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HOUSE OF REPRESENTATIVES  
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 429

AN ACT PROPOSING AN AMENDMENT TO ARTICLE VIII, § 6 OF THE DELAWARE CONSTITUTION  
RELATING TO LIMITING THE ANNUAL GROWTH OF EXPENDITURES IN THE STATE OPERATING BUDGET.

1 WHEREAS, in 2018, Governor John Carney signed Executive Order 21, establishing the Budget Stabilization  
2 Fund, an advisory state budget growth Benchmark Index, and an advisory Benchmark Appropriation;” and

3 WHEREAS, these mechanisms have been part of the state budgetary process since FY 2019; and

4 WHEREAS, while the Budget Stabilization Fund has been observed by state lawmakers, the state Benchmark  
5 Index and state Benchmark Appropriation have often been disregarded due to their advisory nature; and

6 WHEREAS, the General Assembly has an obligation to taxpayers to responsibly manage the growth rate of state  
7 spending, set aside sufficient funds to maintain state operations during an economic downturn, and effectively respond to  
8 unforeseen emergencies; and

9 WHEREAS, the executive order authorizing the Budget Stabilization Fund and the state Benchmark Index will  
10 expire when the Carney administration concludes in January 2025.

11 NOW, THEREFORE:

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all  
13 members elected to each house thereof concurring therein):

14 Section 1. Amend Article VIII, § 6 of the Delaware Constitution by making deletions as shown by strike through  
15 and insertions as shown by underline as follows:

16 § 6. Procedure in withdrawal and payment of public moneys; annual publications of receipts and expenditures;  
17 limitation upon appropriation.

18 Section 6.(a) No money shall be drawn from the treasury but pursuant to an appropriation made by Act of the  
19 General Assembly; provided, however, that the compensation of the members of the General Assembly and all expenses  
20 connected with the session thereof may be paid out of the treasury pursuant to resolution in that behalf; a regular account of  
21 the receipts and expenditures of all public money shall be published annually.

22 (b) No appropriation, supplemental appropriation or budget act shall cause the aggregate State General Fund  
23 appropriations enacted for any given fiscal year to exceed the sum of 98 percent of the estimated State General Fund  
24 revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous  
25 fiscal year (the “98 percent limit”), plus funds available for withdrawal from the Budget Stabilization Fund as determined  
26 in subsection (f) of this section . An act approved pursuant to § 3 of this article shall not be considered an appropriation for  
27 the purpose of this section. Estimated unencumbered funds are calculated by taking the estimated General Fund cash  
28 balance at the end of the fiscal year less estimated revenue anticipation bonds or notes, estimated encumbrances, estimated  
29 continuing appropriations, and the amount of the Budget Reserve Account Budget Stabilization Fund as established in  
30 subsection (d) of this section at the end of said fiscal year. The amount of said revenue estimate, and estimated  
31 unencumbered funds remaining, and funds available for withdrawal from the Budget Stabilization Fund shall be determined  
32 by the most recent joint resolution approved from time to time by a majority of the members elected to each House of the  
33 General Assembly and signed by the Governor.

34 (c) Notwithstanding subsection (b) of this section, any portion of the amount between 98 and 100 percent of the  
35 estimated State General Fund revenue for any fiscal year as estimated in accordance with subsection (b) of this section may  
36 be appropriated in any given fiscal year in the event of ~~emergencies~~ an emergency involving the health, safety or welfare of  
37 the citizens of the State, such appropriations to be approved by three-fifths of the members elected to each House of the  
38 General Assembly.

39 (d) There is hereby established a Budget Reserve Account Budget Stabilization Fund within the General  
40 Fund. The Budget Stabilization Fund shall include the balance of funds existing in the predecessor Budget Reserve  
41 Account as of the effective date of this section. Deposits to and withdrawals from the Budget Stabilization Fund shall  
42 follow the rules established in subsection (f) of this section subject to the limitations set forth in subsection (g) of this  
43 section. Within 45 days after the end of any fiscal year, the excess of any unencumbered funds remaining from the said  
44 fiscal year shall be paid into the Budget Reserve Account, provided, however, that no such payment will be made which  
45 would increase the total of the Budget Reserve Account to more than 5 percent of only the estimated State General Fund  
46 revenues as set by subsection (b) of this section. The excess of any unencumbered funds shall be determined by subtracting  
47 from the actual unencumbered funds at the end of any fiscal year an amount which together with the latest estimated  
48 revenues is necessary to fund the ensuing fiscal year's General Fund budget including the required estimated General Fund  
49 supplemental and automatic appropriations for said ensuing fiscal year less estimated reversions. Notwithstanding  
50 subsections (f)(2), (f)(3), and (g)(2) of this section, the The General Assembly, by a three-fifths vote of the members  
51 elected to each House, may appropriate from the Budget Stabilization Fund Reserve Account such additional sums as may

52 be necessary to fund any unanticipated deficit in any given fiscal year or to provide funds required as a result of any  
53 revenue reduction enacted by the General Assembly or address a severe economic downturn or an emergency involving the  
54 health, safety or welfare of the citizens of the State.

