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Reps. Brady, Briggs King, Collins, Dukes, Gray, Hensley, Kenton, Miro, Mitchell, Outten, Postles, B. Short, Smyk, Spiegelman, Wilson, Yearick; Sens. Pettyjohn, Hansen, Lopez, Hocker, Marshall, Cloutier

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 460

AN ACT PROPOSING AN AMENDMENT TO ARTICLE VIII, § 6 OF THE DELAWARE CONSTITUTION RELATING TO LIMITATIONS ON APPROPRIATIONS.

1 WHEREAS, the 149th Delaware General Assembly enacted and the Governor of Delaware signed House Joint  
2 Resolution 8 creating an Advisory Panel to the Delaware Economic and Financial Advisory Council on Potential Fiscal  
3 Controls and Budget Smoothing Mechanisms (Panel); and

4 WHEREAS, the Panel convened and recommended 1) redefining the State's appropriation method and building on  
5 current fiscal controls, 2) repurposing the Budget Reserve Account into a Budget Stabilization Fund, and 3) reforming the  
6 Personal Income Tax to broaden the tax base; and

7 WHEREAS, it is the intent of the General Assembly in adopting this Constitutional Amendment to redefine the  
8 State's appropriation method, build on current fiscal controls and repurpose the Budget Reserve Account into a Budget  
9 Stabilization Fund; and

10 WHEREAS, it is the intent of the General Assembly in the final adoption of this Constitutional Amendment that it  
11 be accompanied by legislation reforming the Personal Income Tax by broadening the tax base as detailed in the final report  
12 of the Panel.

13 NOW, THEREFORE:

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

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

18 § 6. Procedure in withdrawal and payment of public moneys; annual publications of receipts and expenditures.

19 Section 6.(a) No money shall be drawn from the treasury but pursuant to an appropriation made by Act of the  
20 General Assembly; provided, however, that the compensation of the members of the General Assembly and all expenses

21 connected with the session thereof may be paid out of the treasury pursuant to resolution in that behalf; a regular account of  
22 the receipts and expenditures of all public money shall be published annually.

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

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

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

51 and (g)(2) of this section, the The General Assembly by a three-fifths vote of the members elected to each House, may  
52 appropriate from the Budget Stabilization Fund Reserve Account such additional sums as may be necessary to fund any  
53 unanticipated deficit in any given fiscal year or to provide funds required as a result of any revenue reduction enacted by  
54 the General Assembly address a severe economic downturn or an emergency involving the health, safety or welfare of the  
55 citizens of the State.

56 (e) There is hereby established a Benchmark Appropriation, to be calculated for any given fiscal year as the sum of  
57 (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  
58 appropriations for grants in aid, plus (2) an amount not to exceed 1 percent of the previous fiscal year's budget act, but only  
59 to the extent that such amount is directed as a supplemental appropriation to the bond and capital improvements act for such  
60 fiscal year. The Benchmark Index shall be comprised of relevant indicators of growth in the State's economy and may be  
61 periodically revised by statute approved by three-fifths of the members elected to each House of the General Assembly.  
62 Initially, the Benchmark Index for any given fiscal year shall be comprised of equal weightings of the three year 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 government  
65 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 of  
69 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 such  
71 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 such  
73 fiscal year by more than 2 percent of the estimated State General Fund revenue for such fiscal year from all sources,  
74 including estimated unencumbered funds remaining at the end of the previous fiscal year, up to 50 percent of such  
75 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 than 10  
79 percent of only the estimated State General Fund revenues as determined pursuant to subsection (b) of this section.

80 Any deposit (or portion thereof) required by subsection (f)(1) that would exceed such level may be appropriated for  
81 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 Fund  
84 or reduce the balance of the Budget Stabilization Fund to less than 3 percent of only the estimated State General Fund  
85 revenues as determined pursuant to subsection (b) of this section.

#### SYNOPSIS

This Act is the first leg of a Constitutional Amendment reflecting the recommendations of the Advisory Panel to the Delaware Economic and Financial Advisory Council (DEFAC) on Potential Fiscal Controls and Budget Smoothing Mechanisms established as per House Joint Resolution 8 of the 149th General Assembly (Panel). This Act would build upon the State's existing appropriation limit methodology by moving the Budget Reserve Account into a newly defined Budget Stabilization Fund, defining rules for deposits to and withdrawals from said Budget Stabilization Fund, and adding a check of the appropriation limit against an index comprised of relevant indicators of growth of the State's economy. The Panel further recommended that any final adoption of the structural budget reforms included in this Act be accompanied by statutory enactment of structural reforms to the Personal Income Tax by broadening the tax base as initially recommended by the DEFAC Advisory Council of Revenues report dated May 2015 and further detailed in the Panel's report dated June 1, 2018.