

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1132

By: Paxton

AS INTRODUCED

An Act relating to gross production tax; amending 68 O.S. 2011, Section 1004, as last amended by Section 2, Chapter 355, O.S.L. 2017 (68 O.S. Supp. 2017, Section 1004), which relates to apportionment; modifying apportionment of tax revenue; providing purpose for apportionment; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 1004, as last amended by Section 2, Chapter 355, O.S.L. 2017 (68 O.S. Supp. 2017, Section 1004), is amended to read as follows:

Section 1004. A. As used in this section:

1. "Moving five-year average amount for gas" means, for purposes of the apportionments prescribed by this section, the amount of gross production tax on natural gas collected for each of the five (5) complete fiscal years, as computed by the State Board of Equalization pursuant to Section 34.103 of Title 62 of the Oklahoma Statutes; and

1 2. "Moving five-year average amount for oil" means, for
2 purposes of the apportionments prescribed by this section, the
3 amount of gross production tax on oil collected for each of the five
4 (5) complete fiscal years, as computed by the State Board of
5 Equalization pursuant to Section 34.103 of Title 62 of the Oklahoma
6 Statutes.

7 B. Beginning July 1, 2017, the gross production tax provided
8 for in Section 1001 of this title is hereby levied and shall be
9 collected and apportioned as follows:

10 1. For all monies collected from the tax levied on asphalt or
11 ores bearing uranium, lead, zinc, jack, gold, silver or copper:

12 a. eighty-five and seventy-two one-hundredths percent
13 (85.72%) shall be paid to the State Treasurer of the
14 state to be placed in the General Revenue Fund of the
15 state and used for the general expense of state
16 government, to be paid out pursuant to direct
17 appropriation by the Legislature,

18 b. seven and fourteen one-hundredths percent (7.14%) of
19 the sum collected from natural gas and/or casinghead
20 gas or asphalt or ores bearing uranium, lead, zinc,
21 jack, gold, silver or copper shall be paid to the
22 various county treasurers to be credited to the County
23 Highway Fund as follows: Each county shall receive a
24 proportionate share of the funds available based upon

1 the proportion of the total value of production from
2 such county in the corresponding month of the
3 preceding year, and

4 c. seven and fourteen one-hundredths percent (7.14%)
5 shall be allocated to each county as provided for in
6 subparagraph b of this paragraph and shall be
7 apportioned, on an average daily attendance per capita
8 distribution basis, as certified by the State
9 Superintendent of Public Instruction to the school
10 districts of the county where such pupils attend
11 school regardless of residence of such pupil, provided
12 the school district makes an ad valorem tax levy of
13 fifteen (15) mills for the current year and maintains
14 twelve (12) years of instruction;

15 2. For all monies collected from the tax levied on natural gas
16 and/or casinghead gas at a tax rate of seven percent (7%) pursuant
17 to the provisions of subsection B of Section 1001 of this title:

18 a. after the total revenue apportioned to the General
19 Revenue Fund as prescribed by subparagraph b of this
20 paragraph equals the moving five-year average amount
21 for gas as defined by paragraph 1 of subsection A of
22 this section, there shall be apportioned from the
23 gross production tax levy imposed pursuant to Section
24 1001 of this title on natural gas and/or casinghead

1 gas to the Revenue Stabilization Fund created by
2 Section 34.102 of Title 62 of the Oklahoma Statutes,
3 the amount of revenue, if any, which exceeds the
4 moving five-year average amount for gas as defined
5 pursuant to paragraph 1 of subsection A of this
6 section,

7 b. until the apportionment to the General Revenue Fund
8 equals the moving five-year average amount for gas as
9 prescribed by paragraph 1 of subsection A of this
10 section, eighty-five and seventy-two one-hundredths
11 percent (85.72%) shall be paid to the State Treasurer
12 of the state to be placed in the General Revenue Fund
13 of the state and used for the general expense of state
14 government, to be paid out pursuant to direct
15 appropriation by the Legislature,

