

The Governor's budget message is below:

## **Budget Message**

Article II, Section 16 of the Ohio Constitution authorizes the Governor to veto any item or items in any bill making an appropriation of money. I have boxed and initialed text in Amended Substitute House Bill 1 that I have disapproved. All remaining text in the bill is approved. The reasons for my vetoes are set out below.

### *Introduction*

In February, I introduced a balanced budget in one of the most economically challenging times in our nation's history. As the budget was considered by the Ohio House, Senate and subsequent Conference Committee, the state and nation's financial situation deteriorated.

A collapse of international financial markets, combined with the ongoing contraction in the housing market and a decline in the automotive industry, led to a sharp decrease in tax revenues and an additional \$3.2 billion budget gap.

General Revenue Fund tax receipts declined by \$2.3 billion in fiscal year 2009, or 12% as compared to the previous fiscal year – the worst decline in state revenue in at least 50 years. General revenue taxes available to the State of Ohio will be lower in this biennium than they were seven years earlier, impacting our ability to maintain the services and operations of state government that Ohioans have come to expect.

In the face of these unprecedented economic challenges, we were able to come together to pass a balanced budget that invests in education without raising taxes on Ohioans.

Because Ohio families and businesses cannot afford a state tax increase at this time, this budget instead reduces state government spending by an unprecedented \$2.5 billion. This after my Administration already realized budget reductions of nearly \$2 billion and reduced the state workforce by more than 3,400 positions – resizing state government back to the level it was during the 1980s – to balance the budget in fiscal years 2008 and 2009.

This budget makes education our first priority. It includes an historic commitment to Ohio students, enacting transformational education reforms and establishing a constitutional funding system. The new funding model is based on what our students need to be successful and will ensure our schools have the resources to meet those needs as it is fully phased in. The educational reforms will improve the quality of our teachers, assessments, and curriculum. Every Ohio school will meet strict spending accountability standards. And every Ohio student will learn the skills that modern businesses look for in the people they hire. Investing in a reformed system of education sharpens Ohio's competitive edge and strengthens our ability to attract the jobs and capital that will grow Ohio's economy.

The budget also prioritizes extremely limited resources toward critical health and safety services to provide for the greatest possible number of vulnerable Ohioans during this difficult time. To meet our constitutional requirement to balance the budget, though, it is necessary to make very painful cuts to services that Ohioans have needed and received in the past but that the state cannot provide at this time.

In reducing these services, we have tried to minimize the impact on our children, the elderly and disabled. And this budget increases access to affordable, quality health care to 109,000 more Ohio citizens and preserves health care for an estimated 2,000,000 Ohioans through the Medicaid program.

Much of what we have been able to accomplish in this budget would not have been possible without the leadership of President Barack Obama and the members of Ohio's congressional delegation who supported the President's stimulus plan, the American Recovery and Reinvestment Act. The budget leverages more than \$5 billion in federal stimulus resources for their intended purpose – to create and save jobs and prevent deeper cuts to critical services.

This budget process has been long and difficult. However, we have come to an agreement on those things that matter most to Ohio families and businesses who are struggling through the worst economic crisis since the Great Depression. We have invested in education for job creation, establishing the most sweeping education reform in generations. We have limited college tuition growth. We have maintained our commitment to

providing health care coverage to every Ohio child and expanded access to more than 109,000 uninsured adult Ohioans. We have made hard choices to reduce spending and resize state government. And in doing so, we have balanced the budget without increasing taxes. Today I am happy to add my signature and make this budget law.

The following sections detail 61 line item vetoes I have issued among five issue areas. These are areas of honest disagreement in a budget document containing 3,123 pages and tens of thousands of lines of text.

Many of the disagreements laid out below are more about specific programs that, if implemented, would place us into a deeper budget bind by not ensuring flexibility in funding. Others are about maximizing flexibility to ensure state agencies continue to prioritize those services that matter most. Such matters are a natural area for asserting executive authority.

The budget reflects a set of commitments I have made, and the legislature has supported. Even with severely limited resources, this budget is a blueprint for Ohio's economic revival.

#### A. Health and Human Services

Currently, 1.3 million Ohioans are uninsured. As a result, these Ohioans do not get the care they need to maintain healthy and productive lives. In turn, those who are insured end up paying more to cover the costs of caring for the uninsured.

In this budget we protected Medicaid eligibility for an estimated 2,000,000 Ohioans to receive the critical care services they need. We also provide innovative proposals that would provide access to affordable private health insurance coverage for 109,000 more Ohioans.

Several vetoes remove or reduce some services and programs that would compromise the effectiveness of our limited resources. Other vetoes reflect a need to spend our funds in the most effective manner possible, and to provide oversight that is logical and productive.

### **Item Number 1\***

On page 2890, delete the boxed text beginning with the words “Section 309.32.43.” and ending with the words “boards; and”.

On page 2891, delete the boxed text.

#### **Section 309.32.43 – Funding of Medicaid-Covered Community Behavioral Health Services**

This provision would make it optional for a board of alcohol, drug addiction and/or mental health services to use county dollars raised through tax levies to pay for Medicaid-covered alcohol, drug and mental health services. This language could fundamentally disrupt the existing financing structure for Medicaid covered behavioral health services by eliminating local funding as a source for the Medicaid match necessary to draw down federal Medicaid funds. By doing this without retaining subsidy dollars at the state level to pay for the Medicaid match, the potential loss to the state could be \$20 million per year for alcohol and drug services and about \$144 million for mental health services. Therefore, this veto is in the public interest.

### **Item Number 2**

On page 2890, delete the words “Not later than October 1, 2009,”.

