



SPONSOR: Sen. Paradee & Rep. K. Williams
Sens. Hocker, Hoffner, Lawson, Pettyjohn, Richardson,
Sokola, Walsh, Wilson; Reps. Baumbach, Longhurst,
Ramone, D. Short

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 270

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO BUDGET AND FISCAL REGULATIONS, ESTABLISHING A BUDGET STABILIZATION FUND, DEFINING DEPOSIT AND WITHDRAWAL STANDARDS FOR THE FUND, AND IMPOSING DEPOSIT AND WITHDRAWAL NORMS THROUGHOUT THE ANNUAL GOVERNOR'S RECOMMENDED BUDGET PROCESS.

1 WHEREAS, a bipartisan commitment to balanced budgets and sound financial planning has fostered Delaware's
2 reputation for fiscal prudence and budgetary restraint which are further bolstered by the State's constitutional limitations on
3 state government expenditures as well as its Budget Reserve Account and statutory limits on State indebtedness; and

4 WHEREAS, this bipartisan commitment has been strengthened and reinforced by the availability of credible,
5 nonpartisan, and expert projections of the State's revenues and expenditures and of important national and state economic
6 trends by the Delaware Economic and Financial Advisory Council ("DEFAC"); and

7 WHEREAS, DEFAC has, since 1977, provided a sound basis on which to make determinations regarding the
8 State's operating and capital budgets; and

9 WHEREAS, the 149th General Assembly enacted and the Governor signed House Joint Resolution No. 8 creating
10 an Advisory Panel to the DEFAC on Potential Fiscal Controls and Budget Smoothing Mechanisms; and

11 WHEREAS, the budget stabilization process, as established in Executive Order No. 21 and implemented by
12 DEFAC and the Director of the Office of Management and Budget and budgets enacted by the General Assembly and
13 signed by the Governor, has enabled Delaware to build substantial and accessible reserves and manage expected budget
14 deficits without the necessity for major tax policy changes or budget cuts over the past 6 budget cycles; and

15 WHEREAS, DEFAC's expertise should be used to advise the Governor and General Assembly on an objective,
16 sustainable growth rate for budgetary appropriations to inform ongoing adjustments to the State's revenue and expenditure
17 portfolios.

18 NOW, THEREFORE:

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

20 Section 1. Amend § 6335, Title 29 of the Delaware Code by making deletions as shown by strike through and
21 insertions as shown by underline as follows:

22 § 6335. Changes in budget plan by Governor; submission of proposed budget and Budget Appropriation Bill to
23 General Assembly.

24 (a) (1) The Governor, upon receipt of the report of the Director of the Office of Management and Budget under §
25 6334 of this title, may make such changes in the report as the Governor may deem necessary or desirable in accordance
26 with the Governor's own best judgment and conclusion and shall submit the budget report as prepared by the Governor
27 based upon the report of the Director of the Office of Management and Budget to each House of the General Assembly, on
28 or before February 1 of each year.

29 (2) At the same time the Governor submits the proposed budget, the Governor shall submit copies of a
30 tentative bill for all proposed appropriations for the budget, clearly itemized and properly classified for the ensuing
31 fiscal year. This bill shall be known as the "Budget Appropriation Bill."

32 (3) The Budget Appropriation Bill shall include the appropriation to the OPEB Fund required under §
33 5544(c)(2) of this title.

34 (4) The Budget Appropriation Bill submitted by the Governor must consider the Benchmark Appropriation
35 and Budget Stabilization Fund requirements, as set forth in § 6533 (i) through (j) of this title, unless the Governor
36 deems any changes necessary or desirable, in accordance with the Governor's own best judgement and conclusion, and
37 detail the proposed plan for financing these requirements and measures, if any, in relation to state revenue or reserve
38 funding under § 6533(i)(2) of this title. The Governor may explain in the budget report any changes from the
39 Benchmark Appropriation and Budget Stabilization Fund requirements.

40 Section 2. Amend § 6533, Title 29 of the Delaware Code by making deletions as shown by strike through and
41 insertions as shown by underline as follows:

42 § 6533. ~~Limitation on appropriations.~~ appropriations; advisory benchmark; budget stabilization fund.

43 (i) A Benchmark Appropriation is established, and is to be calculated for a fiscal year as the sum of the product of
44 the Benchmark Index for the fiscal year and the sum of the previous fiscal year's Budget Act and appropriations for grants-
45 in-aid and the appropriation to the OPEB Fund, required under § 5544(c)(2) of this title, plus an amount not to exceed 1%
46 of the previous fiscal year's Budget Act, but only to the extent that the amount is directed as a supplemental appropriation
47 to the bond and capital improvements act for the fiscal year.

48 (1) The Benchmark Index must be comprised of relevant indicators of growth in the State's economy and
49 initially be comprised of equal weightings of the 3-year average from the current and 2 preceding fiscal years of all of
50 the following:

51 a. Delaware personal income growth.

52 b. Delaware population growth, plus the growth in the implicit price deflator for state and local
53 government purchases.