55 (e) There is hereby established a Benchmark Appropriation, to be calculated for any given fiscal year as the sum of  
56 (1) the product of (x) the Benchmark Index for such fiscal year and (y) the sum of the previous fiscal year's budget act and  
57 appropriations for grants in aid, plus (2) an amount not to exceed 1 percent of the previous fiscal year's budget act, but only  
58 to the extent that such amount is directed as a supplemental appropriation to the bond and capital improvements act for such  
59 fiscal year. The Benchmark Index shall be comprised of relevant indicators of growth in the State's economy and may be  
60 periodically revised by statute approved by three-fifths of the members elected to each House of the General Assembly.  
61 Initially, the state Benchmark Index for any given fiscal year shall be comprised of equal weightings of the three-year  
62 average of:

63 (1) Delaware personal income growth and

64 (2) Delaware population growth plus the growth in the implicit price deflator for state and local  
65 government purchases.

66 (f) Deposits to and appropriations and withdrawals from the Budget Stabilization Fund are authorized as follows:

67 (1) Whenever the 98 percent limit for any given fiscal year is more than the Benchmark Appropriation for  
68 such fiscal year, 50 percent of such excess shall be deposited to the Budget Stabilization Fund and up to 50 percent  
69 of such excess may be appropriated for non-recurring expenditures and reductions in long-term liabilities.

70 (2) Whenever the 98 percent limit for any given fiscal year is less than the Benchmark Appropriation for  
71 such fiscal year, up to 50 percent of such difference may be appropriated from the Budget Stabilization Fund.

72 (3) Whenever General Fund expenditures for any given fiscal year are estimated to exceed revenues for  
73 such fiscal year by more than 2 percent of the estimated State General Fund revenue for such fiscal year from all  
74 sources, including estimated unencumbered funds remaining at the end of the previous fiscal year, up to 50 percent  
75 of such difference may be withdrawn from the Budget Stabilization Fund.

76 (g) Notwithstanding subsections (d) and (f) of this section, deposits to and appropriations and withdrawals from  
77 the Budget Stabilization Fund shall be limited as follows:

78 (1) No deposit shall be made that would increase the balance of the Budget Stabilization Fund to more  
79 than 10 percent of only the estimated State General Fund revenues as determined pursuant to subsection (b) of this  
80 section. Any deposit (or portion thereof) required by subsection (f)(1) that would exceed such level may be  
81 appropriated for any purpose.

82                   (2) Appropriations and withdrawals from the Budget Stabilization Fund for any given fiscal year shall be  
83                   limited to the extent that such amounts would either exceed 50 percent of the balance of the Budget Stabilization  
84                   Fund or reduce the balance of the Budget Stabilization Fund to less than 3 percent of only the estimated State  
85                   General Fund revenues as determined pursuant to subsection (b) of this section.

86                   (h) An 11-member Budget Accountability Review Commission (BARC) is hereby established under this section.

87                   (1) The BARC is charged with ensuring the growth of the annual state operating budget does not exceed  
88                   the Benchmark Index and state Benchmark Appropriation set under the provisions of subsection (e) of this section.

89                   (2) The BARC would consist of the following members, as appointed by the governor and approved by a  
90                   majority vote of the State Senate:

91                             a. One member of the Committee of 100

92                             b. One member of the Delaware Business Roundtable

93                             c. One member of the Delaware State Chamber of Commerce

94                             d. Four members of the Delaware General Assembly, one each appointed by the Minority Leader  
95                             or Majority Leader of each of the four legislative caucus.

96                             e. The chair of the Delaware Economic and Financial Advisory Council (DEFAC), who would  
97                             also serve as the chair of the commission.

98                   (3)a. The Joint Finance Committee (JFC) of the Delaware General Assembly is required to present the provisional  
99                   state operating budget for the upcoming fiscal year to the BARC in May and June.

100                   b. The JFC shall present its provisional budget to the BARC within three days of the issuance of the state revenue  
101                   estimates produced by the Delaware Economic and Financial Advisory Council in May and June.

102                   c. The BARC shall review the provisional budgets to ensure they do not exceed the state Benchmark Index and  
103                   state Benchmark Appropriation set under subsection (e) of this section.

104                   d. No state operating budget shall proceed to a vote in the General Assembly without BARC approval.

105                   e. Any approved provisional budget amended after receiving BARC approval would be required to be resubmitted  
106                   to the BARC for further review and approval.

107                   f. Any provisional budget exceeding the state Benchmark Index and state Benchmark Appropriation would be  
108                   returned to the Joint Finance Committee for revision to comply with the benchmarks.

109                   g. The JFC could make the needed revisions and resubmit the budget or appeal to the BARC to exceed the state  
110                   Benchmark Index and state Benchmark Appropriation based on extraordinary circumstances. The BARC could vote to  
111                   exceed the state Benchmark Index and state Benchmark Appropriation with a two-thirds supermajority vote.

112            h. If the JFC failed to observe the state Benchmark Index and state Benchmark Appropriation, the BARC would  
113 collaborate with the Office of the Controller General to revise the provisional budget to comply with the benchmarks.  
114            Section 2. This amendment shall be known as the State Spending Accountability Amendment.

#### SYNOPSIS

This legislation, the State Spending Accountability Amendment, is the first leg of a constitutional amendment that would reform the state budgeting process.

This amendment would continue the Budget Stabilization Fund, established in 2018 under Executive Order 21, issued by Governor John Carney. It also seeks to continue the state Benchmark Index and state Benchmark Appropriation, established by the same executive order, which will expire at the end of the Carney administration in January 2025.

This amendment would further hold the General Assembly accountable for responsibly managing state spending growth by instituting new protocols. It would create the 8-member Budget Accountability Review Commission (BARC) and establish a set of procedures to ensure the state operating budget complied with the state Benchmark Index and state Benchmark Appropriation. These benchmarks could be exceeded when extraordinary circumstances presented themselves.