

# A Report on the Status of Significant Bills Addressed by the LWVDE in 2019

## The first year of the two-year 150<sup>th</sup> Session of the Delaware General Assembly<sup>1</sup>

All bills in this report were supported by the LWVDE Advocacy Corps unless otherwise noted.

### Budget for July 1, 2019 – June 30, 2020

HB [225](#) is the state's operating budget for July 1, 2019-June 30, 2020. It totals \$4,451 billion, an increase of \$181.1 over the current budget; \$62 million for one-time expenditures. A supplemental bill contains \$37.5 million to help local schools over the next three years with the costs of providing assistance to certain high-needs students. More than a third (35.3%) of the new budget -- \$1.572 billion -- is dedicated to funding Delaware's public schools.

The Department of Health and Social Services (DHSS), which administers Medicaid, received \$1.234 billion or 27.7% of the total budget. Almost \$764.2 million is earmarked for Medicaid, an increase of 1.46% (\$11 million). The hike includes partial year funding (\$1.3 million) for a new dental benefit for adult Medicaid recipients, leaving only two states that lack such coverage. Full-year funding will cost \$5.2 million annually. [The LWVDE has been advocating for dental benefits for adults on Medicaid for several years.] The Governor signed this bill on June 25, leaving no late-night debates on June 30.

SB [180](#), the capital budget, or Bond Bill, finances state-related construction projects. It totals \$820 million a large amount partly due to the centralized nature of Delaware government. [In other states, counties and cities would bear some of the costs of highways, schools and other areas of infrastructure, often through property and sales taxes.] More than a quarter of the money in the bond fund comes from bonds floated by the state, with the general fund (income taxes, corporate fees, etc.) bringing in \$184 million and the Transportation Trust Fund accounting for most of the remainder. As reported in *Delaware Business Now!*, even with this level of spending and a high level of debt (by some measurements), Delaware will maintain its AAA bond rating. The top bond rating is bolstered by the current administration managing to sock away \$100 million. Final passage occurred late on June 30 and it was signed by the Governor in the early hours of July 1.

### Voting and Elections

HB [38](#), signed by the Governor on June 30, provides for ten days of early voting, including the last Saturday and Sunday before election, beginning in 2022. The requirement does not apply to municipal elections.

HB [73](#) is the first “leg” of a Constitutional amendment that would eliminate restrictions on absentee voting. It passed the House with only three negative votes but in the Senate, it failed to receive the two Republican votes needed. Recognizing the inability to get the needed votes, Sen. Bryan Townsend voted no, which gives him the ability to bring the bill up again in 2020 to try again to meet the two thirds majority required for constitutional amendments. It would then need to be passed again in the next Session in 2021-22.

HB [175](#) would authorize voting by mail by any qualified voter who requested a mail-in ballot from the Department of Elections, beginning in 2022. This bill was released from the House Administration Committee but died in the Appropriations Committee due to its cost for new equipment and personnel to administer.

SB [22](#) signed by the Governor on March 28, 2019, added Delaware to the list of states joining the National Popular Vote compact. When the number of states whose collective number of electors totals the 270 required to elect a President, this bill requires electors from those states to vote for the candidate with the most popular votes in the nation, regardless of the outcome in that state.

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<sup>1</sup> You can access details of each bill reported here by **right** clicking on the underlined bill number and then clicking on “Open Hyperlink.” This will take you to the General Assembly’s website. If you left click, this will not work!

SB [121](#) makes necessary changes to Delaware's election laws based on the State's purchase of new voting machines and establishes auditing requirements for the machines. It passed the House and Senate in June but had not yet been signed by the Governor when this report was issued.

### **Education**

HB [48](#) authorizes funding for basic special education for kindergarten through grade 3. State funding does occur for intensive/complex spec ed in these grades but current basic spec ed funding runs from 4th-12th grade. Partial funding is provided in FY18-19 Budget. This bill was released from the House Education Committee but died in the House Appropriations Committee.

### **Environment**

HB [65](#) enables roof-mounted solar systems on private residences; an amendment requires notice to any HOA and gives option for conditions on installation.

HB [130](#) expands existing at-store recycling program regarding single-use plastic bags. The existing requirements will continue, however stores subject to this program will now be limited from providing single-use plastic bags for only specific uses. The bill has passed the House and Senate and awaits the Governor's signature.