#### **Section 309.32.40 – Federal Medicaid Match Deadline for ADAMHS Boards**

This provision mandates a federal filing deadline of October 1, 2009 for Medicaid Administrative Claiming. This deadline is not achievable because the filing process is complex and time-consuming. For this reason, a veto is in the public interest.

### **Item Number 3**

On page 2753, delete the boxed text.

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## **Section 209.40 – Unified Long Term Care Budget**

By removing this provision, each provider organization will have an equal voice on the Unified Long Term Care Budget Workgroup. In addition, this veto will remove a limitation for managed care providers, which will allow for broader representation of managed care entities. Therefore, this veto is in the public interest.

### **Item Number 4**

On pages 2325 and 2871, delete the boxed text.

On pages 9 and 16, delete “5111.236.”.

## **Section 5111.236 – Medicaid Coverage of Oxygen Services to ICF/MR Residents**

This provision would require the Medicaid program to cover oxygen services to medically fragile children under situations outside of the normal medical evaluation process. Children are receiving and will continue to get oxygen as needed with the proper medical determination. There is no reason to believe this provision is necessary to ensure that these services are provided. Therefore, this veto is in the public interest.

### **Item Number 5**

On pages 784, 1845, and 1847, delete the boxed text.

## **Sections 1751.14, 3923.24, and 3923.241 – Continuous Coverage**

This provision would allow parents to keep their children insured up to age 28 on an employer plan if they pay for the full cost of such coverage. However, this language limits the coverage to children with “continuous coverage.” This would severely limit the number of young adults, who are more likely to be uninsured than any other age group, who can take advantage of this coverage. By vetoing this provision, the number of people with access to coverage will increase by more than 11,000. Therefore, this veto is in the public interest.

### **Item Number 6**

On pages 7 and 15, delete “5101.5110 (5101.5111),” and “5101.5110,”.

On pages 9 and 16, delete “5101.504, 5101.5210,”.

On pages 6, 15, and 2724, delete “5101.50,”.

On pages 2244, 2245, and 2246, delete the boxed text.

### **Sections 5101.5110, 5101.5111, 5101.50, 5101.504, and 5101.5210 – School Based Health Centers**

This section creates a mandate that all school based health centers be entitled to provide services under the State Children’s Health Insurance Program. There is no evidence that the mandate is in response to a problem – such as children being unable to access essential services. Also, this mandate is unnecessary because of implementation of the new Medicaid School Program. Therefore, the veto is in the public interest.

### **Item Number 7**

On pages 2901 and 2902, delete the boxed text.

### **Section 309.45.90 – Reallocation of Unused County Funds**

This provision requires the Department of Job and Family Services to reallocate unspent county-level funding which was intended to serve Ohio’s most needy and vulnerable citizens back to counties. This requirement will limit the ability of JFS to redirect funds as needed among basic safety net programs serving Ohioans. Therefore, this veto is in the public interest.

### **Item Number 8**

On pages 2261, 2262, 2263, 2264, and 2265, delete the boxed text.

On pages 6, 15, and 2724, delete “5103.02, 5103.03,”.

## **Sections 5103.02 and 5103.03 – ODJFS Review of Associations and Institutions**

These provisions weaken the state’s regulation of foster care and adoption entities in Ohio. They extend certification from a two-year to a four-year period for foster care and adoption agencies, children’s residential centers, group homes, and other child-placement entities. The provisions may also unintentionally exempt some agencies that are authorized under the adoption chapter of the Revised Code from the definition of entities that are to be regulated. Finally, they create unacceptable, increased risks for vulnerable children. Therefore, this veto is in the public interest.

### **Item Number 9**

On page 2303, delete the boxed text.

## **Section 5111.06 – Administrative Actions Relative to Medicaid Provider Agreements**

It is a federal requirement that providers have a National Provider Identification (NPI) number, and Medicaid providers were required to provide their NPI number to ODJFS as of May 11, 2007. Providers without an NPI are terminated.

ODJFS has mailed 13 notices to providers, issued eight remittance advice notices, and placed notices in the quarterly provider newsletter, the JFS website and the Interactive Voice Response system. The provision would require that ODJFS terminate providers by registered mail, rather than by regular mail for failure to have their NPI, which would cost ODJFS \$17,000. Therefore, this veto is in the public interest.

### **Item Number 10**

On pages 6, 15, and 2724, delete “5111.65, 5111.651, 5111.68, 5111.681, 5111.685, 5111.686, 5111.688,”.

On pages 2336, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2352, 2353, delete boxed text.

On page 3113, delete “5111.65, 5111.651, 5111.68, 5111.681, 5111.685, 5111.686, 5111.688, 5111.689,”.

On pages 7 and 15, delete “and 5111.688 (5111.689)” and “5111.688,”.

**Sections 5111.65, 5111.651, 5111.68, 5111.681, 5111.685, 5111.686, 5111.688, and 5111.689 – Collection of Long-Term Care Facilities Medicaid Debts**

The Ohio Department of Job and Family Services has worked with skilled nursing facility providers to develop a more efficient process to secure and collect the debts of institutional long term care providers when a provider leaves the Medicaid program. As drafted though, these provisions could prevent the department from securing and ultimately collecting the provider's debts to the State, and proposes time lines for conducting hearings that are not legally achievable. The Department is committed to working with providers to making changes to resolve these remaining issues. Absent these changes, the veto is in the public interest.

**Item Number 11**

On page 2304, delete the boxed text.

