

House of Representatives

Week in Review

For the Week Ending: Friday, June 18, 2010

[News Items From the House](#)

- **House Republican Leaders Say Latest Revenue Estimates Support Calls for Reducing Spending/Work Force**

State House Minority Leader Dick Cathcart (R-Middletown) and State House Minority Whip Dan Short (R-Seaford) point to the state's latest disappointing revenue estimates as proof the state needs to reduce spending and curtail its workforce.

The most recent report by Delaware Financial Advisory Council (DEFAC) issued on June 17th indicated little change in the revenue estimates released last month. According to the DEFAC, revenue estimates increased only \$1.7 million for the current fiscal year and \$400,000 in upcoming Fiscal Year 2011. The new estimates give budget writers a combined \$2.1 million with which to tweak the pending budgets.

The DEFAC estimates carry a great deal of significance since under state law officials can only spend 98-percent of projected revenues. This latest forecast is the last that will be issued before lawmakers must pass the operating and capital spending plans on or before June 30th.

Including the new forecasts, Rep. Cathcart said state revenue estimates have grown by about \$77 million since last June, which is less than the governor's proposed increase in spending.

Unveiled earlier this year, Governor Jack Markell's proposed operating budget for the fiscal year that begins July 1st totals \$3.17 billion. Overall spending in the plan was about \$80 million more than the current budget - an increase of 2.58 percent.

"It just seems to me that now is the time to implement cuts and start making state government smaller because the revenues did not come in as a lot of people were hoping they would," Rep. Cathcart said. "I think it's time to start talking

about a lot of the things the House Republican Caucus has proposed, such as consolidating the administrative functions in schools and reducing the work force through attrition so that we can start cutting back on this budget.”

Rep. Short says a recent conversation he had with an official in the state’s Unemployment Compensation Program further convinced him of the need for budgetary caution. “He told me they typically handle about 8,000 applicants for unemployment claims. Now he said they have 25,000 applications that they’re dealing with. That’s an increase of more than three-fold and it gives a good indication that this economy has really not recovered.”

Both Reps. Cathcart and Short renewed their call for the Markell administration to reduce the size of government by 500 positions in the upcoming fiscal year by not replacing workers that retire or otherwise leave state service. The state work force totals more than 31,000 positions.

According to the governor’s office, the new state budget incorporates \$123.5 million in federal stimulus money – funds that are not expected to be available at this time next year.

Rep. Short worries the state is potentially creating a severe revenue deficit for next year that could potentially result in tax increases. “We already know if the stimulus money is not renewed we’re looking at a shortfall of nearly \$125 million and it looks like we’re increasing spending by at least another \$80 million. At minimum, that’s a \$200 million hole we’re looking at for next year that could come back to bite us.”

Rep. Short says the state budget process seems to be moving ahead with little regard for increased spending, an uncertain economy, and the looming loss of federal money. “This is the calm before the storm in my mind and if we don’t deal with it right now, in a very conservative manner, we’re going to have a storm next year that’s just going to be unbelievable.”

• **Controversial Drug Reform Measure Passes Amid Sharp Debate**

A bill that could significantly reform the way drug crimes are prosecuted in the First State has cleared the State House of Representatives.

“This is a comprehensive revision of our drug crimes statute,” said State Rep. Melanie George (D-Bear/Newark), the lead sponsor of the legislation (House Bill 443).

More than a year in the making, the proposal is the result of deliberations by attorneys; state and local police; the State Attorney General’s office; the Office of

the Public Defender; and the criminal justice reform group, Stand Up for What's Right and Just (SURJ).

"They've made our drug laws make sense," Rep. George said of the group's work. "We're taking the worst of the offenders, the violent ones, and giving them tougher sentences, longer sentences, more minimum mandatory sentences. ... This represents a wonderful compromise," she said.

Not everyone is happy with that compromise.

One change in the bill downgrades simple drug possession charges to misdemeanor status. Supporters say the intent is to prevent people committing relatively minor infractions from losing their jobs and potentially interrupting child support and other obligations they're paying.

While he commended the bill, Rep. Tom Kovach (R-Brandywine Hundred South) took issue with one aspect of it – a provision to reduce the size of the "protected zone" around schools from 1,000 feet to 300 feet. People caught engaged in illegal drug activity within such a zone can be hit with enhanced charges.

State Prosecutor Rich Andrews, who was part of the group that fashioned the bill, said the change was an attempt to make the zone around schools consistent the drug protection zone around parks and recreation areas, which is also 300 feet.

Andrews also said the committee was also attempting to address an inequity in the City of Wilmington. Because of its dense population and large numbers of schools, recreation areas and parks, the overlapping protection zones blanket large areas of the city. "Essentially it made it so that any drug crime committed in the City of Wilmington was a felony, whereas the same crimes committed in other parts of the state might be misdemeanors," he told lawmakers during testimony on the House floor.

"I have heard no reason to shrink this zone as it relates to the protection of children," Rep. Kovach said. "I have spoken with law enforcement officials about this buffer zone and they support ... keeping it at 1,000 feet."