HB [200](#) establishes a framework and funding to enhance Delaware's efforts to clean up its contaminated and drinking water, and reduce flooding. It was released from the Natural Resources Committee but died in House Appropriations for lack of a revenue source to address the \$10 million needed over the next ten years.

HB [224](#) prohibits the use of single use paper bags and works to lessen consumption of single use bags in favor of having consumers utilize reusable bags. Introduced on June 14, this bill is in the House Natural Resources Committee awaiting action in 2020.

### **Health Care**

HB [24](#) prohibits "clawbacks" whereby pharmacy benefits managers charge enough for prescription drugs to require a co-pay that is more than it would cost to pay without charging to the insurer. The insurer or pharmacy benefits manager keeps the difference. It was signed on June 17.

HB [79](#) requires restaurants to offer healthy beverages as the default beverage with a combination children's meal that includes a drink sold at a unit price. The customer may choose a substitute or alternative beverage. This bill passed the House and Senate and was awaiting the Governor's signature when this report was issued.

HB [140](#) permits terminally ill adults in Delaware to request and self-administer meds to end their life in a humane/dignified manner if both individual's attending physician and a consulting physician agree on the individual's diagnosis and prognosis and believe the individual has decision-making capacity, is making an informed decision, and is acting voluntarily. There were insufficient votes to get the bill out of the House Health and Human Resources Committee. It will take a major effort to secure passage of this legislation in 2020.

HB [166](#) would increase childhood lead poisoning screenings to add testing at 2 years (currently only at 1 year); simplifies requirements and process for healthcare providers and clarifies insurance coverage. This bill generated opposition from national organizations that do not believe such testing is necessary. It was released from the House Health and Human Resources Committee but failed to be taken up in the full House.

Senate Substitute for SB [25](#) restricts access to tobacco products and tobacco substitutes (vapor products) to individuals under age 21. This bill was signed by the Governor on April 17, 2019 and takes effect 90 days after enactment. The League did not have a position on this bill but reports it because of its widespread interest and support by many individual members.

SB [35](#) ensures the Affordable Care Act's core consumer protection provisions will remain in place during the uncertainty surrounding the ACA in light of recent court challenges, including the prohibition of preexisting condition provisions, guaranteed issue and availability of coverage, and permissible rating factors. This bill passed the House and Senate and was awaiting the Governor's signature when this report was issued.

SB [92](#) authorizes dental care to all eligible adult Medicaid recipients, subject to a \$3 recipient copay. The total amount of individual's dental care assistance may not exceed \$1,000 per year, except that an additional \$1,500 may be authorized on an emergency basis through a review process established by the Department of Health and Social Services. As noted above, funding was provided in HB 225, the annual appropriations act. Ready for Governor's signature.

### **Housing**

HB [46](#) creates a Delaware Manufactured Home Owner Attorney Fund with \$0.50 monthly assessment per lot, administered by the Department of Justice to contract with an attorney or agency to provide legal representation and advocacy for manufactured home owners in enforcing existing rights in disputes with land owners. Signed by the Governor on June 25.

### **Criminal Justice**

The League is a member of the Safe Justice Coalition that reviews and supports numerous bills to reform our system with a goal of reducing our prison population by 50 percent. Among the most significant bills are these:

HB [4](#), the James Johnson Sentencing Reform Act, named after the former state representative who dedicated his legislative career to criminal justice reform, would remove most drug offenses from being designated as "violent felonies," so they would no longer be subject to the enhanced charging and sentencing provisions as violent crimes; expand the ability to modify sentences for conditional release based on the rehabilitation of the offender, serious medical illness or infirmity, or prison overcrowding; and establish the Sentencing Accountability and Guidelines Commission. This major bill was introduced late (June 10). It cleared The House Judiciary Committee but remains to be considered in 2020.

HB [5](#) reforms concurrent and consecutive sentencing by providing sentencing judges with the discretion to [sentence](#) prison time concurrently when appropriate. Balancing public safety, it leaves the most egregious crimes in the code as mandatory consecutive sentences. It was signed on June 25.