**Section 5111.084 – Pharmacy and Therapeutics Committee**

The Pharmacy and Therapeutics Committee is a required component of the Medicaid program. However, this provision prohibits the state pharmacist from participating on the Pharmacy and Therapeutics Committee, which compromises the efficient and effective operation of this aspect of the Medicaid program. Therefore, this veto is in the public interest.

**B. Education**

Ohio, like nearly every other state in the nation, is faced with the worst economy since the Great Depression. Despite this, we are making an unprecedented commitment to Ohio’s schools, ensuring they are funded through a constitutional system.

Additionally, the budget reforms our classrooms and strengthens the teaching profession to prepare students with the skills and knowledge they need to succeed in the jobs of the future. At a time when other states are dramatically reducing education funding, Ohio is making a commitment to education that is critical to job creation and economic growth.

Our plan for reforming Ohio schools establishes the Ohio Evidence Based Model, a funding mechanism that utilizes research to determine what components are critical to determine student success. The new funding system will reduce the overreliance on local property taxes to fund Ohio's public schools. And, it increases the level of transparency and accountability for school districts to produce results for Ohio's children.

### **Item Number 12**

On pages 3 and 13, delete "3311.059," and "3313.843,".

On pages 3113, delete "3311.059, 3311.0510, and 3313.843,".

On page 2722, delete 3313.043,".

On pages 1133, 1135, 1136, 1206, 1207, 2839, and 2840, delete boxed text.

### **Sections 3311.059, 3313.843, 3311.0510, and 265.70.40 – Changes to the Annexation and Severance of ESCs**

Current law has a procedure by which local school districts may decide to transfer from the territory of one educational service center to another to meet their local educational needs. This new language revises the procedure that districts may use to transfer and places a two-year moratorium on any transfers, including those in process.

Local school districts invest time and resources in pursuing a transfer under current law, which is based on local educational needs and circumstances. Prohibiting such transfers and increasing the administrative burdens without an overriding state purpose may be disruptive to their planning as well as to students and families. This is an issue that will be studied by the Ohio

School Funding Advisory Council. For this reason, this veto is in the public interest.

### **Item Number 13**

On page 1016, delete the boxed text.

#### **Section 3301.0719 – Business Education Standards**

This provision directs the State Board of Education to create and develop standards for business education in grades K-12 by July 1, 2010. The date of this provision has been vetoed to ensure the State Board has the ability to determine adequate time and focus are given to the development of updated standards in multiple subject areas. Therefore, this veto is in the public interest.

### **Item Number 14**

On page 1127, delete the boxed text.

#### **Section 3310.09 – Educational Choice Scholarship Eligibility**

Current law allows a student to participate in the scholarship program if the school building in which they attend or would be assigned was in academic watch or academic emergency for at least two of the past three years. This provision would allow a student to participate in the program if the building in which they were enrolled or would be assigned is new and has been open for at least one year and at least 75 percent of the students came from closed schools that met the criteria in current law. A new building should not be considered to be in distress until it has had an opportunity to demonstrate its ability to produce academic gains for its students; it is unfair to prejudge the outcomes of a new school based upon the construct of its student body. For this reason, this veto is in the public interest.

### **Item Number 15**

On pages 1124 and 1125, delete the boxed text.

### **Section 3310.03 – Educational Choice Scholarship**

This provision would increase the maximum award for the Educational Choice scholarship program. In a time of limited resources and shared sacrifice across state government, it is not in the public interest to increase these scholarships.

### **Item Number 16**

On pages 2836 and 2837, delete the boxed text.

### **Section 265.60.90 – School Employees Health Care Board**

This provision would transfer the School Employees Health Care Board from the Department of Administrative Services to the Department of Education. This veto allows the Department of Education to act as a fiscal agent for the board but treats the board as an independent entity as specified in the Revised Code. For this reason, this veto is in the public interest.

### **Item Number 17**

On pages 2894, 2895, 2896, 2897, and 2898, delete the boxed text.

### **Section 309.40.60 – Discontinuation of Early Learning Initiative**

This language defines the Early Learning Initiative and outlines the eligibility and administration of the program. All ELI services will discontinue beginning August 23, 2009, due to limited resources, but most of the children will be eligible for other child care services or will transition to kindergarten.

This veto eliminates all references in temporary law regarding ELI. During the remaining weeks of ELI services, approximately 1/3 of children will transition to kindergarten (4,500), while the majority of children (7,500) will be eligible for child care services and remain with their current provider. Therefore, this veto is in the public interest.

### **Item Number 18**

On pages 2823 and 2824, delete the boxed text.

#### **Section 265.40.30 – Repayment of ELI Start-Up Funds**

This language requires ELI providers that were Head Start/Head Start Plus agencies in FY 2004 or FY 2005 to reimburse the state for start-up general revenue funds they received in those years if they close down. Requiring ELI providers to reimburse the state for these start-up funds, due to the discontinuation of this particular program, could jeopardize the ability for providers to continue early learning services through other programs. This provision will cause undue financial burden on each provider. For this reason, a veto is in the public interest.

### **Item Number 19**

On pages 1247 and 1248, delete the boxed text.

#### **Section 3314.08 – Community School Calamity Days**

This provision requires the Department of Education to waive the number of hours that a community school is closed for a public calamity. Under current law, community schools have the flexibility to adjust their daily schedule on an hourly basis to address missed learning opportunities due to a public calamity. For this reason, this veto is in the public interest.

### **Item Number 20**

On pages 4, 13, 2722, 3113, delete “3318.011,”.

On pages 1341, 1342, 2983, and 2984, delete the boxed text.