Rep. Kovach sponsored an amendment to the bill to maintain the current 1,000 foot school buffer partially because of what he heard when the House Judiciary Committee was considering the measure. "We were told there were very contentious discussions about this issue but ... it slipped through the cracks that we have a great number of children that are walking a significant distance to school ... and I'm here today to represent those individuals that can't represent themselves."

Rep. George accepted the amendment as friendly, as did Rep. D.P. Williams (D-Wilmington North), a retired Wilmington homicide detective.

“I do not think this will be disproportionate to the people in the City of Wilmington,” Rep. Williams said. “There is not a school on every corner; there is not a daycare on every corner.”

In the end, Rep. Kovach’s amendment was passed unanimously, preserving the 1,000 foot school protection zone.

Rep. Williams said adding the amendment made him more comfortable supporting the bill. “There are a lot of decent residents in the City of Wilmington. We cannot keep chipping away at the laws that protect the decent folks there. I have a problem with thugs and hooligans ... I don’t care if we put them in jail for 150 years ... because there are some great people in that city and those are the people we should be trying to protect and not worry about these thugs pulling guns on each other fighting over sticks of marijuana and bags of cocaine.”

The bill passed on a mixed vote of 31 to 4, with five members not voting and one absent.

The bill moves onto the Senate for consideration.

• Delaware Drivers Using Hand-held Cell Phones Expected to Face Fines in 2011

Using a hand-held cell phone will likely be illegal for motorists driving a car in Delaware in 2011. A proposal to prohibit Delaware motorists from using hand-held cell phones to hold conversations or send text-messages has cleared both the State House of Representatives and State Senate.

While the Senate tacked on some minor changes that will require another House vote, the measure is expected to easily pass for a second time and get sent to Governor Markell, who has indicated he will sign it into law.

The measure – (House Substitute 1 for House Bill 229), sponsored by State Reps. Darryl Scott (D-Dover) and Joe Miro (R-Pike Creek Valley) –would also prohibit using hand-held devices to access e-mail or browse the Internet while operating a motor vehicle.

Two previous attempts to ban the use of handheld cell phones while driving died in the General Assembly, but Rep. Miro said he persisted because he believes the law will make the roads safer.

The use of cell phones by novice drivers and school bus drivers is already against the law in the First State. Reps. Scott and Miro point to these existing

prohibitions as an acknowledgement that the use of cell phones poses an unacceptable distraction.

The City of Wilmington and the Town of Elsmere have already enacted ordinances outlawing motorists from using hand-held cell phones within their jurisdictions.

Delaware will join California, Connecticut, New Jersey, New York, Oregon and Washington as states where it's illegal for motorists to use hand-held cell phones. Additionally, 25 states have enacted laws prohibiting texting while driving.

The Delaware law will not apply to law-enforcement officers, firefighters, emergency medical technicians, or paramedics engaged in the performance of their duties. The law also won't impact motorists while they were placing a call or activating their "hands-free" equipment; people operating or driving farm tractors, farm trucks and farm equipment; and FCC-licensed amateur radio operators.

The legislation will take effect 180 days after its enactment (approximately January 2011). First-time offenders would be hit with a \$50 fine, while repeat violators would face a penalty of between \$100 and \$200.

Around the Hall ***(Photos & Briefs from Legislative Hall)***

"BFF" Bill Signed into Law

A new incentive program to help encourage the growth of jobs in the First State is now law. The legislation (House Bill 380) establishes a "business finder's fee" or "BFF" to encourage business-people to facilitate partnerships that bring new companies to the state. Under the bill, a \$500 tax credit would be awarded to each "sponsor firm" and each "new business firm" for every new Delaware job the new business creates. The credit would be available for three years. The program would require that the new business be brought to Delaware as a result of the efforts of the sponsor, and would specifically exclude businesses – such as real estate agents, banks and commercial landlords – that already have an incentive to bring out-of-state business to Delaware.

Scouts Honored & Announce Plans for Camp Near Dover

The Boys Scouts of America celebrates its 100th anniversary this year and the General Assembly recently sponsored a Tribute marking the milestone. In accepting the honor, Del-Mar-Va Council Scout Executive/CEO Patrick Sterrett announced that Delaware will soon shed its unfortunate distinction as the only state in the nation without a scout camp. Sterrett said the organization just purchased an 85-acre parcel southeast of the intersection of New Burton Road and Webbs Lane” which will host the council’s headquarters, a Boy Scout store, and a cub scout camp that will primarily cater to boys attending grade school. Sterrett said the facility should be operating by the start of summer 2012. The Del-Mar-Va Council serves approximately 388 units and more than 10,000 youths. Nationally, the Boys Scouts of America boasts more than 2.9 million members.

Delaware Boys’ State Visits Hall

More than 90 students, representing public and private high schools throughout the state, were at Legislative Hall the week of June 14th to participate in the 2010 session of Delaware Boys’ State. The American Legion, Department of Delaware, sponsored the educational program where young men receive hands-on experience in the legislative process by assuming the roles of lawmakers and state officials while working legislation and debating public policy issues. The delegates also study the conduct of elections, the operation of the legislative caucus and committee systems, and many other aspects of the democratic process. A separate program, Girls State, is run for female high school students.