16 c. before any other apportionment of revenue has been
17 made pursuant to this paragraph, seven and fourteen
18 one-hundredths percent (7.14%) of the sum collected
19 from natural gas and/or casinghead gas shall be paid
20 to the various county treasurers to be credited to the
21 County Highway Fund as follows: Each county shall
22 receive a proportionate share of the funds available
23 based upon the proportion of the total value of
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1 production from such county in the corresponding month
2 of the preceding year, and

- 3 d. before any other apportionment of revenue has been
4 made pursuant to this paragraph, seven and fourteen
5 one-hundredths percent (7.14%) shall be allocated to
6 each county as provided for in subparagraph c of this
7 paragraph and shall be apportioned, on an average
8 daily attendance per capita distribution basis, as
9 certified by the State Superintendent of Public
10 Instruction to the school districts of the county
11 where such pupils attend school regardless of
12 residence of such pupil, provided the school district
13 makes an ad valorem tax levy of fifteen (15) mills for
14 the current year and maintains twelve (12) years of
15 instruction;

16 3. For all monies collected from the tax levied on natural gas
17 and/or casinghead gas at a tax rate of four percent (4%) pursuant to
18 the provisions of subsections B and E of Section 1001 of this title:

- 19 a. after the total revenue apportioned to the General
20 Revenue Fund as prescribed by subparagraph b of this
21 paragraph equals the moving five-year average amount
22 for gas as defined by paragraph 1 of subsection A of
23 this section, there shall be apportioned from the
24 gross production tax levy imposed pursuant to Section

1 1001 of this title on natural gas and/or casinghead
2 gas to the Revenue Stabilization Fund created pursuant
3 to Section 34.102 of Title 62 of the Oklahoma
4 Statutes, the amount of revenue, if any, which exceeds
5 the moving five-year average amount for gas as defined
6 pursuant to paragraph 1 of subsection A of this
7 section,

8 b. until the apportionment to the General Revenue Fund
9 equals the moving five-year average amount for gas as
10 prescribed by paragraph 1 of subsection A of this
11 section, seventy-five percent (75%) shall be paid to
12 the State Treasurer of the state to be placed in the
13 General Revenue Fund of the state and used for the
14 general expense of state government, to be paid out
15 pursuant to direct appropriation by the Legislature,

16 c. before any other apportionment of revenue has been
17 made pursuant to this paragraph, twelve and one-half
18 percent (12.5%) of the sum collected from natural gas
19 and/or casinghead gas shall be paid to the various
20 county treasurers to be credited to the County Highway
21 Fund as follows: Each county shall receive a
22 proportionate share of the funds available based upon
23 the proportion of the total value of production from
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1 such county in the corresponding month of the
2 preceding year, and

- 3 d. before any other apportionment of revenue has been
4 made pursuant to this paragraph, twelve and one-half
5 percent (12.5%) shall be allocated to each county as
6 provided for in subparagraph c of this paragraph and
7 shall be apportioned, on an average daily attendance
8 per capita distribution basis, as certified by the
9 State Superintendent of Public Instruction to the
10 school districts of the county where such pupils
11 attend school regardless of residence of such pupil,
12 provided the school district makes an ad valorem tax
13 levy of fifteen (15) mills for the current year and
14 maintains twelve (12) years of instruction;

15 4. For all monies collected from the tax levied on natural gas
16 and/or casinghead gas at a tax rate of one percent (1%) pursuant to
17 the provisions of subsection B of Section 1001 of this title:

- 18 a. fifty percent (50%) of the sum collected from natural
19 gas and/or casinghead gas shall be paid to the various
20 county treasurers to be credited to the County Highway
21 Fund as follows: Each county shall receive a
22 proportionate share of the funds available based upon
23 the proportion of the total value of production from
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1 such county in the corresponding month of the
2 preceding year, and

- 3 b. fifty percent (50%) shall be allocated to each county
4 as provided for in subparagraph a of this paragraph
5 and shall be apportioned, on an average daily
6 attendance per capita distribution basis, as certified
7 by the State Superintendent of Public Instruction to
8 the school districts of the county where such pupils
9 attend school regardless of residence of such pupil,
10 provided the school district makes an ad valorem tax
11 levy of fifteen (15) mills for the current year and
12 maintains twelve (12) years of instruction;