#### **Sections 385.93 and 3318.011 – Tangible Personal Property Valuation Changes for School Facilities Assistance Rankings**

This provision would, for the first time, change both the way that the Ohio School Facilities Commission (OSFC) has historically prioritized projects under its Classroom Facilities Assistance Program (CFAP) and determined the state-local share funding split for construction projects. Because of the uncertainty of the impact this would have on our school districts, this veto is in the public interest.

*C. Councils, Study Committees, Task Forces and Reports*

Councils, study committees and task forces play important roles in providing the discussion and recommendations that are critical for the formation of public policy. However, with across-the-board reductions in state government spending, including cuts to some social service programs, state agencies must focus on providing services. While I acknowledge the usefulness of such entities in developing and implementing policies across state government, I encourage their formation and operation without the utilization of budget resources.

**Item Number 21**

On page 2751 and 2752, delete the boxed text.

**Section 209.30 – Residential State Supplement Workgroup**

The executive budget proposed this workgroup to examine the issue of which state agency is the most appropriate to administer the Residential State Supplement Program (RSS) and make recommendations. This statutory provision is no longer necessary, because the relevant health and human services agency directors have already begun the work to evaluate and make structural changes to RSS. For this reason, a veto is in the public interest.

**Item Number 22**

On pages 8 and 16, delete “3701.0211,”.

On pages 1516, 1517, and 1518, delete the boxed text.

### **Section 3701.0211 – Creation of a New Hemophilia Advisory Council**

This language creates a new Hemophilia Advisory Council at the Ohio Department of Health. A hemophilia subcommittee of the BCMH Medical Advisory Council currently exists in the Ohio Revised Code. A newly created group would be duplicative to this existing subcommittee and would pose fiscal challenges to ODH through administrative and reimbursement costs. Therefore, this veto is in the public interest.

### **Item Number 23**

On pages 8 and 16, delete “3701.136,”.

On pages 1520 and 1521, delete the boxed text.

### **Section 3701.136 – Sickle Cell Anemia Advisory Council**

This language creates a Sickle Cell Anemia Advisory Council at the Ohio Department of Health. The Ohio Sickle Cell and Health Association already convenes a Sickle Cell Disease Statewide Advisory Committee as part of a grant requirement from ODH. The committee is comprised of providers, consumers, faith-based organizations, community advocates and individuals affected by sickle cell disease. To convene another committee through this language would be duplicative of the existing effort. Therefore, this veto is in the public interest.

### **Item Number 24**

On page 2861, delete the boxed text.

On page 2862, delete the boxed text beginning with “is a high prevalence” and ending with “of this section.”

### **Section 289.30 – Disease and Cancer Commission**

This provision would create a Disease and Cancer Commission at the Department of Health. This Commission would duplicate existing cancer and disease activities conducted by ODH. In addition, ODH does not have the funding to administratively support this committee or reimburse committee members. Therefore, this veto is in the public interest.

### **Item Number 25**

On pages 3091 and 3092, delete the boxed text.

#### **Section 751.30 – Prompt Pay Workgroup**

This provision creates a prompt pay policy workgroup who will be charged with developing a set of regulations to govern prompt payment policies for Medicaid managed care plans. Medicaid managed care plans are already subject to federal prompt payment requirements and those requirements cannot be supplanted by state law, which makes the implementation of this provision unnecessary and administratively burdensome. That said, I am committed to continuing to explore ways in which the Medicaid managed care system in Ohio can operate in the most efficient and effective manner. Therefore, the veto is in the public interest.

### **Item Number 26**

On pages 2867 and 2868, delete the boxed text.

#### **Section 307.20 – Health Care Coverage and Quality Council**

This language gives the Health Care Coverage and Quality Council additional responsibilities related to selected recommendations of the Ohio Medicaid Administrative Study Council (MASC). This additional responsibility duplicates efforts of the Executive Medicaid Management Administration. Therefore, this veto is in the public interest.

### **Item Number 27**

On pages 2883 and 2884, delete the boxed text.

#### **Section 309.30.71 – ICF/MR Reimbursement Study Council**

This provision establishes the ICF/MR Reimbursement Study Council and requires the Council to submit a report, no later than July 1, 2010, on its review of Ohio's system for Medicaid reimbursement of ICF/MR services. While collaborative approaches to review reimbursement system impacts can be beneficial, initiating a review and soliciting suggestions for future action in the absence of a full dialogue about the financing of non-institutional community care settings may cause investment in care settings that are not the preferred choice of Ohio's families. Therefore, this veto is in the public interest.

### **Item Number 28**

On pages 2971 and 2972, delete the boxed text.

#### **Section 375.20 – DRC Pilot Health Care Study**

This provision would permit the Department of Rehabilitation and Corrections to conduct a pilot health care study to determine if a private contractor can provide a minimum of 10 percent savings for comprehensive health care services. The Department currently contracts with three vendors who provide care to more than 15 percent of the inmate population. Sufficient data from these contractual relationships already exist to evaluate the effectiveness of private healthcare services. Therefore, this veto is in the public interest.

### **Item Number 29**

On page 2880, delete the boxed text.

On page 3114, delete “309.30.30,”.

### **Section 309.30.30 – Nursing Facility Capital Costs Study**

This proposal requires the study of the capital component of the nursing facility reimbursement methodology with a report due no later than December 31, 2010. While we recognize the value of stakeholder input in the development of reimbursement policy, any discussion related to policy supporting long term services and supports should address the entire delivery system. This proposal is limited to reimbursement for institutional services and would not consider the range of settings in which long term services and supports are delivered. We are committed to continuing dialogue and work with providers on this issue. Therefore, this veto is in the public interest.

### **Item Number 30**

On pages 4 and 14, delete “3705.03,”.