Action on Bills*

House Bill 41 w/ HA 1– (Sponsors: Rep. Cathcart, et. al.) – This bill would define minimum rights for mental health patients in community facilities. The proposed rights are very similar to those of patients in the substance abuse treatment system. This is the last House bill of a package of reform legislation introduced in the wake of substantiated charges of patient abuse and neglect at Delaware Psychiatric Center (DPC) in 2007. Other parts of the package await consideration in the Senate.

Status: Passed the House. Pending action in the Senate Health & Social Services Committee.

House Substitute 1 for Bill 348 w/ HA 3 – (Sponsors: Rep. Longhurst, et. al.) – This bill seeks to enhance the penalties associated with dozens of criminal offenses if the victim is a vulnerable or infirmed adult. Supporters of the bill believe the enhanced penalties are needed because adults with physical and/or mental limitations are at greater risk of being exploited or victimized. Under the legislation “vulnerable adult” is defined as people who by reason of

“isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, are easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation.”

Status: Passed the House. Pending action in the Senate Judiciary Committee.

House Bill 392 – (Sponsor: Rep. Longhurst, et. al.) – This bill seeks to require that the owners of manufactured home communities make a community center available to residents who wish to hold tenant meetings. The legislation requires the meeting space to be offered to the residents at no cost.

Status: Passed the House. Pending action in the Senate Community/County Affairs Committee.

HS 1 f/ House Bill 390 – (Sponsors: Rep. B. Short, et. al.) – Also known as the “Regulatory Flexibility Act,” this bill is intended to help relieve the regulatory burden on the small business community. Based on model legislation and patterned after the federal Regulatory Flexibility Act, this legislation would require state agencies to publish an economic impact study with proposed regulations. Officials are to use the information to consider the costs of such regulations on small businesses and the feasibility of exemptions or less stringent compliance or reporting requirements. The measure would not take effect until July 1, 2011 to provide adequate time to develop, publish and seek comment on the guidelines. Emergency regulations, regulations impacting employment or labor law and orders would not be subject to these requirements. Supporters of the bill say small businesses are the backbone of Delaware’s economy and note that government data shows that 80-percent of companies in the First State have fewer than 20 employees.

Status: Passed by the House. Pending action in a Senate committee.

Senate Bill 44 w/ SA1 – (Sponsors: Sen. Sokola, et. al.) – This bill would allow state officials to use protected health information for research purposes. The measure adheres to federal regulations and requires that steps be taken to ensure the privacy of individual records.

Status: Passed the General Assembly. Awaits consideration of the governor.

House Bill 472 – (Sponsors: Reps. Outten & Wilson, et. al.) – This bill seeks to designate March 30th as Vietnam Veterans Day in Delaware, which would be commemorated by ceremonies honoring those U.S. military servicemen and women who served in Vietnam from 1961 to 1975.

Status: Released from committee. Pending action on the House floor.

House Bill 479 – (Sponsors: Reps. Mitchell & D.P. Williams, et. al.) – The dismissal of a police chief is often highly charged and controversial, sometimes resulting in legal action. This bill seeks to update the Delaware Code relating to this process. It would provide that a hearing – which may be private or public at

the police chief's request – be conducted by a panel of three persons appointed by the Delaware Police Chiefs' Council, the Delaware League of Local Governments and the Delaware Criminal Justice Council. This bill would also give the panel discretion to award attorney's fees to a police chief in certain cases when there is a finding that just cause did not exist for dismissal, demotion or removal from office.

Status: Released from committee. Pending action on the House floor.

House Bill 477 – (Sponsors: Reps. Viola & Hudson, et. al.) – In an apparent attempt to reduce the cost of prescription drugs in Delaware, this bill would clarify that pharmaceutical wholesalers shipping drugs to a Delaware distribution wholesaler would be exempt from the state's gross receipts tax.

Status: Released from committee. Pending action on the House floor.

Senate Bill 269 – (Sponsors: Sen. Sokola & Rep. Barbieri) – This seeks to enhance the penalty for “careless or inattentive driving” in cases where such actions lead to the serious physical injury of a “vulnerable user” in a public right-of-way. Under the bill, the term “vulnerable user” applies to a broad range of people ranging from pedestrians and highway workers to bicyclists and farm machine operators. People found guilty of the infraction would be required to complete an approved traffic safety course and perform up to 100 hours of community service, including activities related to driver improvement and providing public education on traffic safety. Offenders would also face a fine of up to \$550 and the suspension of driving privileges if they failed to complete the required training and service work. The bill passed by a margin of 18 to 3 in the Senate.

Status: Passed the Senate. Pending action in the House Public Safety & Homeland Security Committee.

House Bill 483 – (Sponsors: Rep. Carson, et. al.) – Under this bill, National Guard members and reservists who are called to active duty outside Delaware would be exempted from any late fees associated with the renewal of state-issued licenses. However, such personnel would need to present the appropriate credentials and pay the renewal fees within 90 days of their return to the state or their end of military service.

Status: Pending action in the House Veterans Affairs Committee.

[*partial list](#)