who begin~~

~~participating in the program during the 1993-94 school year shall be eligible for benefits from the Oklahoma Higher Learning Access Trust Fund as though they had begun participating during their ninth-grade year.~~ Beginning with the 1994-95 school year, students who begin participating in the program during their tenth-grade year shall be eligible for benefits from the Oklahoma Higher Learning Access Trust Fund as provided in Section 2601 et seq. of this title only under the condition that the trust fund balance, excluding any amounts set aside for full commitments to Oklahoma Higher Learning Access Program students pursuant to Section 2604 of this title, exceeds the amount necessary to satisfy awards due on behalf of Oklahoma Higher Learning Access Program students who began participation during the ninth-grade year or who have priority as provided in Section 2604 of this title.

G. The Oklahoma State Regents for Higher Education shall promulgate rules for the determination of student compliance with agreements made pursuant to this section.

H. The Oklahoma State Regents for Higher Education shall designate personnel to coordinate tracking of program records for the years when students participating in the program are still in the public schools, provide staff development for contact persons in the public schools, and provide liaison with the State Board of Education and local organizations and individuals participating in the program.

I. The local school district where an Oklahoma Higher Learning Access Program student is attending when the student begins participation in the program and any subsequent school district where the student attends shall forward information regarding the student's participation in the program to a school to which the student transfers upon the school's request for the student's records.

J. Students participating in the Oklahoma Higher Learning Access Program shall provide their social security number or their student identification number used by their local high school to the Oklahoma State Regents for Higher Education. The Regents

shall keep the numbers confidential and use them only for administrative purposes.

SECTION 10. This act shall become effective July 1, 1997.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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