On pages 8 and 16, delete “3705.031,” and “319.24,”.

On page 412, delete the boxed text.

On pages 1514, delete the boxed text.

On page 1594, delete “;”.

On page 1595, delete the text beginning with “(5) comply with” and ending with “Revised Code.”.

On page 2723, delete “3705.03,”.

### **Sections 319.24, 3503.18, 3705.03, and 3705.031 – Vital Statistics Reports to Counties**

This provision is redundant to existing statute. The Ohio Department of Health (ODH) already provides the requested service by publishing to a public Web site the deaths of all Ohioans on a monthly basis. The

information is posted online in a simple Excel format, and each county board of elections can download the file and sort by their county, or any other fields provided, and create a customized list. The proposed language would have a negative impact on operations, costing additional staff time, paper and postage. Therefore, this veto is in the public interest.

### **Item Number 31**

On page 2305, delete the boxed text.

#### **Section 5111.092 – Medicaid, Fraud, Waste, and Abuse Report**

This section requires ODJFS to complete a report every year on the department's efforts to minimize fraud, waste, and abuse in the Medicaid system. The Department of Job and Family Services is prepared to report on these efforts annually, but the required content as proposed in this provision is overly prescriptive and inflexible. Therefore this veto is in the public interest.

#### **D. Earmarks, Unfunded Mandates and Requirements that Restrict Agency Flexibility in Spending**

In a time of limited resources, it is essential to give agencies flexibility in meeting their priorities without unnecessarily binding them to specific programs or services. Because agencies have already faced major reductions, it is important that they have the resources to maintain essential services to the greatest number of Ohioans, especially to those most vulnerable. For that reason, I have vetoed the sections below which make allocations for specific programs and a limited number of Ohioans.

### **Item Number 32**

On page 2917, delete the boxed text.

#### **Section 335.40.10 – Behavioral Health Services-Children**

The line item “Behavioral Health Services—Children” is dedicated to providing behavioral health services for children and their families. This provision would specifically dedicate \$1 million in each fiscal year to services for children under the age of 7. We are deeply committed to the behavioral health programs and services that provide assistance to our children in need. However, during these times of limited resources, the Department must continue to be flexible in their allocation of funds in order to reach the most children in need of services, regardless of age. For this reason, a veto is in the public interest.

### **Item Number 33**

On pages 247 and 248, delete the boxed text.

### **Section 125.20 – Department of Administrative Services Web Sites**

This provision requires that DAS create three searchable Web sites to display three different sets of information, without providing additional funds to create and manage the Web sites. It should also be noted that current statute requires DAS to post information pertaining to all contracts awarded for more than \$25,000, a partial duplication of information required by this language. Though the Department will create the websites without having the additional resources to do so, there are two items within this mandate that I am vetoing. As written, this provision contains a requirement to list two different types of employee pay: most recent pay and gross pay. These are two different sets of data, and will create confusion for those seeking to compare information.

In addition, the provision requires agencies to transmit information to DAS daily. Because the Ohio Administrative Knowledge System (OAKS) already allows for DAS to obtain any information necessary on a daily basis this requirement is unnecessary. For these reasons, this veto is in the public interest.

### **Item Number 34**

On page 2927, delete the boxed text.

### **Section 343.10 – Heidelberg Water Quality Lab Earmark**

This provision appropriates \$250,000 a year for the Heidelberg Water Quality Lab, paid for from the fund that provides state matching grants to all 88 Soil and Water Conservation Districts (Fund 5BV0). Although the Water Quality Lab conducts important and valuable research, the earmark reduces the total funds available for all 88 Soil and Water Conservation Districts. For this reason, a veto is in the public interest.

### **Item Number 35**

On page 2862, delete the boxed text beginning with “Section 289.60” and ending with “42 U.S.C. 710.”

### **Section 289.60 – Federal Abstinence Education Program**

This provision requires the Ohio Department of Health (ODH) to apply for federal abstinence only education funding. There are no general revenue funds budgeted to fund the required match for this program. Therefore, this veto is in the public interest.

### **Item Number 36**

On pages 2078, 2079, and 2084, delete the boxed text.

On pages 6, 14, and 2724, delete “4511.69, 4513.021,”.

### **Sections 4511.69 and 4513.021 – Angled Parking on State Routes within Municipal Corporations**

This provision would prohibit the elimination of angled parking spaces on state routes within corporation limits without the approval of the municipal corporation.

Under current law, state routes within municipalities are required to have parallel parking due to safety concerns and federal regulations. If federal regulations are violated and angled parking is maintained, municipalities

may not be able to receive federal and state money for paving projects. This veto will protect public safety and the ability of municipal corporations to qualify for federal funds. Therefore, this veto is in the public interest.

### **Item Number 37**

On page 3000, delete the boxed text.

#### **Section 503.95 – Curb Cut on State Route 91 in Lake County**

This provision requires the director of the Department of Transportation to permit the construction of a curb cut on State Route 91, near Vine Street, in Lake County.

The Department of Transportation has worked with elected officials representing the City of Eastlake and other stakeholders to resolve the matter that this provision addresses in a manner that balances public safety and economic development concerns. Therefore, this veto is in the public interest.

### **Item Number 38**

On page 2930, delete the boxed text.

#### **Section 343.50 – Transfer to Scenic River Protection**

This language instructs the director of the Ohio Office of Budget and Management to transfer \$500,000 from the Waterways Safety Fund to the Scenic Rivers Protection Fund to administer the Scenic Rivers Program. The \$500,000 annual transfer from the Waterways Safety Fund to the Scenic Rivers Protection fund is not needed to accomplish the programmatic transfer of Scenic Rivers to the Division of Watercraft. And, it is in conflict with the legislatively-mandated \$650,000 annual spending cap for the program. A veto is in the public interest.