13 5. For all monies collected from the tax levied on natural gas
14 and/or casinghead gas at a tax rate of two percent (2%) pursuant to
15 the provisions of subparagraph c of paragraph 3 of subsection B of
16 Section 1001 of this title:

- 17 a. after the total revenue apportioned to the General
18 Revenue Fund as prescribed by subparagraph b of this
19 paragraph equals the moving five-year average amount
20 for gas as defined by paragraph 1 of subsection A of
21 this section, there shall be apportioned from the
22 gross production tax levy imposed pursuant to Section
23 1001 of this title on gas to the Revenue Stabilization
24 Fund created by Section 34.102 of Title 62 of the

Oklahoma Statutes, the amount of revenue, if any,
which exceeds the moving five-year average amount for
natural gas and/or casinghead gas as defined pursuant
to paragraph 1 of subsection A of this section,

b. until the apportionment to the General Revenue Fund
equals the moving five-year average amount for gas as
prescribed by paragraph 1 of subsection A of this
section, ~~fifty percent (50%)~~ forty-five percent (45%)
shall be paid to the State Treasurer to be placed in
the General Revenue Fund of the state and used for the
general expense of state government, to be paid out
pursuant to direct appropriation by the Legislature,

c. before any other apportionment of revenue has been
made pursuant to this paragraph, twenty-five percent
(25%) of the sum collected from natural gas and/or
casinghead gas shall be paid to the various county
treasurers to be credited to the County Highway Fund
as follows: Each county shall receive a proportionate
share of the funds available based upon the proportion
of the total value of production from such county in
the corresponding month of the preceding year, ~~and~~

d. before any other apportionment of revenue has been
made pursuant to this paragraph, twenty-five percent
(25%) shall be allocated to each county as provided

for in subparagraph c of this paragraph and shall be apportioned on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction, and

e. before any other apportionment of revenue has been made pursuant to this paragraph, five percent (5%) shall be allocated to the various cities or incorporated towns as a proportionate share of the funds available based upon the proportion of the total value of production from such city or town in the corresponding month of the preceding year; provided, if production does not occur in an incorporated city or town, the allocation shall be to the applicable county. Such revenue shall be for general use or as the governing body deems necessary for expenditures related to oil and gas production;

6. For all monies collected from the tax levied on oil at a tax rate of seven percent (7%) pursuant to the provisions of subsection B of Section 1001 of this title:

- 1 a. there shall be apportioned from the gross production
2 tax levy imposed pursuant to Section 1001 of this
3 title on oil to the Revenue Stabilization Fund created
4 by Section 34.102 of Title 62 of the Oklahoma
5 Statutes, after the applicable maximum amount
6 prescribed by subsection C of this section has been
7 deposited to the funds therein specified, the amount
8 of revenue, if any, which would otherwise be
9 apportioned to the General Revenue Fund and which
10 exceeds the moving five-year average amount for oil as
11 defined pursuant to paragraph 2 of subsection A of
12 this section,
- 13 b. before any other apportionment of revenue has been
14 made pursuant to this paragraph, twenty-five and
15 seventy-two one-hundredths percent (25.72%) shall be
16 paid to the State Treasurer to be placed in the Common
17 Education Technology Revolving Fund created in Section
18 34.90 of Title 62 of the Oklahoma Statutes,
- 19 c. before any other apportionment of revenue has been
20 made pursuant to this paragraph, twenty-five and
21 seventy-two one-hundredths percent (25.72%) shall be
22 paid to the State Treasurer to be placed in the Higher
23 Education Capital Revolving Fund created in Section
24 34.91 of Title 62 of the Oklahoma Statutes,

