

**GOV Recommend; HAC Recommend; SAC Recommend; Conference Committee**

An act relating to fiscal year 2019 budget adjustments

**Sec. 1.** 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. D.101 is amended to read:

\* \* \*

(a) Notwithstanding any other provision of law, the following amounts are transferred from the funds indicated:

(1) From the General Fund to the Next Generation Initiative Fund established by 16 V.S.A. § 2887: ~~\$3,055,900~~ \$3,453,807.

\* \* \*

(b) Notwithstanding any provision of law to the contrary, in fiscal year 2019:

\* \* \*

(2) The following estimated amounts, which may be all or a portion of unencumbered fund balances, shall be transferred from the following funds to the General Fund in fiscal year 2019. The Commissioner of Finance and Management shall report to the Joint Fiscal Committee at its July meeting the final amounts transferred from each fund and certify that such transfers will not impair the agency, office or department reliant upon each fund from meeting its statutory requirements.

21638	AG-Fees & Reimbursements-Court Order	2,000,000.00
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21928	Secretary of State Services Fund	2,607,923.00
62100	<del>Unclaimed Property Fund</del>	3,415,143.00
<u>62100</u>	<u>Unclaimed Property Fund</u>	<u>2,978,680.00</u>

(3) In fiscal year 2019 notwithstanding 2016 Acts and Resolves No. 172, Sec. E.228, ~~\$30,014,057~~ \$30,657,910 of the unencumbered balances in the Insurance Regulatory and Supervision Fund (Fund Number 21075), the Captive Insurance Regulatory and Supervision Fund (Fund Number 21085), and the Securities Regulatory and Supervision Fund (Fund Number 21080) shall be transferred to the General Fund.

\* \* \*

(c) Notwithstanding any provisions of law to the contrary, in fiscal year 2019:

(1) The following amounts shall revert to the General Fund from the accounts indicated:

1130010000	<del>Department of Libraries</del>	234,209.00
1130030000	<u>Department of Libraries</u>	<u>490,361.98</u>
1120020000	<u>Tuition Assistance Program</u>	<u>9,953.72</u>
1120030000	<u>Dependent Care Program</u>	<u>376.83</u>
1150891701	<u>SESCF Reuse</u>	<u>200,000.00</u>
1210001000	Legislative Council	113,000.00
1210002000	Legislature	175,000.00
1220000000	Joint Fiscal Office	30,000.00
<u>1240001000</u>	<u>Lieutenant Governor</u>	<u>1,063.83</u>

<u>1250010000</u>	<u>Auditor of Accounts</u>	<u>2,576.48</u>
<u>1260010000</u>	<u>Treasurer</u>	<u>35,000.00</u>
<u>2130100000</u>	<u>State's Attorneys</u>	<u>194,650.59</u>
<u>2130200000</u>	<u>Sheriffs</u>	<u>74,871.99</u>
<u>2200040000</u>	<u>Plant Industry, Labs &amp; CA Div.</u>	<u>70,000.00</u>
<u>3330010000</u>	<u>Green Mountain Care Board</u>	<u>167,740.73</u>
<u>5100010000</u>	<u>Agency of Education – Administration</u>	<u>32,191.80</u>

(2) The following amounts shall revert to the Education Fund from the accounts indicated:

<u>1140330000</u>	<u>Renter Rebates</u>	<u>1,382,973.79</u>
<u>5100210000</u>	<u>Flexible Pathways</u>	<u>637,262.50</u>
<u>5100090000</u>	<u>Education Grants</u>	<u>8,443,806.00</u>
<u>5100100000</u>	<u>Transportation</u>	<u>97,030.00</u>
<u>5100110000</u>	<u>Small Schools</u>	<u>109,928.00</u>
<u>5100120000</u>	<u>Capital Debt Service</u>	<u>25,000.00</u>
<u>5100190000</u>	<u>Essential Early Education</u>	<u>89,450.88</u>
<u>5100200000</u>	<u>Technical Education</u>	<u>160,914.23</u>

\* \* \*

**EXPLANATION:** FY 2019 updated estimated direct applications, transfers and reversions to/(from) the General Fund and the Education Fund.