### **Item Number 39**

On page 2803, delete the boxed text.

**Section 265.10.50 – School Management Assistance**

This provision provides \$1,279,948 in FY 2010 and \$1,500,000 in FY 2011 in the Ohio Department of Education budget for the Auditor of State to conduct performance audits. By vetoing this provision, the audits will continue but without the specific allocation of funds to the Auditor of State. Instead, the Department of Education will work with the auditor of state to arrange the scope of work and fee arrangements appropriate to the auditor's performance audit responsibilities. In addition, vetoing this provision will maintain flexibility for the Department of Education during a time of limited resources. Therefore, this veto is in the public interest.

**Item Number 40**

On page 2900, delete the boxed text.

**Section 309.45.15 – Earmark for Independent Living**

This provision earmarks \$1.5 million of the Children and Family Services line item for independent living services to youth. The majority of the funds in this line item are already allocated to county agencies for their use to support child welfare programs, including independent living. This earmark will constrain the county agencies' ability to use the allocated funds in a flexible manner that meets each county's needs to support children. For these reasons, a veto is in the public interest.

**Item Number 41**

On page 3074, delete the boxed text.

**Section 701.70 – State Vehicle Fuel Conversion**

The language requires the Department of Public Safety, Ohio Department of Natural Resources, and the Ohio Department of Transportation to convert 5 percent of their combined 8,000 state fleet vehicles to a propane fuel system. With an estimated retrofit cost of \$6,000 per vehicle and \$9,000 for large trucks, the average conversion costs for 400 vehicles at \$7,500 would be \$3 million. For this reason, a veto is in the public interest.

*E. General Government Operations*

**Item Number 42**

On page 104, delete the boxed text.

**Section 121.07 – Director’s authority to act in absence of DFI Superintendent**

This provision permits the Director of the Department of Commerce to perform the functions of the Superintendent of the Department’s Division of Financial Institutions, for a limited time, if the superintendent provides written authorization.

Under existing law, only the Superintendent of Financial Institutions has statutory authority to conduct the operations of the Division. In all other divisions within the Department of Commerce, only the Director of Commerce may perform division functions in the absence of the superintendent or commissioner. The veto is necessary for operational continuity within the Department. Therefore the veto is in the public interest.

**Item Number 43**

On pages 7 and 15, delete “5751.22, 5751.23,”.

On pages 2673, 2674, 2676, 2678, 2681, 2682, 2683, 2685, 2686, 2687, and 2688, delete the boxed text.

**Sections 5751.20, 5751.21, 5751.22, and 5751.23 – Permanent Dedication of Tangible Personal Property Tax Reimbursement**

This provision marks a significant change in the tax reform plan enacted in 2005 in House Bill 66.

HB66 created the public school district and local government tangible personal property (TPP) replacement program to reimburse those entities for the loss of the tangible personal property tax. This program was to be phased out as a part of that sweeping tax reform.

This provision dedicates Commercial Activity Tax (CAT) and General Revenue Fund (GRF) revenues to the tangible personal property TPP fund in perpetuity. In total, the cost of this permanent dedication of resources is \$3 billion to the GRF over the next four biennia.

This provision contradicts the overall direction of the comprehensive education system reform established in this bill. In contemplating how to treat this provision inserted by the Senate, I am sensitive to the fact that school districts and local governments require a degree of fiscal certainty in these uncertain times. The structure of the bill's language required me to take a different approach for school districts and local governments.

#### **Impact on School Districts**

This language permanently dedicates \$5.2 billion of GRF and CAT revenue to an out-dated distribution formula, which otherwise would have been available to fund the phase-in of the evidence-based model. It would require the GRF to subsidize this inequitable distribution at a cost of millions of dollars over and above what would have been provided under existing law.

My veto retains the provisions that hold school districts harmless through FY 2013. This accomplishes several objectives:

- It acknowledges that school districts utilize a five year budget planning cycle;
- It recognizes that school districts will not see the full benefit of the reduction of charge-off millage in this bill until FY2014-2015; and

- It provides a degree of certainty while we continue to assess the full impact of the changes implemented by HB 66 in 2005 and their interaction with this bill's newly adopted school funding model, the Ohio Evidence-Based Model.

After FY 2013, my veto returns the language to the original phase-out plan of House Bill 66.

### **Impact on Local Government**

This item would permanently reimburse local governments based on 2004 personal property values and 2005 tax rates, an outdated allocation method that undermines the original intent of the comprehensive tax reform structure of HB66. Based upon the forecast revenues for the CAT upon which this bill is based, this provision would require the GRF to subsidize local governments at a cost of millions of dollars over the next five fiscal years.

My veto retains the provisions inserted by the House in this bill that hold local governments harmless through FY 2011. After FY 2011, my veto eliminates the permanent dedication of this tax source and its distribution mechanism, and returns to the original phase-out plan of HB66.

### **Conclusion - Tangible Personal Property Tax Reimbursement Veto**

The pervasive and sweeping changes of this provision deserve broad discussion among a wide range of stakeholders, especially in view of the fact that Ohio is phasing in a new, constitutional school funding system. Since taking office, my administration has been committed to assuring that school districts and local governments have predictable and sustainable funding. For this reason, this veto does not impact local government or school funding in this biennium. In order to prepare for future years, I remain committed to continuing a robust dialogue to address the fiscal challenges confronting the state and our partners in local government and school districts. For these reasons, this veto is in the public interest.