- d. before any other apportionment of revenue has been made pursuant to this paragraph, twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Oklahoma Student Aid Revolving Fund created in Section 34.92 of Title 62 of the Oklahoma Statutes,
- e. before any other apportionment of revenue has been made pursuant to this paragraph, three and seven hundred forty-five one-thousandths percent (3.745%) shall be distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of each county based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs,

f. before any other apportionment of revenue has been made pursuant to this paragraph, four and twenty-eight one-hundredths percent (4.28%) shall be paid to the State Treasurer to be apportioned to:

(1) the following sources and in the following amounts through the fiscal year ending June 30, 2019:

(a) thirty-three and one-third percent (33 1/3%) to the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund created pursuant to Section 2254.1 of Title 74 of the Oklahoma Statutes,

(b) thirty-three and one-third percent (33 1/3%) to the Oklahoma Conservation Commission Infrastructure Revolving Fund created pursuant to Section 3-2-110 of Title 27A of the Oklahoma Statutes, and

(c) thirty-three and one-third percent (33 1/3%) to the Community Water Infrastructure Development Revolving Fund created pursuant to Section 1085.7A of Title 82 of the Oklahoma Statutes, and

(2) the Oklahoma Water Resources Board Rural Economic Action Plan Water Projects Fund for the fiscal

1 year beginning July 1, 2019, and for each fiscal
2 year thereafter,

3 g. before any other apportionment of revenue has been
4 made pursuant to this paragraph, seven and fourteen
5 one-hundredths percent (7.14%) of the sum collected
6 from oil shall be paid to the various county
7 treasurers, to be credited to the County Highway Fund
8 as follows: Each county shall receive a proportionate
9 share of the funds available based upon the proportion
10 of the total value of production from such county in
11 the corresponding month of the preceding year,

12 h. before any other apportionment of revenue has been
13 made pursuant to this paragraph, seven and fourteen
14 one-hundredths percent (7.14%) shall be allocated to
15 each county as provided in subparagraph g of this
16 paragraph and shall be apportioned, on an average
17 daily attendance per capita distribution basis, as
18 certified by the State Superintendent of Public
19 Instruction, to the school districts of the county
20 where such pupils attend school regardless of
21 residence of such pupil, provided the school district
22 makes an ad valorem tax levy of fifteen (15) mills for
23 the current year and maintains twelve (12) years of
24 instruction, and

1 i. before any other apportionment of revenue has been
2 made pursuant to this paragraph, five hundred thirty-
3 five one-thousandths percent (0.535%) of the levy
4 shall be transmitted by the Oklahoma Tax Commission to
5 the Statewide Circuit Engineering District Revolving
6 Fund as created in Section 687.2 of Title 69 of the
7 Oklahoma Statutes;

8 7. For all monies collected from the tax levied on oil at a tax
9 rate of four percent (4%) pursuant to the provisions of subsections
10 B and E of Section 1001 of this title:

11 a. there shall be apportioned from the gross production
12 tax levy imposed pursuant to Section 1001 of this
13 title on oil to the Revenue Stabilization Fund created
14 by Section 34.102 of Title 62 of the Oklahoma
15 Statutes, after the applicable maximum amount
16 prescribed by subsection C of this section has been
17 deposited to the funds therein specified, the amount
18 of revenue, if any, which would otherwise be
19 apportioned to the General Revenue Fund and which
20 exceeds the moving five-year average amount for oil as
21 defined pursuant to paragraph 2 of subsection A of
22 this section,

23 b. before any other apportionment of revenue has been
24 made pursuant to this paragraph, twenty-two and one-

1 half percent (22.5%) shall be paid to the State
2 Treasurer to be placed in the Common Education
3 Technology Revolving Fund created in Section 34.90 of
4 Title 62 of the Oklahoma Statutes,

5 c. before any other apportionment of revenue has been
6 made pursuant to this paragraph, twenty-two and one-
7 half percent (22.5%) shall be paid to the State
8 Treasurer to be placed in the Higher Education Capital
9 Revolving Fund created in Section 34.91 of Title 62 of
10 the Oklahoma Statutes,