**Sec. 2.** 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. B.1100 is amended to read:

(a) In fiscal year 2019, ~~\$3,055,900~~ \$3,453,807 is appropriated or transferred from the Next Generation Initiative Fund created in 16 V.S.A. § 2887 as prescribed:

\* \* \*

(3) Scholarships and grants. The amount of ~~\$1,420,500~~ \$1,818,407 as follows:

\* \* \*

(C) Dual enrollment programs and need-based stipend. The amount of ~~\$740,000~~ \$1,137,907 is appropriated to the Agency of Education for dual enrollment and \$36,000 is appropriated to the Agency of Education to be transferred to the Vermont Student Assistance Corporation for need based stipends pursuant to Sec. E.605.1 of this act.

**EXPLANATION:** Necessary adjustment to Next Gen. transfers to comport with the additional funding necessary for fiscal year 2019 Dual Enrollment programs.

**Sec. 3.** GENERAL FUND TRANSFER TO THE 27/53 RESERVE

(a) Transfer: The amount of \$1,880,000 in General Funds shall be transferred and reserved in the 27/53 reserve in fiscal year 2019. This action is the fiscal year 2020 contribution to the 27th payroll reserve as required by 32 V.S.A. § 308e.

**EXPLANATION:** Fiscal year 2019 General Fund contribution to the 27/53 reserve to satisfy the fiscal year 2020 reserve requirement to the 27<sup>th</sup> payroll.

**Sec. XX.** 2017 Acts and Resolves No. 85, Sec. C.100(e) is amended to read:

(e) In fiscal year 2017, the sum of \$1,250,000 in general funds is appropriated to the Department of Public Safety to purchase police cruiser and body cameras, including equipment, maintenance, and warranty costs. The first priority for the use of these funds shall be for the State match in fiscal years 2018 and 2019 for federal NHTSA/GHSP funds for cruiser cameras pending a waiver to meet “buy American” federal requirements. Second priority is for cruiser cameras if a waiver is denied. ~~Body cameras~~ The replacement of firearms, patrol rifles, portable radio equipment, and less-lethal weapons may be purchased with any remaining funds.

**EXPLANATION:** Cruiser camera purchases were completed leaving an appropriation balance of \$561,782. However, body camera data storage costs were determined to be prohibitive. Therefore, the Department of Public Safety requests to use the remaining appropriation’s balance for the purchase of other needed law enforcement safety equipment including the implementation of less lethal weapon options based on an independent review commissioned by the Vermont State Police.

**Sec. 4.** INSTITUTIONS FOR MENTAL DISEASE; GLOBAL

COMMITMENT WAIVER AMENDMENT

(a) The Secretary of Human Services may seek approval from the Centers for Medicare and Medicaid Services to amend Vermont’s Global Commitment to Health Section 1115 waiver to cover treatment for serious mental illness (SMI) provided in Institutions for Mental Disease (IMDs).

**EXPLANATION:** CMS now allows states to seek waivers from the IMD Exclusion rule. This language will allow AHS to consider seeking such a waiver.

**Sec. 5.** 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. E.301(b) is amended to read:

(b) In addition to the State funds appropriated in this section, a total estimated sum of ~~\$26,413,016~~ \$26,394,678 is anticipated to be certified as State matching funds under the Global Commitment as follows:

\* \* \*

(2) ~~\$3,076,966~~ \$3,058,628 certified State match available from local designated mental health and developmental services agencies for eligible mental health services provided under Global Commitment.

**EXPLANATION:** Amounts updated to reflect better estimates.

**Sec. 6.** CONTINGENCY FUNDING FOR THE ACO CLAIMS TAIL

(a) In the event that costs are incurred during fiscal year 2019 specifically attributable to the Medicaid claims tail for beneficiaries within the Accountable Care Organization, and that exceed available statewide Global Commitment appropriations, commensurate funds may be used from the AHS Non-budgeted Revenue account.