### **Item Number 44**

On pages 1, 11, and 2721, delete "105.41,".

On pages 43, 45, and 48, delete the boxed text.

On page 1922, delete the boxed text.

On page 3110, delete the boxed text.

**Sections 105.41, 803.60, and 4117.01(C)(18) – Removal of the Capital Square Review and Advisory Board from the Legislative Branch**

This item provides that Capitol Square Review and Advisory Board (CSRAB) is a legislative branch agency; its staff members are employees of the General Assembly in the unclassified civil service; and its operations are not under the jurisdiction of the Office of Information Technology. This veto will maintain the present status of CSRAB, continuing the proper fiscal oversight and employee classification for this type of agency. Therefore, this veto is in the public interest.

**Item Number 45**

On page 1, 11, and 2721, delete “107.40,”.

On page 50, delete the boxed text.

**Section 107.40 – Prison Labor at the Governor's Residence**

This language prohibits the Department of Administrative Services from using prison labor in providing for the general maintenance of the Governor's Residence. Ohio Penal Industries provides labor at the Residence that is equivalent to three to four full-time employees. Replacing these laborers with state employees would cost an additional \$250,000 in general revenue funds annually, an unnecessary expense given the challenges the state is currently facing. For this reason, a veto is in the public interest.

**Item Number 46**

On page 2431, delete the boxed text.

## **Section 5502.12 – Certain County Sheriff and Law Enforcement Accident Report Fees**

This provision eliminates the ability of the Patrol to charge an additional fee for providing accident photos. This would result in lost revenue to the Patrol, in a time when overall revenues are declining. Further erosion of the Patrol's revenue would jeopardize the essential public safety services the Patrol provides. Therefore, this veto is in the public interest.

### **Item Number 47**

On page 3075, delete the boxed text.

## **Section 701.80 – State Employee Assignment Report**

This provision requires the Director of the Office of Budget and Management to assemble a report of all the state employees who are paid by one agency, but are working at or for another agency. Often times an employee of one state agency will be requested to provide services to another state agency, usually by inter-agency agreement. These valuable arrangements seek to maximize governmental efficiencies by sharing knowledge and expertise between state agencies and allow state employees to function as one government rather than individually, which can hinder efficiency and cross-agency collaboration. Therefore, this veto is in the public interest.

### **Item Number 48**

On pages 98 and 3003, delete the boxed text.

On pages 1, 11, and 2721, delete "117.13,".

## **Sections 117.13 and 512.80 – Public Audit Expense Transfer**

These provisions revise the procedure for the Auditor of State to recover the costs of public audits by requiring the OBM Director to transfer the amounts of the audit costs from the general revenue fund to the public audit expense fund. There already exists a mechanism by which the Auditor can recover

the costs of audits in section 117.13 of the Revised Code. In addition, this provision allows the Auditor unlimited access to the General Revenue Fund to support office operations, and with no checks and balances on the amount that could be spent. Therefore, this veto is in the public interest.

### **Item Number 49**

On pages 2436 and 2437, delete the boxed text.

On pages 9 and 16, delete “5537.051,”.

### **Section 5537.051 – Remove Turnpike Grade Separation Responsibilities**

This provision makes the Ohio Turnpike Commission responsible for the maintenance and repair of all grade separation approaches in counties that have closed one or more county or township roads as of January 1, 2009 as a result of grade separation failures at intersections of a turnpike project.

Under existing law, the Ohio Turnpike Commission is responsible for the maintenance and repair of bridges that pass over the turnpike and the 13 counties along the turnpike are responsible for the maintenance and repair of grade separation approaches. Vetoing this provision will preserve consistency in the shared commission and local responsibility for maintenance and repair of grade separations along the turnpike. Therefore the veto is in the public interest. (OTCV02)

### **Item Number 50**

On page 2220, delete the boxed text.

### **Section 4905.801 – Radioactive Shipment Inspections**

This provision allows for the Ohio State Highway Patrol, to determine if necessary, the inspections of incoming highway route controlled quantity shipments of radioactive materials and the provision also assumes that inspections are subject to local officials. Determination on inspections is best made by either the Public Utilities Commission of Ohio (PUCO) or the

Ohio Department of Health (ODH), the agencies with the expertise and resources to make such a determination.

For these reasons, a veto is in the public interest.

### **Item Number 51**

On pages 9 and 16, delete “4301.85,”.

On pages 1980 and 1981, delete the boxed text.

#### **Section 4301.85 – Alcohol Consumption at State Facilities**

This provision requires the Adjutant General to obtain the approval of the Department of Defense and foreign military nationals before regulating alcohol consumption at state facilities that train foreign military units. This language is in direct conflict with current law which empowers the Adjutant General alone to prescribe and enforce regulations for all military and adjutant general department property, as deemed necessary for protection and safety. Requiring these two entities to approve of the Adjutant General’s policy would violate the command authority of the Adjutant General and the Governor. For this reason, a veto is in the public interest.

### **Item Number 52**

On page 2760, delete the boxed text.

#### **Section 219.10 – Remove Temporary Budget Language Regarding Museum Eligibility**

This language, included in the budget bill, is temporary law that has been included in the Ohio Arts Council’s budget language for more than a decade. It effectively bars a museum that has received \$8 million or more in capital appropriations from the state between 1986 and 2002 from receiving any subsidy support from the Ohio Arts Council. The sole organization in the state that was affected by this language is the Rock and Roll Hall of Fame in Cleveland. Therefore, this veto is in the public interest.

### **Item Number 53**

On page 353 and 354, delete the boxed text.