House Substitute 1 for House Bill [10](#) would prohibit the prosecution of any child under the age of 12 and bar transferring a juvenile prosecution to the Superior Court unless the child is aged 16 or older, with the exception of first- and second-degree murder and rape. This bill was introduced late (June 18). It cleared The House Judiciary Committee but remains to be considered in 2020.

HB [63](#) creates the crime of "unsafe storage" when a person intentionally or recklessly stores or leaves loaded firearms where a minor or other person prohibited by law can access the firearm and the unauthorized person obtains the firearm. This language was a Senate compromise on the stronger "safe storage" bill passed by the House. It was signed on June 6, 2019.

HB [102](#) allows a person arrested or convicted of any crime, except a violent felony that was a direct result of being a victim of human trafficking may apply for a pardon or expungement or make a motion to vacate judgment. It was signed on June 20.

HB [124](#) would modify the impact an applicant's criminal history would have on their eligibility to obtain a plumber or HVAC technician license. Similar bills are being considered to modify eligibility for additional licenses. This one is ready for the Governor's signature.

HB [165](#) would have reinstated the death penalty in Delaware. It was not released from the House Judiciary Committee. LWVDE opposes the death penalty based on a strong LWVUS position.

HB [196](#) would provide compensation to persons found to have been wrongfully imprisoned. One person in Delaware who served 38 years is eligible. The bill was introduced late (June 10). It cleared the House Judiciary Committee but a compromise on its details among advocates could not be developed in time for it to be considered this year, so it remains to be considered in 2020.

Senate Substitute 1 for SB [37](#) would expand the availability of expungement for adult criminal records of arrest and conviction. Funding of \$600,000 in FY 20; \$1million in '21 and '22 provided in the appropriations bill. Could affect 700,000 Delawareans.

SB [39](#) would prohibit a court from suspending a driver's license for nonpayment of a fine, fee, cost, assessment, or restitution; also would prohibit a court from imposing an additional fee on a defendant for payments that are made at designated periodic intervals or late, or when probation is ordered to supervise a defendant's payment; also permits a court, before imposing a fine, fee, cost, or assessment, to consider a defendant's ability to pay the fine, fee, costs, or assessment, whether an adult or a juvenile; etc. This bill remains in the Senate Judicial Committee due to the estimated costs for additional staffing needed in state agencies of nearly \$2 million annually and a loss of nearly \$1 million to the Transportation Trust Fund.

SB [60](#) Recommended by the Human Trafficking Council, this bill clarifies that in order to be found guilty of prostitution the person must be 18 years or older. It provides that a child who engages in prostitution is presumed to be neglected or abused in order to receive services from the state and Family Court. It was signed by the Governor on June 20.

Senate Substitute for SB [68](#) would have banned assault weapons. When union members joined the gun lobby in opposition, the Senate Leadership failed to release the bill from the Executive Committee.

SB [70](#) would have banned magazines with a capacity to fire more than 15 rounds. When union members joined the gun lobby in opposition, the Senate Leadership failed to release the bill from the Executive Committee.

SB [82](#) would have required a permit to be eligible to purchase a firearm. When union members joined the gun lobby in opposition, the Senate Leadership failed to release the bill from the Executive Committee.

### **Social Policy**

HB [1](#) is the second and final "leg" of Delaware's Equal Rights Amendment on the basis of sex. It is now part of our Constitution.

HB [80](#) makes Delaware's Earned Income Tax Credit refundable for working families whose income is too low for them to be eligible for a regular credit. It was released from the House Revenue and Finance Committee in March. Three amendments placed with the bill in June will, hopefully, satisfy concerns so that it may be enacted in 2020.

HB [252](#) would raise the minimum wage for tipped workers from \$2.23 to \$3.35 per hour. This level has not changed since 1983. The bill was introduced on June 27 and awaits action in the House Economic Development Committee in 2020. Unlike other minimum wage bills, this one does not increase state expenses.

SB [105](#) would increase the minimum wage by \$1 per hour each year until it reaches \$15 per hour. It will impact lower income state employees and various substitute positions within the State's public schools and charter schools and is projected to cost the state over \$1 million in Fiscal year 2020 and significantly more in future years. It was released from the Senate Labor Committee but remains in the Senate Finance Committee.