**Sec. 7a.** TRANSITION OF STATE HEALTH CARE RESOURCES FUND REVENUES TO THE GENERAL FUND

(a) The Department of Finance and Management shall report the total statewide revenues received from each of the following revenue sources both historically and prospectively and compare those amounts to the total amount

of State fund sources appropriated in Sec. B.301, as amended by the Budget Adjustment Act for fiscal year 2019:

(1) all revenue from cigarette and tobacco products taxes levied pursuant to 32 V.S.A. chapter 205;

(2) all revenue from health care provider assessments pursuant to 33 V.S.A. chapter 19, subchapter 2;

(3) all revenue from the employer health care premium contribution pursuant to 21 V.S.A. chapter 25; and

(4) all revenue from health care claims assessments pursuant to 32 V.S.A. § 10402.

(b) The State agency or department to which the revenue is remitted shall maintain the same level of accounting detail for each of the revenue sources listed in subdivisions (a)(1)–(4) of this section as was maintained prior to July 1, 2019.

**Sec. 7b.** 33 V.S.A. § 1901d. is amended to read:

(a) The State Health Care Resources Fund is established in the State Treasury as a special fund to be a source of financing for health care coverage for beneficiaries of the State health care assistance programs under the Global Commitment to Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act ~~and a source of financing for the Vermont Health Benefit Exchange established in chapter 18, subchapter 1 of this title.~~

(b) Into the Fund shall be deposited:

~~(1) all revenue from the tobacco products tax and from the cigarette tax levied pursuant to 32 V.S.A. chapter 205;~~

~~(2) revenue from health care provider assessments pursuant to subchapter 2 of chapter 19 of this title;~~

~~(3) revenue from the employer health care premium contribution pursuant to 21 V.S.A. chapter 25;~~

~~(4) revenue from health care claims assessments pursuant to 32 V.S.A. § 10402;~~

~~(5) premium amounts paid by individuals unless paid directly to the insurer; and~~

~~(6) (2) payments, grants, donations, contributions, taxes, recoveries, and any other sources of revenue as may be provided by statute, rule, agreement, or act of the General Assembly; and~~

~~(7) any remaining balance in the terminated Catamount Fund as of June 30, 2012.~~

(c) The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the Fund and any remaining balance shall be retained in the Fund. The Agency shall maintain records indicating the amount of money in the Fund at any time.

(d) All monies received by or generated to the Fund shall be used only as allowed by appropriation of the General Assembly for the administration and delivery of health care covered through State health care assistance programs administered by the Agency under the Global Commitment for Health



Medicaid Section 1115 waiver, ~~the Vermont Health Benefit Exchange established in chapter 18, subchapter 1 of this title,~~ immunizations under 18 V.S.A. § 1130, and the development and implementation of the Blueprint for Health under 18 V.S.A. § 702.

**Sec. 7c.** 2 V.S.A. § 693(b) is amended to read:

\* \* \*

(2) If applicable, the Secretary shall submit an electronic report to the Joint Fiscal Office for distribution to members of the Committee that summarizes any plans or actions taken by the Executive Branch to delay health care reform project schedules as a result of:

\* \* \*

(B) ~~changes in the consensus revenue forecast of the Health Care Resources Fund;~~ [Repealed.]

\* \* \*

**Sec. 7d.** 8 V.S.A. § 4518 is amended to read:

§ 4518. TAX EXEMPTION

A hospital service corporation shall be exempt from all forms of taxation except the health care claims tax assessed pursuant to 32 V.S.A. § 10402.

**Sec. 7e.** 8 V.S.A. § 4590 is amended to read:

§ 4590. TAX EXEMPTION

A medical service corporation shall be exempt from all forms of taxation except the health care claims tax assessed pursuant to 32 V.S.A. § 10402.

**Sec. 7d.** 32 V.S.A. § 305a is amended to read:

§ 305a. OFFICIAL STATE REVENUE ESTIMATE

\* \* \*

(c)(1)(A) The January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years for each Medicaid enrollment group as defined by the Agency and the Joint Fiscal Office for State Health Care Assistance Programs or premium assistance programs supported by the ~~State Health Care Resources~~ and Global Commitment Funds, Fund and for the programs under any Medicaid Section 1115 waiver.