11 d. before any other apportionment of revenue has been
12 made pursuant to this paragraph, twenty-two and one-
13 half percent (22.5%) shall be paid to the State
14 Treasurer to be placed in the Oklahoma Student Aid
15 Revolving Fund created in Section 34.92 of Title 62 of
16 the Oklahoma Statutes,

17 e. before any other apportionment of revenue has been
18 made pursuant to this paragraph, three and twenty-
19 eight one-hundredths percent (3.28%) shall be
20 distributed to the various counties of the state for
21 deposit into the County Bridge and Road Improvement
22 Fund of each county based on a formula developed by
23 the Department of Transportation and approved by the
24 Department of Transportation County Advisory Board

1 created pursuant to Section 302.1 of Title 69 of the
2 Oklahoma Statutes to be used for the purposes set
3 forth in the County Bridge and Road Improvement Act.
4 The formula shall be similar to the formula currently
5 used for the distribution of monies in the County
6 Bridge Program funds, but shall also take into
7 consideration the effect of the terrain and traffic
8 volume as related to county road improvement and
9 maintenance costs,

10 f. before any other apportionment of revenue has been
11 made pursuant to this paragraph, three and seventy-
12 five one-hundredths percent (3.75%) shall be paid to
13 the State Treasurer to be apportioned to:

14 (1) the following sources and in the following
15 amounts through the fiscal year ending June 30,
16 2019:

17 (a) thirty-three and one-third percent (33 1/3%)
18 to the Oklahoma Tourism and Recreation
19 Department Capital Expenditure Revolving
20 Fund created pursuant to Section 2254.1 of
21 Title 74 of the Oklahoma Statutes,

22 (b) thirty-three and one-third percent (33 1/3%)
23 to the Oklahoma Conservation Commission
24 Infrastructure Revolving Fund created

1 pursuant to Section 3-2-110 of Title 27A of
2 the Oklahoma Statutes, and

3 (c) thirty-three and one-third percent (33 1/3%)
4 to the Community Water Infrastructure
5 Development Revolving Fund created pursuant
6 to Section 1085.7A of Title 82 of the
7 Oklahoma Statutes, and

8 (2) the Oklahoma Water Resources Board Rural Economic
9 Action Plan Water Projects Fund for the fiscal
10 year beginning July 1, 2019, and for each fiscal
11 year thereafter,

12 g. before any other apportionment of revenue has been
13 made pursuant to this paragraph, twelve and one-half
14 percent (12.5%) of the sum collected from oil shall be
15 paid to the various county treasurers, to be credited
16 to the County Highway Fund as follows: Each county
17 shall receive a proportionate share of the funds
18 available based upon the proportion of the total value
19 of production from such county in the corresponding
20 month of the preceding year,

21 h. before any other apportionment of revenue has been
22 made pursuant to this paragraph, twelve and one-half
23 percent (12.5%) shall be allocated to each county as
24 provided in subparagraph g of this paragraph and shall

1 be apportioned on an average daily attendance per
2 capita distribution basis, as certified by the State
3 Superintendent of Public Instruction, to the school
4 districts of the county where such pupils attend
5 school regardless of residence of such pupil, provided
6 the school district makes an ad valorem tax levy of
7 fifteen (15) mills for the current year and maintains
8 twelve (12) years of instruction, and

- 9 i. before any other apportionment of revenue has been
10 made pursuant to this paragraph, forty-seven one-
11 hundredths percent (0.47%) of the levy shall be
12 transmitted by the Tax Commission to the Statewide
13 Circuit Engineering District Revolving Fund as created
14 in Section 687.2 of Title 69 of the Oklahoma Statutes;

15 8. For all monies collected from the tax levied on oil at a tax
16 rate of one percent (1%) pursuant to the provisions of subsection B
17 of Section 1001 of this title:

- 18 a. fifty percent (50%) of the sum collected shall be paid
19 to the various county treasurers, to be credited to
20 the County Highway Fund as follows: Each county shall
21 receive a proportionate share of the funds available
22 based upon the proportion of the total value of
23 production from such county in the corresponding month
24 of the preceding year, and