54 (2) The Benchmark Index must be estimated and reported to the Governor and General Assembly by the
55 Delaware Economic and Financial Advisory Council in December and May of each fiscal year. The report must
56 include a statement of existing reserve funding available, including all of the following:

57 a. The balance in the Budget Reserve Account, established under § 6 of Article VIII of the Delaware
58 Constitution.

59 b. The 2% set-aside, as determined by the 98% appropriation limit under § 6 of Article VIII of the
60 Delaware Constitution.

61 c. The balance that was allocated to the Budget Stabilization Fund that is established under subsection (k)
62 of this section.

63 (3) The Delaware Economic and Financial Advisory Council shall review the impacts of, and recommend
64 changes to, the calculation of the Benchmark Index with a report to the Governor and General Assembly not later than
65 October 31 of the fiscal year of a general election for the Governor of this State.

66 (j) Except as provided under § 6335(a)(4) of this title, aggregate General Fund appropriations in the Budget
67 Appropriation Bill required to be submitted by the Governor under § 6335(a) of this title, and supplemental appropriations
68 for grants-in-aid, may not exceed the product of 1 plus the Benchmark Index and the sum of aggregate General Fund
69 appropriations in the prior year's Budget Act plus supplemental appropriations for grants-in-aid.

70 (k) A Budget Stabilization Fund is established as a reserve account. Deposits to and appropriations and
71 withdrawals from the Budget Stabilization Fund are authorized as follows:

72 (1) Whenever estimated unencumbered funds are projected to be negative during the current fiscal year, the
73 General Assembly, by joint revenue resolution approved from time to time by a majority of the members elected to
74 each House of the General Assembly and signed by the Governor under § 6(b) of Article VIII of the Delaware
75 Constitution or act, may subtract funds from the Budget Stabilization Fund and include the funds in a revision of
76 estimated unencumbered funds.

77 (2) The Director of the Office of Management and Budget shall transfer to the Budget Stabilization Fund the
78 unencumbered balance at the end of each fiscal year in excess of the 2% set-aside, as determined by the most recent
79 joint revenue resolution for the fiscal year under § 6 of Article VIII of the Delaware Constitution and this section.

80 (3) For purposes of the Budget Appropriation Bill required under § 6335(a) of this title, whenever the 98%
81 limit under § 6 of Article VIII of the Delaware Constitution for the subsequent fiscal year is more than the Benchmark

82 Appropriation for the fiscal year, the excess is considered “extraordinary revenues” available for allocation only to the
83 Budget Stabilization Fund, non-recurring expenditures, or reducing long-term liabilities. The distribution of
84 extraordinary revenues and any such changes may be detailed in the report and the Budget Appropriation Bill as
85 required under § 6335(a) of this title.

86 (4) For purposes of the Budget Appropriation Bill required under § 6335(a) of this title, whenever the 98%
87 limit under § 6 of Article VIII of the Delaware Constitution for any given fiscal year is less than the Benchmark
88 Appropriation for the fiscal year, the report and the Budget Appropriation Bill required under § 6335(a) of this title
89 must detail whether and how much funding is proposed to be subtracted from the Budget Stabilization Fund and
90 included in estimated unencumbered funds when determining the joint revenue resolution approved from time to time
91 by a majority of the members elected to each House of the General Assembly and signed by the Governor under § 6(b)
92 of Article VIII of the Delaware Constitution.

93 (l) Notwithstanding subsection (k) of this section, deposits to and appropriations and withdrawals from the Budget
94 Stabilization Fund solely for the report and the Budget Appropriation Bill required under § 6335(a) of this title to be
95 proposed and submitted by the Governor are limited as follows:

96 (1) A deposit is not required when the balance of the Budget Stabilization Fund is at or above 5% of only the
97 estimated State General Fund revenues, as determined under subsection (b) of this section.

98 (2) A deposit may not be made that would increase the balance of the Budget Stabilization Fund to more than
99 7% of only the estimated State General Fund revenues.

100 (3) Appropriations and withdrawals from the Budget Stabilization Fund for any given fiscal year may not
101 exceed 50% of the balance of the Budget Stabilization Fund.

102 Section 3. This Act takes effect on December 1, 2024.

SYNOPSIS

This Act is the statutory recognition of the recommendations set forth in the June 2, 2023, report of the DEFAC Benchmark Evaluation and Review Panel.

This Act builds on the State’s existing appropriation limit methodology by formalizing and maintaining the flexibility inherent in the Budget Stabilization Fund process currently enabled by Executive Order No. 21, approved on June 30, 2018, and the last 6 operating budget acts, including § 65 of the fiscal year 2024 Operating Budget Act.

Acknowledging this process in statute includes defining rules for deposits to and withdrawals from the Budget Stabilization Fund and adding an objective and stable measure of sustainable budget growth through an advisory index comprised of certain State economic indicators.

This Act requires that only the Governor’s recommended Budget Appropriation Bill consider this methodology and detail proposed plans, if any, deemed necessary or desirable in relation to state revenues or reserve funding.

Author: Senator Paradee