\* \* \*

**Sec. 7e.** 32 V.S.A. § 7823 is amended to read:

The revenue generated by the taxes imposed under this chapter shall be credited to the ~~State Health Care Resources Fund~~ established by 33 V.S.A. § 1901d General Fund.

**Sec. 7f.** 32 V.S.A. § 9533(e) is amended to read:

(e) Upon the receipt of the full amount of the tax, the Commissioner shall deposit receipts from the transferor tax in the ~~Health Care Resources Fund~~ established pursuant to 33 V.S.A. § 1901d General Fund.

**Sec. 7g.** 32 V.S.A. § 10402 is amended to read:

§ 10402. HEALTH CARE CLAIMS TAX (based on language in effect until July 1, 2019)

\* \* \*

(b) Revenues paid and collected under this chapter shall be deposited as follows:

(1) 0.199 of one percent of all health insurance claims into the Health IT-Fund established in section 10301 of this title; and

(2) 0.8 of one percent of all health insurance claims into the ~~State Health Care Resources Fund~~ established in ~~33 V.S.A. § 1901d~~ General Fund.

(c) The annual cost to obtain Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES) data, pursuant to 18 V.S.A. § 9410, for use by the Department of Taxes shall be paid from the Vermont Health IT-Fund and the ~~State Health Care Resources~~ General Fund in the same proportion as revenues are deposited into those Funds.

\* \* \*

**Sec. 7h.** 32 V.S.A. § 10402 is amended to read:

§ 10402. HEALTH CARE CLAIMS TAX (based on language on and after July 1, 2019)

\* \* \*

(b) Revenues paid and collected under this chapter shall be deposited into the ~~State Health Care Resources Fund established in 33 V.S.A. § 1901d~~ General Fund.

(c) The annual cost to obtain Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES) data, pursuant to 18 V.S.A. § 9410, for use by the Department of Taxes shall be paid from the Vermont Health IT-Fund and the ~~State Health Care Resources~~ General Fund.

**Sec. 7i.** 32 V.S.A. § 10503 is amended to read:

§ 10503. HEALTH CARE FUND CONTRIBUTION ASSESSMENT

\* \* \*

(b) The amount of the contribution shall be \$158.77 for each full-time equivalent employee in excess of four. Starting in calendar year 2018, the amount of the contribution shall be adjusted by a percentage equal to any percentage change in premiums for the second lowest-cost silver-level plan in or outside the Vermont Health Benefit Exchange.

\* \* \*

(d) Revenues from the Health Care Fund contributions collected shall be deposited into the ~~State Health Care Resources Fund established under 33 V.S.A. § 1901d~~ General Fund.

\* \* \*

**Sec. 7j.** 33 V.S.A. § 1951 is amended to read:

§ 1951. DEFINITIONS

As used in this subchapter:

\* \* \*

(4) ~~“Fund” means the State Health Care Resources Fund consisting in part of assessments from health care providers under this subchapter.~~

[Repealed.]

\* \* \*

**Sec. 7k.** 33 V.S.A. § 1956 is amended to read:

§ 1956. PROCEEDS FROM ASSESSMENTS

All assessments, including late-payment assessments, from health care providers under this subchapter shall be deposited in the ~~State Health Care Resources Fund established in section 1901d of this title~~ General Fund. No provision of this subchapter shall permit the State to reduce the level of State funds expended on the nursing home Medicaid program in any fiscal year below the level expended in fiscal year 1991 from the General Fund for the nursing home Medicaid program.

**EXPLANATION:** Sections 7a through 7k are required in order to transition the State Health Care Resources Fund to the General Fund as permitted in the 2018 Acts and Resolves No. 11 (Special Session), Section D.108.

**Sec. 8.** CARRY FORWARD AUTHORITY

(a) Notwithstanding any other provisions of law and subject to the approval of the Secretary of Administration, General, Transportation, Transportation Infrastructure Bond, Education Fund, Clean Water Fund (Fund 21932), and

Agricultural Water Quality Fund (Fund 21933) appropriations remaining unexpended on June 30, 2019 in the Executive Branch of State government shall be carried forward and shall be designated for expenditure.

(b) Notwithstanding any other provisions of law, General Fund appropriations remaining unexpended on June 30, 2019 in the Legislative and Judicial branches of State government shall be carried forward and shall be designated for expenditure.