1 b. fifty percent (50%) shall be allocated to each county
2 as provided for in subparagraph a of this paragraph
3 and shall be apportioned on an average daily
4 attendance per capita distribution basis, as certified
5 by the State Superintendent of Public Instruction, to
6 the school districts of the county where such pupils
7 attend school regardless of residence of such pupil,
8 provided the school district makes an ad valorem tax
9 levy of fifteen (15) mills for the current year and
10 maintains twelve (12) years of instruction;

11 9. For all monies collected from the tax levied on oil at a tax
12 rate of two percent (2%) pursuant to the provisions of subparagraph
13 c of paragraph 3 of subsection B of Section 1001 of this title:

14 a. there shall be apportioned from the gross production
15 tax levy imposed pursuant to Section 1001 of this
16 title on oil to the Revenue Stabilization Fund created
17 by Section 34.102 of Title 62 of the Oklahoma
18 Statutes, the amount of revenue, if any, which exceeds
19 the moving five-year average amount for oil as defined
20 pursuant to paragraph 2 of subsection A of this
21 section,

22 b. until the apportionment to the General Revenue Fund
23 equals the moving five-year average amount for oil as
24 prescribed by paragraph 2 of subsection A of this

1 section, ~~fifty percent (50%)~~ forty-five percent (45%)
2 shall be paid to the State Treasurer to be placed in
3 the General Revenue Fund of the state and used for the
4 general expense of state government, to be paid out
5 pursuant to direct appropriation by the Legislature,

6 c. before any other apportionment of revenue has been
7 made pursuant to this paragraph, twenty-five percent
8 (25%) of the sum collected from oil shall be paid to
9 the various county treasurers, to be credited to the
10 County Highway Fund as follows: Each county shall
11 receive a proportionate share of the funds available
12 based upon the proportion of the total value of
13 production from such county in the corresponding month
14 of the preceding year, ~~and~~

15 d. before any other apportionment of revenue has been
16 made pursuant to this paragraph, twenty-five percent
17 (25%) shall be allocated to each county as provided in
18 subparagraph c of this paragraph and shall be
19 apportioned on an average daily attendance per capita
20 distribution basis, as certified by the State
21 Superintendent of Public Instruction, to the school
22 districts of the county where such pupils attend
23 school regardless of residence of such pupil, provided
24 the school district makes an ad valorem tax levy of

1 fifteen (15) mills for the current year and maintains
2 twelve (12) years of instruction, and
3 e. before any other apportionment of revenue has been
4 made pursuant to this paragraph, five percent (5%)
5 shall be allocated to the various cities or
6 incorporated towns as a proportionate share of the
7 funds available based upon the proportion of the total
8 value of production from such city or town in the
9 corresponding month of the preceding year; provided,
10 if production does not occur in an incorporated city
11 or town, the allocation shall be to the applicable
12 county. Such revenue shall be for general use or as
13 the governing body deems necessary for expenditures
14 related to oil and gas production.

15 C. Provided, notwithstanding any other provision of this
16 section, the total amounts deposited to the Common Education
17 Technology Revolving Fund, the Higher Education Capital Revolving
18 Fund, the Oklahoma Student Aid Revolving Fund, the Rural Economic
19 Action Plan Water Projects Fund, the Oklahoma Tourism and Recreation
20 Department Capital Expenditure Revolving Fund, the Oklahoma
21 Conservation Commission Infrastructure Revolving Fund and the
22 Community Water Infrastructure Development Revolving Fund pursuant
23 to paragraphs 6 and 7 of subsection B of this section shall not
24 exceed One Hundred Fifty Million Dollars (\$150,000,000.00) in any

1 fiscal year. Except as otherwise provided in this subsection, all
2 sums in excess of One Hundred Fifty Million Dollars
3 (\$150,000,000.00) in any fiscal year which would otherwise be
4 deposited in such funds shall be apportioned by the Oklahoma Tax
5 Commission to the General Revenue Fund of the state.

6 SECTION 2. This act shall become effective July 1, 2018.

7 SECTION 3. It being immediately necessary for the preservation
8 of the public peace, health or safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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