#### **Section 166.07 – Micro-Lending Program**

This provision establishes a Micro-Lending Program and provides that the program will be funded “from any amount of the facilities establishment fund that the General Assembly designates for the purpose of the Micro-Lending Program.” The General Assembly did not designate funding, but may decide, at some future point, to appropriate funds for this program. This provision, however, limits the General Assembly’s appropriation authority to providing funds from the facilities establishment fund.

Because the Micro-Lending Program has the potential to help Ohio’s small businesses and contribute to growing Ohio’s economy, future funding for the program should not be limited to the facilities establishment fund. Therefore, this veto is in the public interest.

### **Item Number 54**

On page 250, delete the boxed text.

On pages 8 and 15, delete “126.10,”.

#### **Section 126.10 – Certificates of Participation (COPS)**

This provision prohibits issuing COPS without General Assembly approval. This could limit executive flexibility and activities. Under current policy, Certificates of Participation and similar debt instruments entered into by the state are expressly authorized by language included in the applicable capital and/or operating bills. Therefore, this veto is in the public interest.

### **Item Number 55**

On page 914, delete the boxed text.

**Section 2915.01(AAA)(d) – Expansion of Skill-Based Amusement Machine Prize Authority**

This provision permits the proliferation of gambling in unlimited locations across the state. Therefore, this veto is in the public interest.

**Item Number 56**

On pages 1591 and 1592, delete the boxed text.

**Section 3704.14 – E-Check Extension**

The proposed language modifies the parameters for a contract for the motor vehicle inspection program. Provisions in the proposed law devalue education of motorists in those areas where there is a vehicle emissions testing program by extensively lowering the public education a vendor would be required to conduct if the current program is changed. Ohio EPA is looking for the most cost-effective, convenient and reliable inspection program for both motorists and the state. Ultimately, the provisions of the language included would restrict the ability of the state to determine the most cost-effective and consumer-friendly program. Therefore, this veto is in the public interest.

**Item Number 57**

On pages 1712 and 1713, delete the boxed text.

**Section 3734.57 – Solid Waste Location Exemption**

The proposed language carves out an exemption from the municipal solid waste fee increase for one solid waste facility in the state. This provision would create a precedent by excusing one facility from increased fees to be paid by the rest of the municipal solid waste facilities in the state. This veto will ensure a level playing field for the entire solid waste industry in the State of Ohio. Therefore, this veto is in the public interest.

**Item Number 58**

On pages 1, 11, and 2721, delete “125.11,”.

On page 244, delete the boxed text.

### **Section 125.11 – Ohio Product Preference in State Procurement**

This provision reduces the preference in state procurement for all products that have been produced or mined in Ohio. Ohioans are making and mining affordable and quality products, and the State of Ohio should be purchasing those products. During this time of economic turmoil, it is more important than ever for Ohio funds to be used to purchase Ohio produced and mined products. This veto will retain the preference of buying Ohio products. Therefore, this veto is in the public interest.

### **Item Number 59**

On page 3075 and 3077, delete the boxed text.

On page 3076, delete the boxed text beginning with “Section 703.10.” and ending with “adopted by a.”

On pages 11 and 2721, delete “7.12,”.

On page 1, delete "7.12,".

On pages 17, 405, 406, and 2487, delete boxed text.

On pages 8 and 16, delete “305.20,”.

On pages 7, 15, and 2724, delete “5721.01,”.

### **Sections 7.12, 703.10, 305.20, 5721.01 – Newspaper and Internet Ads**

These provisions would change the statute governing public notices and advertisements in newspapers and on county Web sites. These provisions should be examined as part of a comprehensive bill which has been introduced in the legislature, House Bill 220, to provide the needed time to

study the possible monetary impacts and other ramifications of such changes. Therefore, this veto is in the public interest.

### **Item Number 60**

On pages 3, 13, and 2722, delete “2505.09, 2505.12,”.

On pages 8 and 16, delete “2505.122,”.

On pages 878 and 879, delete the boxed text.

### **Sections 2505.09, 2505.12, and 2505.122 – Supersedeas Bonds**

This provision creates new appeal bonds. Current law in Ohio already requires parties seeking a stay of enforcement of monetary judgments during appeal to execute a supersedeas bond. In addition, courts may require bonds from parties seeking temporary restraining orders or preliminary injunctions via Ohio Rule of Civil Procedure 65 and to appeal injunctions via Ohio Rule of Appellate Procedure 7. While additional safeguards against meritless appeals may warrant review, this provision is so broadly drafted that enactment may cause unintended consequences, including blocking access to Ohio’s judicial system for indigent persons, homeowners and matters related to other community interests. Therefore, this veto is in the public interest.

## **F. Technical Vetoes**

### **Item Number 61**

On page 1627 and 1634, delete the boxed text.

### **Section 3717.07 – Fees for Local Boards of Health**

This provision makes unnecessary changes to the current methodology system used by the Ohio Department of Agriculture and Ohio Department of Health food safety programs. The veto will restore the current methodology

system used by the Ohio Department of Agriculture and Ohio Department of Health food programs. For this reason, a veto is in the public interest.

I signed this veto message on July 17, 2009 in Columbus, Ohio and transmitted it, today, with copies of the disapproved text, to the Clerk of the Ohio House of Representatives.

In order to signal my approval of the text not disapproved by me, I have, today, also filed the enrolled and engrossed original copies of the bill with the Secretary of State.

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Ted Strickland, Governor

I acknowledge receipt of an original copy of this veto message, along with a copy of the disapproved text in the bill on July 17, 2009.

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Name of Officer

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Title of Officer

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Date and Time of Receipt