**EXPLANATION:** Standard language (see last year: 2018 Act 87, Sec. 42).

**Sec. 9. SUPPLEMENTAL MAINTENANCE SPENDING**

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority approved in the fiscal year 2019 Transportation Program, the Secretary of Transportation, with the approval of the Secretary of Administration and subject to the provisions of subsection (b) of this section, may transfer up to \$2,500,000.00 in Transportation Fund appropriations, other than appropriations for the Town Highway State Aid, Structures, and Class 2 roadway programs, to the Transportation – Maintenance State System (8100002000) appropriation, for the specific purpose of addressing the overall cost of highway maintenance during fiscal year 2019.

(b)(1) If a contemplated transfer of an appropriation would not significantly delay the planned work schedule of a project, the Secretary may execute the transfer and shall give prompt notice thereof to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General

Assembly is in session and, when the General Assembly is not in session, to the Joint Fiscal Office and the Joint Transportation Oversight Committee.

(2) If a contemplated transfer of an appropriation would, by itself, significantly delay the planned work schedule of a project, the Secretary:

(A) when the General Assembly is in session, may execute the transfer, but shall give the House and Senate Committees on Transportation advance notice of at least 10 business days prior to executing the transfer; or

(B) when the General Assembly is not in session, may execute the transfer, but shall give prompt notice of the transfer to the Joint Fiscal Office and the Joint Transportation Oversight Committee.

(c) This section shall be repealed on July 1, 2019.

**EXPLANATION:** Provides authority to transfer Transportation Funds from other Agency of Transportation appropriations to the Maintenance appropriation to provide higher service levels.

**Sec. 10.** 2018 Acts and Resolves No. 201, Sec. 20 is amended to read:

~~To the extent the~~ The sum of \$200,000.00 is appropriated in fiscal year 2019 from the ~~General~~ Tobacco Litigation Settlement Fund to the Department for Children and Families, pursuant to 2018 (Sp. Sess.) Act and Resolves No. 11, Sec .C.105.1(a)(10). Accordingly, the Department shall prepare for the expansion of services to juvenile offenders 18 and 19 years of age pursuant to 33 V.S.A. chapters 52 and 52A beginning in fiscal year 2021, and shall carry forward any unexpended funds.

**EXPLANATION:** Accomplishes the technical adjustment to Act 201 required by the July 16, 2018 Statement of Legislative Intent regarding the

appropriation of Tobacco Litigation Settlement funds for this purpose via Act 11.

**Sec. 11.** 2018 Acts and Resolves No. 194, Sec. 26a(b) is amended to read:

(b) In fiscal years 2019 and 2020, the Clean Energy Development Fund shall transfer from the Clean Energy Development Fund to the ~~General~~ Education Fund the amount of the tax expenditure resulting from the sales tax exemption under 32 V.S.A. § 9741(52) on advanced wood boilers up to a maximum of \$200,000.00 for both fiscal years combined. ~~The Department of Taxes shall deposit 64 percent of the monies transferred from the Clean Energy Development Fund into the General Fund under 32 V.S.A. § 435 and 36 percent of the monies in the Education Fund under 16 V.S.A. § 4025.~~

**EXPLANATION:** Accomplishes the technical adjustment to Act 194 required by the July 16, 2018 Statement of Legislative Intent due to the changes made to funding sources and uses of the Education Fund via Sections H.8 and H.9 of Act 11.

**Sec. 12.** 16 V.S.A. Sec. 4026(e) is amended to read:

(e) The enactment of this chapter and other provisions of the Equal Educational Opportunity Act of which it is a part have been premised upon estimates of balances of revenues to be raised and expenditures to be made under the act for such purposes as adjusted education payments, categorical State support grants, provisions for property tax income sensitivity, payments in lieu of taxes, current use value appraisals, tax stabilization agreements, the stabilization reserve established by this section and for other purposes. If the stabilization reserve established under this section should in any fiscal year be



less than ~~3.5~~ 5.0 percent of the prior fiscal year's appropriations from the Education Fund, as defined in subsection (b) of this section, the Joint Fiscal Committee shall review the information provided pursuant to 32 V.S.A.

§ 5402b and provide the General Assembly its recommendations for change necessary to restore the stabilization reserve to the statutory level provided in subsection (b) of this section.

**EXPLANATION:** Both the Administration and the Joint Fiscal Office agree that under the Education Fund revenue structure in place effective with Act 11, the appropriate stabilization reserve level should be 5.0%.

**Sec. 13.** HOLD HARMLESS; PREKINDERGARTEN EQUALIZED PUPIL COUNT

(a) The Agency of Education shall adjust the long-term membership of a school district under 16 V.S.A. § 4010, which is used in determining the district's equalized pupil count, for a school district that:

(1) in school year 2017-2018 erroneously paid public dollars to a prekindergarten program that was ineligible under 16 V.S.A. § 829 to receive public funds and as a result overreported its average daily membership prekindergarten count for that year to the Agency of Education; and

(2) corrected for this overreporting by correspondingly decreasing its 2017-2018 school year average daily membership prekindergarten count in a subsequent report to the Agency of Education.

(b) The Agency of Education shall adjust the long-term membership of a school district that qualifies under subsection (a) of this section by increasing

its average daily membership prekindergarten count for the 2017-2018 school year by the amount it overreported for the 2017-2018 school year.

**EXPLANATION:** This proposed language would allow districts who erroneously paid PreK funds to a program that was not prequalified to nevertheless count those students in their average daily membership. It is necessary to hold these districts harmless as they had no reason to know that a PreK partner program was not prequalified and therefore acted in good faith.

**Sec. 14.** 16 V.S.A. § 2857 is amended to read:

§ 2857. VERMONT NATIONAL GUARD TUITION BENEFIT PROGRAM

\* \* \*

(c) Eligibility. To be eligible for the Program, an individual, whether a resident or nonresident, shall satisfy all of the following requirements:

\* \* \*

(6) have ~~exhausted any~~ used available post-September 11, 2001 tuition benefits and other federally funded military tuition assistance; provided, however, that this subdivision shall not apply to:

(A) tuition benefits and other federally funded military tuition assistance for which the individual has not yet earned the full amount of the benefit or tuition;

(B) Montgomery GI Bill benefits;

(C) post-September 11, 2001 educational program housing allowances;

(D) federal educational entitlements;

(E) National Guard scholarship grants;

(F) loans under section 2856 of this title; and

(G) other nontuition benefits; and

\* \* \*

**EXPLANATION:** The VERMONT NATIONAL GUARD TUITION BENEFIT PROGRAM was included in the last budget and was designed as a last dollar program to be used after available federal funds have been used. However, certain federal funding programs are also last dollar programs, so it became unclear how this State program would work with these federal programs. Therefore, the attached language modifies the language adopted in the last budget to permit State funds to be used where the federal benefit is not yet fully vested.

**Sec. 15.** 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. H.12 is amended to read:

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an adjustment amount determined as follows:

\* \* \*

(5) In no event shall the credit provided for in subdivision (3) or (4) of this subsection exceed the amount of the reduced property tax. The adjustments under ~~subdivisions (3) and~~ subdivision (4) of this subsection shall be calculated considering only the tax due on the first \$400,000.00 in equalized housesite value.

\* \* \*

**EXPLANATION:** Sec.H.12 of Act 11 separated the municipal and educational portions of the homeowner rebate program with a focus on the changes being revenue neutral. The requested language change would accomplish revenue neutrality by having the value cap apply only to the Ed. tax credit when determining if the tax credit provided exceeds the reduced tax amount (i.e., separation of municipal and statewide ed tax credit caps).

**Sec. 16** EFFECTIVE DATES

(a) Notwithstanding 1 V.S.A. § 214 or any other act or provision, Secs. 7a–7g (State Health Care Resources Fund), 7i (32 V.S.A. § 10503, 7j (33 V.S.A. § 1951), and 7k (33 V.S.A. § 1956) and Sec. 14. amending 16 V.S.A. § 2857 shall take effect upon passage and apply retroactively to July 1, 2018.

(b) This section and all remaining sections shall take effect upon passage.